



Iowa General Assembly
Daily Bills, Amendments, Study Bills, LSA Fiscal Notes & Bill Analysis
February 01, 2007

House Amendment 1036

PAG LIN

1 1 Amend the amendment, H=1026, to Senate File 61, as
1 2 passed by the Senate, as follows:
1 3 #1. Page 1, lines 4 and 5, by striking the words
1 4 <statement shall also describe> and inserting the
1 5 following: <description of expectations shall also
1 6 include>.
1 7
1 8
1 9
1 10 TYMESON of Madison
1 11 SF 61.531 82
1 12 kh/je/6434
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House Amendment 1037

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1 1 Amend the amendment, H=1027, to Senate File 61, as
1 2 passed by the Senate, as follows:
1 3 #1. Page 1, line 43, by striking the word
1 4 <students> and inserting the following: <a member of
1 5 the general assembly, the governor, or a candidate for
1 6 the general assembly or the office of governor>.
1 7
1 8
1 9
1 10 RAECKER of Polk
1 11 SF 61.717 82
1 12 kh/gg/6761
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House Amendment 1038

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1 1 Amend the amendment, H=1024, to Senate File 61, as
1 2 passed by the Senate, as follows:
1 3 #1. Page 1, line 13, by striking the word
1 4 <intentional>.
1 5
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1 7
1 8 L. MILLER of Scott
1 9 SF 61.210 82
1 10 kh/es/6762
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House Amendment 1039

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1 1 Amend House File 5 as follows:
1 2 #1. By striking everything after the enacting
1 3 clause and inserting the following:
1 4 <Section 1. NEW SECTION. 536B.1 PURPOSE.
1 5 It is the policy of this state and the purpose of
1 6 this chapter to provide consumer protection against
1 7 abusive lending practices by motor vehicle equity line
1 8 of credit lenders and to provide for a sound system of
1 9 the business of providing motor vehicle equity lines
1 10 of credit under open-ended credit by providing for the
1 11 licensing of motor vehicle equity line of credit
1 12 lenders by the superintendent.
1 13 Sec. 2. NEW SECTION. 536B.2 DEFINITIONS.
1 14 As used in this chapter, unless the context
1 15 otherwise requires:
1 16 1. "Borrower" means the person obligated to repay
1 17 the loan obligation under a motor vehicle equity line
1 18 of credit agreement.
1 19 2. "Control" means possession, direct or indirect,
1 20 of the power to direct or cause the direction of
1 21 management and policies of an entity whether through
1 22 the ownership of voting securities by contract or
1 23 otherwise; provided, that a person shall not be deemed
1 24 to control an entity solely on account of being a
1 25 director, officer, or employee of such entity.
1 26 For purposes of this subsection, a person who,
1 27 directly or indirectly, owns, controls, holds the
1 28 power to vote, or holds proxies representing twenty=
1 29 five percent or more of the then outstanding voting
1 30 securities issued by an entity is presumed to control
1 31 such entity.
1 32 For purposes of this subsection, the superintendent
1 33 may determine whether a person, in fact, controls an
1 34 entity.
1 35 3. "Controlling person" means any person in
1 36 control of a motor vehicle equity line of credit
1 37 lender.
1 38 4. "Lender" means a motor vehicle equity line of
1 39 credit lender.
1 40 5. "Motor vehicle" means any automobile,
1 41 motorcycle, mobile home, truck, van, or other vehicle
1 42 operated on public highways and streets.
1 43 6. "Motor vehicle equity line of credit agreement"
1 44 means an agreement under which a lender does all of
1 45 the following:
1 46 a. Extends an open-end credit plan or loan to a
1 47 consumer that is secured by an interest in a motor
1 48 vehicle.
1 49 b. Imposes interest on the outstanding balance of
1 50 the credit plan or loan.



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2 1 c. Reasonably contemplates repeated transactions.
2 2 d. Provides an amount of credit that may be
2 3 extended up to any limit set by the lender that is
2 4 generally available to the borrower to the extent that
2 5 any outstanding balance is repaid.
2 6 7. "Motor vehicle equity line of credit lender"
2 7 means a person engaged in the business of making motor
2 8 vehicle equity line of credit agreements with
2 9 borrowers.
2 10 8. "Motor vehicle equity line of credit office"
2 11 means the location at which a motor vehicle equity
2 12 line of credit lender regularly conducts business.
2 13 9. "Superintendent" means the superintendent of
2 14 banking.
2 15 Sec. 3. NEW SECTION. 536B.3 LICENSE REQUIRED.
2 16 1. A person shall not engage in the business of
2 17 motor vehicle equity line of credit lending without
2 18 having first obtained a license from the
2 19 superintendent under this chapter. A separate license
2 20 shall be required for each motor vehicle equity line
2 21 of credit office from which such business is
2 22 conducted.
2 23 2. Any motor vehicle equity line of credit
2 24 agreement made without first having obtained a license
2 25 is void and the person making the agreement forfeits
2 26 the right to collect any moneys, including principal,
2 27 interest, and any other fee paid by the borrower in
2 28 connection with the agreement. The person making the
2 29 agreement shall return to the borrower the titled
2 30 motor vehicle, or the fair market value of such motor
2 31 vehicle, and all principal, interest, and any other
2 32 fees paid by the borrower.
2 33 Sec. 4. NEW SECTION. 536B.4 AUTHORITY OF
2 34 LICENSED MOTOR VEHICLE EQUITY LINE OF CREDIT LENDERS.
2 35 1. A motor vehicle equity line of credit lender
2 36 licensed pursuant to this chapter has the power to
2 37 make motor vehicle equity line of credit agreements in
2 38 accordance with the provisions of this chapter.
2 39 2. A motor vehicle equity line of credit lender
2 40 licensed pursuant to this chapter shall not have the
2 41 powers enumerated in this chapter unless the motor
2 42 vehicle equity line of credit agreement complies with
2 43 section 536B.9. A motor vehicle equity line of credit
2 44 lender exercising any of the powers in compliance with
2 45 this chapter shall not be deemed in violation of any
2 46 usury law.
2 47 Sec. 5. NEW SECTION. 536B.5 ELIGIBILITY
2 48 REQUIREMENTS FOR LICENSE == APPLICATIONS == ISSUANCE
2 49 OF LICENSE.
2 50 1. To qualify for a license under this chapter, an



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3 1 applicant shall satisfy all of the following
3 2 requirements:
3 3 a. The applicant has a tangible net worth of not
3 4 less than seventy-five thousand dollars for each motor
3 5 vehicle equity line of credit office.
3 6 b. The financial responsibility, financial
3 7 condition, business experience, character, and general
3 8 fitness of the applicant shall reasonably warrant the
3 9 belief that the applicant's business will be conducted
3 10 lawfully. In determining whether the requirements of
3 11 this paragraph have been met, and for the purpose of
3 12 investigating compliance with this chapter, the
3 13 superintendent may review and approve all of the
3 14 following:
3 15 (1) The relevant business records and the capital
3 16 adequacy of the applicant.
3 17 (2) The financial responsibility, financial
3 18 condition, business experience, character, and general
3 19 fitness of any person who is a director, officer, or
3 20 five percent or more shareholder of the applicant, or
3 21 owns or controls the applicant.
3 22 (3) Any adjudication against the applicant or any
3 23 person referred to in subparagraph (2) of any criminal
3 24 activity, any fraud or other act of personal
3 25 dishonesty, or any act, omission, or practice which
3 26 constitutes a breach of a fiduciary duty.
3 27 2. The requirements set forth in subsection 1 are
3 28 continuing in nature.
3 29 3. Each application for a license shall be in
3 30 writing and under oath to the superintendent, in a
3 31 form prescribed by the superintendent, and shall
3 32 include all of the following information:
3 33 a. The legal name, residence and business address
3 34 of the applicant and, if the applicant is an entity,
3 35 of every member, partner, officer, managing employee,
3 36 director, trustee, and person who controls the entity.
3 37 b. The address where the registered agent of the
3 38 applicant shall be located, if any.
3 39 c. Other data and information the superintendent
3 40 may reasonably require with respect to the applicant,
3 41 its directors, trustees, officers, members, partners,
3 42 managing employees, or controlling persons.
3 43 d. A copy of each document or form to be used in
3 44 providing a motor vehicle equity line of credit
3 45 agreement.
3 46 4. Each application for a license shall be
3 47 accompanied by all of the following:
3 48 a. A filing fee, in an amount prescribed by the
3 49 superintendent by rule but not to exceed one thousand
3 50 dollars, which shall not be subject to refund but



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4 1 which, if the license is granted, shall constitute the
4 2 license fee for the first license year or part
4 3 thereof.
4 4 b. An accounting balance sheet for the immediately
4 5 preceding fiscal year prepared in accordance with
4 6 generally accepted accounting principles.
4 7 c. A surety bond in the principal sum of twenty=
4 8 five thousand dollars per motor vehicle equity line of
4 9 credit office. The bond shall be in a form
4 10 satisfactory to the superintendent and shall be issued
4 11 by a bonding company or insurance company authorized
4 12 to do business in this state. The bond shall cover
4 13 the performance of the obligations of the applicant
4 14 and the applicant's agents in connection with loan
4 15 activities under this chapter. An applicant or
4 16 licensee may, in lieu of filing a bond, provide the
4 17 superintendent with an irrevocable letter of credit in
4 18 the amount of twenty=five thousand dollars per motor
4 19 vehicle equity line of credit office, issued by any
4 20 bank, trust company, savings and loan association, or
4 21 credit union operating in this state in a form
4 22 acceptable to the superintendent.
4 23 5. Upon the filing of an application in a form
4 24 prescribed by the superintendent, accompanied by the
4 25 fee and documents required in this section, the
4 26 superintendent shall investigate to ascertain whether
4 27 the qualifications prescribed by this section have
4 28 been satisfied. If the superintendent finds that the
4 29 qualifications have been satisfied, the superintendent
4 30 shall issue to the applicant a license to engage in
4 31 the motor vehicle equity line of credit lending
4 32 business in this state.
4 33 6. If the superintendent determines that an
4 34 applicant is not qualified to receive a license, the
4 35 superintendent shall notify the applicant in writing
4 36 that the application has been denied, stating the
4 37 basis for denial. If the superintendent denies an
4 38 application, or if the superintendent fails to act on
4 39 an application within ninety days after the filing of
4 40 a properly completed application, the applicant may
4 41 make written demand to the superintendent for a
4 42 hearing before the superintendent on the question of
4 43 whether the license should be granted. Any hearing
4 44 shall be conducted pursuant to the provisions of
4 45 chapter 17A. A decision of the superintendent
4 46 following any hearing on the denial of license is
4 47 subject to review under chapter 17A.
4 48 7. A license shall be required for each motor
4 49 vehicle equity line of credit office in this state.
4 50 The license shall be conspicuously posted at each



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5 1 motor vehicle equity line of credit office of the
5 2 licensee.
5 3 8. A license is not transferable or assignable
5 4 except as allowed by rule of the superintendent.
5 5 9. A license issued pursuant to this section shall
5 6 expire each year on May 31, unless the licensee
5 7 submits a timely renewal application, or unless
5 8 earlier surrendered, suspended, or revoked pursuant to
5 9 this chapter. Each license may be renewed upon
5 10 application by the license holder, submitted at least
5 11 thirty days prior to the renewal date, showing
5 12 continued compliance with the requirements of this
5 13 section and the payment to the superintendent of the
5 14 annual license fee in an amount prescribed by the
5 15 superintendent by rule but not to exceed one thousand
5 16 dollars for each licensed motor vehicle equity line of
5 17 credit office in this state.
5 18 10. The superintendent may establish a biennial
5 19 licensing arrangement for the filing of the
5 20 application for license renewal but the license fee
5 21 shall not be payable for more than one year at a time.
5 22 Sec. 6. NEW SECTION. 536B.6 NOTICE OF CHANGE IN
5 23 CONTROL AND PRINCIPAL PLACE OF BUSINESS.
5 24 1. Except when a change of control is beyond the
5 25 control of the motor vehicle equity line of credit
5 26 lender, or in the case of an emergency as determined
5 27 by the superintendent, a change in control of a motor
5 28 vehicle equity line of credit lender shall require
5 29 fifteen days prior written notice to the
5 30 superintendent. In the case of a publicly traded
5 31 corporation, such notification shall be made in
5 32 writing within thirty days of the change or
5 33 acquisition of control of the motor vehicle equity
5 34 line of credit lender.
5 35 2. Upon notification of a change in control, the
5 36 superintendent may require such information as deemed
5 37 necessary to determine whether to approve a new
5 38 controlling person. The superintendent may disapprove
5 39 the new person for any reason the superintendent could
5 40 deny a license. If the superintendent disapproves any
5 41 person, the superintendent shall allow a reasonable
5 42 time for the licensee to remove such person as
5 43 controlling person.
5 44 3. Costs incurred by the superintendent in
5 45 investigating a change of control notification shall
5 46 be paid by the person requesting such approval.
5 47 4. Whenever control of a motor vehicle equity line
5 48 of credit lender is acquired or exercised in violation
5 49 of this chapter, the licensee of the motor vehicle
5 50 equity line of credit lender may be subject to



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6 1 penalties under section 536B.16.
6 2 5. Each motor vehicle equity line of credit lender
6 3 shall notify the superintendent fifteen days prior to
6 4 any change in the principal place of business of a
6 5 motor vehicle equity line of credit lender, except in
6 6 a case of an emergency as defined by the
6 7 superintendent.
6 8 Sec. 7. NEW SECTION. 536B.7 REPORTING
6 9 REQUIREMENTS.
6 10 1. Within fifteen days of the occurrence of any of
6 11 the events listed below, a motor vehicle equity line
6 12 of credit lender shall file a written report with the
6 13 superintendent describing such event and the expected
6 14 impact on the activities of the motor vehicle equity
6 15 line of credit lender in this state:
6 16 a. The filing for bankruptcy or reorganization by
6 17 the motor vehicle equity line of credit lender.
6 18 b. Any felony indictment or conviction of the
6 19 motor vehicle equity line of credit lender or any of
6 20 its officers, directors, or controlling persons.
6 21 2. Each motor vehicle equity line of credit lender
6 22 shall file a report with the superintendent by May 1
6 23 after being licensed pursuant to this chapter and
6 24 every odd numbered year thereafter, containing the
6 25 following information:
6 26 a. The names and addresses of all controlling
6 27 persons of the motor vehicle equity line of credit
6 28 lender.
6 29 b. Accounting balance sheets as required by the
6 30 superintendent.
6 31 c. If the motor vehicle equity line of credit
6 32 lender is a corporation, the names and addresses of
6 33 its officers and directors; if the motor vehicle
6 34 equity line of credit lender is a partnership, the
6 35 names and addresses of the partners; and if the motor
6 36 vehicle equity line of credit lender is a limited
6 37 liability company, the names and addresses of the
6 38 members of the limited liability company; or if the
6 39 motor vehicle equity line of credit lender is any
6 40 other form of entity, the names and addresses of all
6 41 persons who generally manage or control the business.
6 42 d. If the motor vehicle equity line of credit
6 43 lender holds two or more licenses or is affiliated
6 44 with other motor vehicle equity line of credit
6 45 lenders, a composite report may be filed.
6 46 3. All reports required under this section shall
6 47 be filed in such form as may reasonably be required by
6 48 the superintendent and shall be sworn to by a
6 49 responsible officer of the motor vehicle equity line
6 50 of credit lender.



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7 1 4. The information submitted by motor vehicle
7 2 equity line of credit lenders pursuant to this section
7 3 shall be confidential and shall not be considered
7 4 public records under chapter 22. However, the
7 5 superintendent is authorized to disclose information
7 6 obtained pursuant to the authority granted under this
7 7 chapter to any local, state, or federal agency as the
7 8 superintendent deems necessary.

7 9 Sec. 8. NEW SECTION. 536B.8 RECORDS OF
7 10 AGREEMENTS == RELEASE OF LIENS.

7 11 1. Every motor vehicle equity line of credit
7 12 lender shall keep a numbered record of each and every
7 13 motor vehicle equity line of credit agreement executed
7 14 by the motor vehicle equity line of credit lender and
7 15 a borrower. Such record, as well as the motor vehicle
7 16 equity line of credit agreement, shall include the
7 17 following information:

7 18 a. The make, model, and year of the motor vehicle
7 19 provided as security under the agreement.

7 20 b. The vehicle identification number, or other
7 21 comparable identification number, along with the motor
7 22 vehicle registration plate number, if applicable, of
7 23 the motor vehicle.

7 24 c. The name, residential address, date of birth,
7 25 and physical description of the borrower.

7 26 d. The date the motor vehicle equity line of
7 27 credit agreement is executed by the motor vehicle
7 28 equity line of credit lender and the borrower.

7 29 2. The motor vehicle equity line of credit lender
7 30 shall release any lien obtained pursuant to a motor
7 31 vehicle equity line of credit agreement immediately
7 32 upon full cash payment of the amount due under the
7 33 agreement by the borrower and shall release any lien
7 34 upon the clearance of any other form of payment from
7 35 the financial institution issuing the payment in any
7 36 form other than cash.

7 37 Sec. 9. NEW SECTION. 536B.9 AGREEMENT
7 38 REQUIREMENTS.

7 39 1. All of the following information shall be
7 40 printed on a motor vehicle equity line of credit
7 41 agreement:

7 42 a. The name and physical address of the motor
7 43 vehicle equity line of credit lender and office.

7 44 b. In not less than fourteen point bold type, the
7 45 name and address of the superintendent as well as a
7 46 toll-free telephone number of the motor vehicle equity
7 47 line of credit lender to which consumers may address
7 48 complaints.

7 49 c. The following statement in not less than
7 50 fourteen point bold type:



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8 1 "THIS LOAN IS NOT INTENDED TO MEET LONG-TERM
8 2 FINANCIAL NEEDS. YOU SHOULD USE THIS LOAN ONLY TO
8 3 MEET SHORT-TERM CASH NEEDS. INTEREST WILL CONTINUE TO
8 4 ACCRUE AS LONG AS THERE IS A BALANCE OUTSTANDING.
8 5 THIS LOAN IS A HIGHER-INTEREST RATE LOAN. YOU ARE
8 6 PLACING AT RISK YOUR CONTINUED OWNERSHIP OF THE MOTOR
8 7 VEHICLE YOU ARE PROVIDING AS SECURITY FOR THIS LOAN.
8 8 IF YOU FAIL TO REPAY THE LOAN IN ACCORDANCE WITH THE
8 9 TERMS OF THE AGREEMENT, THE LENDER MAY TAKE POSSESSION
8 10 OF THE MOTOR VEHICLE AND SELL IT IN THE MANNER
8 11 PROVIDED BY LAW. YOU HAVE A LEGAL RIGHT OF RESCISSION.
8 12 THIS MEANS YOU MAY CANCEL YOUR AGREEMENT AT NO COST TO
8 13 YOU BY RETURNING THE ORIGINAL CHECK OR CASH YOU
8 14 BORROWED BY THE NEXT BUSINESS DAY AFTER THE DATE OF
8 15 YOUR LOAN."

8 16 d. The following statement:

8 17 "The borrower represents and warrants, to the best
8 18 of the borrower's knowledge, that the motor vehicle is
8 19 not stolen and has no liens or encumbrances against
8 20 it, the borrower has the right to enter into this
8 21 transaction, and the borrower will not apply for a
8 22 duplicate certificate of title while the motor vehicle
8 23 equity line of credit agreement is in effect."

8 24 e. In not less than fourteen point type, or in
8 25 accordance with federal truth-in-lending requirements,
8 26 the annual percentage rate, method of computing the
8 27 balance and calculating finance charges, and any other
8 28 information required by federal truth-in-lending laws.

8 29 f. An explanation of how interest is calculated,
8 30 when the payments are due, how payments are to be
8 31 applied, and what forms of payment are acceptable.

8 32 g. A disclosure of all fees charged by the lender
8 33 that are associated with opening the account.

8 34 2. The motor vehicle equity line of credit lender
8 35 shall provide in writing, as an additional disclosure
8 36 on a separate form, for each advance, the annual
8 37 percentage rate, the amount of interest charged on a
8 38 daily basis and the amount of interest charged in a
8 39 thirty-day period, and shall have the borrower sign
8 40 the form and initial acceptance of the interest rates.

8 41 3. The borrower shall sign the motor vehicle
8 42 equity line of credit agreement, shall sign or initial
8 43 all other loan documents, shall be provided with a
8 44 copy of such agreement and all other loan documents,
8 45 and shall acknowledge in writing receipt of copies of
8 46 the documents. The motor vehicle equity line of
8 47 credit agreement shall also be signed by the motor
8 48 vehicle equity line of credit lender's employee or
8 49 agent. Each signature shall be accompanied by the
8 50 date and time of signing.

9 1 4. A borrower may cancel a motor vehicle equity
9 2 line of credit agreement without cost by returning the
9 3 full principal amount borrowed to the motor vehicle
9 4 equity line of credit lender within twenty-four hours
9 5 after signing an agreement pursuant to subsection 2.

9 6 Sec. 10. NEW SECTION. 536B.10 FEES AND CHARGES



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9 7 == DISCLOSURE FORM.
9 8 1. The motor vehicle equity line of credit lender
9 9 may contract for and receive interest at the rate the
9 10 parties agree to in writing.
9 11 2. A motor vehicle equity line of credit lender
9 12 may assess and collect from a borrower amounts paid to
9 13 a governmental agency to record the lender's lien on
9 14 the certificate of title to the motor vehicle provided
9 15 as security under a motor vehicle equity line of
9 16 credit agreement, and amounts paid to independent
9 17 third parties to repossess and sell the motor vehicle.
9 18 3. In accordance with chapter 17A, the
9 19 superintendent shall adopt rules requiring each motor
9 20 vehicle equity line of credit lender to issue a
9 21 standardized consumer notification and disclosure form
9 22 in compliance with federal truth-in-lending laws prior
9 23 to entering into any motor vehicle equity line of
9 24 credit agreement. The required style, content, and
9 25 method of executing the form shall be prescribed by
9 26 rule and shall be designed to ensure that the
9 27 borrower, prior to entering into such agreement,
9 28 receives and acknowledges an accurate and complete
9 29 notification and disclosure of the itemized and total
9 30 amounts of all interest, fees, charges, and other
9 31 costs that will or potentially could be imposed as a
9 32 result of such agreement.
9 33 4. The motor vehicle equity line of credit lender
9 34 shall post in a conspicuous manner the disclosure
9 35 required in section 536B.9, subsection 1, paragraph
9 36 "c". The posting shall be on a sign that is at least
9 37 three feet wide by three feet high. The motor vehicle
9 38 equity line of credit lender shall also post in a
9 39 conspicuous manner the toll-free telephone number
9 40 required by section 536B.9, subsection 1, paragraph
9 41 "b".
9 42 Sec. 11. NEW SECTION. 536B.11 RIGHT TO REDEEM.
9 43 Except as otherwise provided in this chapter, a
9 44 borrower, upon presentation of suitable
9 45 identification, shall be entitled to redeem the motor
9 46 vehicle provided as security under the motor vehicle
9 47 equity line of credit agreement or certificate of
9 48 title described therein upon satisfaction of all
9 49 outstanding obligations pursuant to the motor vehicle
9 50 equity line of credit agreement.



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10 1 Sec. 12. NEW SECTION. 536B.12 MANDATORY
10 2 PRINCIPAL REDUCTION PAYMENT.
10 3 1. For each payment period under a motor vehicle
10 4 equity line of credit agreement, the borrower shall be
10 5 required to make a principal reduction payment in an
10 6 amount equal to at least ten percent of the principal
10 7 outstanding on the motor vehicle equity line of credit
10 8 agreement as of the last payment date in addition to
10 9 the lien fee and fees associated with repossession and
10 10 sale.
10 11 2. Interest authorized by this chapter at each
10 12 successive billing cycle shall be calculated on the
10 13 outstanding principal balance.
10 14 3. Payments in excess of a principal reduction
10 15 payment shall be credited to the outstanding principal
10 16 on the day received. If on a payment date, the
10 17 borrower has not made previous principal reduction
10 18 payments adequate to satisfy the current required
10 19 principal reduction payment, and the borrower cannot
10 20 repay at least ten percent of the principal balance
10 21 outstanding as of the billing date and any outstanding
10 22 interest and fees authorized by this chapter, the
10 23 motor vehicle equity line of credit lender may, but
10 24 shall not be obligated to, defer any required
10 25 principal payment, but shall not charge additional
10 26 interest or fees on the principal amount deferred.
10 27 4. The motor vehicle equity line of credit lender
10 28 shall send a monthly billing statement to the borrower
10 29 until the total amount owed by the borrower is paid in
10 30 full or the lender closes the borrower's account.
10 31 Sec. 13. NEW SECTION. 536B.13 DEFAULT ==
10 32 REPOSSESSION AND SALE == RIGHT TO REDEEM.
10 33 1. The motor vehicle equity line of credit lender
10 34 may declare a default pursuant to the requirements of
10 35 section 537.5109.
10 36 2. Prior to serving a notice to cure default, the
10 37 motor vehicle equity line of credit lender shall
10 38 attempt to contact the borrower by telephone or
10 39 certified mail to warn the borrower of the default by
10 40 the borrower, and shall keep a record of all written
10 41 correspondence.
10 42 3. Prior to taking possession of the motor
10 43 vehicle, the motor vehicle equity line of credit
10 44 lender shall mail a notice to cure default to the
10 45 borrower pursuant to the requirements of sections
10 46 537.5110 and 537.5111. If the motor vehicle used to
10 47 secure the line of credit is the only motor vehicle in
10 48 the borrower's household, the motor vehicle equity
10 49 line of credit lender shall allow the borrower at
10 50 least thirty days to cure the default.



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11 1 4. If the borrower does not cure the default
11 2 within the time provided in the notice to cure, the
11 3 motor vehicle equity line of credit lender may
11 4 repossess the motor vehicle pursuant to the motor
11 5 vehicle equity line of credit agreement and in
11 6 compliance with chapter 554, article 9, part 6.
11 7 However, prior to repossessing the motor vehicle, the
11 8 lender shall afford the borrower an opportunity to
11 9 make the motor vehicle available to the lender at a
11 10 place, date, and time reasonably convenient to the
11 11 lender and the borrower. In taking possession, the
11 12 motor vehicle equity line of credit lender, or the
11 13 lender's agent or independent contractor, may proceed
11 14 without judicial process if repossession can be
11 15 accomplished without breach of the peace, or the
11 16 lender may proceed by action to obtain judicial
11 17 process. After the lender, agent, or independent
11 18 contractor takes possession of the motor vehicle, the
11 19 lender shall without charge require that any personal
11 20 belongings left within the motor vehicle are removed,
11 21 inventoried, and made available to the borrower for at
11 22 least fifteen days after the written notice of right
11 23 to redemption is sent to the borrower.
11 24 5. There shall be no further interest charged to
11 25 the borrower after repossession of the motor vehicle.
11 26 6. After repossession, the motor vehicle equity
11 27 line of credit lender shall mail a notice of right to
11 28 redeem to the borrower, notifying the borrower that
11 29 the borrower must redeem the certificate of title to
11 30 the motor vehicle within ten days by paying all
11 31 outstanding principal, interest, and fees authorized
11 32 by this chapter owed by the borrower to the motor
11 33 vehicle equity line of credit lender, plus all
11 34 repossession charges and informing the borrower where
11 35 and how to recover personal belongings left in the
11 36 vehicle. If the borrower exercises the right of
11 37 redemption, the borrower shall be given possession of
11 38 the motor vehicle and the certificate of title without
11 39 further charge. If the borrower fails to redeem the
11 40 motor vehicle, the motor vehicle equity line of credit
11 41 lender shall proceed to sell the motor vehicle.
11 42 7. The motor vehicle equity line of credit lender
11 43 shall sell the motor vehicle in a commercially
11 44 reasonable manner and in compliance with chapter 554,
11 45 article 9, part 6. The proceeds of the sale shall be
11 46 applied to the principal, interest, and all fees
11 47 authorized by this chapter owed by the borrower to the
11 48 motor vehicle equity line of credit lender, including
11 49 the actual repossession costs and cost of the sale.
11 50 Any surplus from the sale of the motor vehicle shall



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12 1 be remitted to the borrower after such sale and shall
12 2 not be retained by the motor vehicle equity line of
12 3 credit lender.

12 4 8. Upon voluntary surrender of the motor vehicle,
12 5 the motor vehicle equity line of credit lender shall
12 6 send a notice to cure default or notice of right to
12 7 redeem to the borrower.

12 8 Sec. 14. NEW SECTION. 536B.14 PROHIBITED
12 9 ACTIONS.

12 10 A motor vehicle equity line of credit lender shall
12 11 not do any of the following:

12 12 1. Enter into a motor vehicle equity line of
12 13 credit agreement with a person less than eighteen
12 14 years of age or a person who appears to be intoxicated
12 15 or under the influence of a controlled substance.

12 16 2. Enter into a motor vehicle equity line of
12 17 credit agreement without first considering the
12 18 applicant's household income and ability to repay the
12 19 loan, obtaining a statement of indebtedness from the
12 20 applicant, and requiring the applicant to disclose
12 21 whether the motor vehicle being used to secure the
12 22 line of credit is the only motor vehicle in the
12 23 applicant's household.

12 24 3. Charge any hidden fees.

12 25 4. Make any agreement giving the motor vehicle
12 26 equity line of credit lender any recourse against the
12 27 borrower other than the motor vehicle equity line of
12 28 credit lender's right to take possession of the motor
12 29 vehicle and certificate of title upon the borrower's
12 30 default or failure to redeem, and to sell or otherwise
12 31 dispose of the motor vehicle in accordance with the
12 32 provisions of this chapter, except where the borrower
12 33 prevented repossession of the vehicle, damaged the
12 34 vehicle, or committed fraud.

12 35 5. Enter into a motor vehicle equity line of
12 36 credit agreement in which the amount of money loaned,
12 37 when combined with the outstanding balance of other
12 38 outstanding motor vehicle equity line of credit
12 39 agreements the borrower has with the same lender
12 40 secured by any single certificate of title, exceeds
12 41 seven thousand five hundred dollars.

12 42 6. Accept any waiver, in writing or otherwise, of
12 43 any right or protection accorded a borrower under this
12 44 chapter.

12 45 7. Fail to exercise reasonable care to protect
12 46 from loss or damage the certificate of title in the
12 47 physical possession of the motor vehicle equity line
12 48 of credit lender.

12 49 8. Purchase a motor vehicle that was repossessed
12 50 in the operation of the lender's business.



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- 13 1 9. Maintain more than one motor vehicle equity
13 2 line of credit office for each motor vehicle equity
13 3 line of credit lender under each license, provided,
13 4 however, any such motor vehicle equity line of credit
13 5 lender may move a motor vehicle equity line of credit
13 6 office as provided in this chapter.
13 7 10. Enter into a motor vehicle equity line of
13 8 credit agreement unless the borrower presents a clear
13 9 title to the motor vehicle at the time that the loan
13 10 is made, and such title is retained in the physical
13 11 possession of the motor vehicle equity line of credit
13 12 lender. If the motor vehicle equity line of credit
13 13 lender files a lien against such motor vehicle without
13 14 possession of a clear title to the motor vehicle, the
13 15 resulting lien shall be void.
13 16 11. Capitalize or add any accrued interest to the
13 17 principal not otherwise allowed under this chapter,
13 18 charge interest on interest, or charge interest in
13 19 excess of the number of days the loan is outstanding.
13 20 12. Sell or otherwise charge for any type of
13 21 insurance, membership, or other product in connection
13 22 with a motor vehicle equity line of credit agreement.
13 23 13. Charge a prepayment penalty or late fee.
13 24 14. Require a borrower to provide any additional
13 25 guaranty as a condition to entering into a motor
13 26 vehicle equity line of credit agreement.
13 27 15. Refuse to provide a receipt when payment is
13 28 made.
13 29 16. Charge interest for more than one year on any
13 30 advance on the line of credit.
13 31 17. Make multiple loans or engage in loan layering
13 32 on the same motor vehicle, provided that this
13 33 subsection shall not prohibit a motor vehicle equity
13 34 line of credit lender from making a subsequent advance
13 35 on an existing line of credit, or from increasing a
13 36 borrower's credit limit.
13 37 18. Hire an employee involved in the loan process
13 38 without requiring the employee to submit to a criminal
13 39 background check, drug screening, and credit check.
13 40 19. Fail to provide training to an employee
13 41 involved in the process of making motor vehicle equity
13 42 line of credit agreements.
13 43 20. Pursue a deficiency judgment against a
13 44 borrower, except where the borrower prevented
13 45 repossession of the vehicle, damaged the vehicle, or
13 46 committed fraud.
13 47 21. Enter into a sale lease-back type of
13 48 arrangement.
13 49 22. Refuse a voluntary vehicle surrender which
13 50 shall not waive the borrower's notice of right to



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14 1 redeem.
14 2 23. Violate any state law regulating advertising.
14 3 24. Use any collection tactics in violation of the
14 4 federal Fair Debt Collection Practices Act, 15 U.S.C.
14 5 } 1692, et seq., or any other applicable law.
14 6 25. Use any device or agreement, including an
14 7 agreement with an affiliated motor vehicle equity line
14 8 of credit lender, with the intent to obtain greater
14 9 charges than otherwise would be authorized by this
14 10 chapter.
14 11 26. Intentionally violate the provisions of this
14 12 chapter or any rule adopted by the superintendent.
14 13 27. Violate any applicable provision of chapter
14 14 537 or chapter 554, article 9, part 6.
14 15 Sec. 15. NEW SECTION. 536B.15 CRIMINAL PENALTY.
14 16 A person who intentionally violates any provision
14 17 of this chapter is guilty of a serious misdemeanor.
14 18 Sec. 16. NEW SECTION. 536B.16 VIOLATIONS ==
14 19 LICENSE SANCTIONS == CIVIL PENALTY.
14 20 1. The superintendent may, after notice and
14 21 opportunity for a hearing, suspend or revoke any
14 22 license issued pursuant to this chapter if the
14 23 superintendent finds that the motor vehicle equity
14 24 line of credit lender has knowingly, or through lack
14 25 of due care, done any of the following:
14 26 a. Engaged in conduct of a manner which would
14 27 warrant the denial of an application for a license.
14 28 b. Refused to permit the superintendent to make
14 29 any examination authorized by this chapter.
14 30 c. Failed to pay the annual license fee imposed by
14 31 this chapter, or an examination fee imposed by the
14 32 superintendent under the authority of this chapter.
14 33 d. Committed any fraudulent act.
14 34 e. Made a false statement in an application for a
14 35 license under this chapter or failed to give a true
14 36 reply to a question in the application.
14 37 f. Demonstrated incompetence or untrustworthiness
14 38 to act as a motor vehicle equity line of credit lender
14 39 in the reasonable opinion of the superintendent.
14 40 g. Violated any provision of this chapter or any
14 41 rule adopted hereunder or violated any other law in
14 42 the course of such motor vehicle equity line of credit
14 43 lender's dealings as a motor vehicle equity line of
14 44 credit lender.
14 45 2. If, after notice and opportunity for a hearing,
14 46 the superintendent finds that a person has violated
14 47 any provision of this chapter or any rule adopted
14 48 hereunder, the superintendent may take any or all of
14 49 the following actions:
14 50 a. Order the person to cease and desist violating



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15 1 the provision of this chapter or rule.
15 2 b. Require the refund of any fees collected by
15 3 such person in violation of this chapter.
15 4 c. Order the person to pay the superintendent a
15 5 civil penalty of not more than one thousand dollars
15 6 for each transaction in violation of this chapter.
15 7 3. A motor vehicle equity line of credit lender
15 8 shall have ten business days to request a hearing upon
15 9 receiving a notice of intent to suspend or revoke a
15 10 license or issue a civil penalty from the
15 11 superintendent. If requested, a hearing shall be held
15 12 on written notice given at least twenty days prior to
15 13 the date of the hearing and shall be conducted in
15 14 accordance with chapter 17A.
15 15 4. The superintendent may enter into consent
15 16 orders at any time with any person to resolve any
15 17 matter arising under this chapter. A consent order
15 18 shall be signed by all parties to the consent order,
15 19 or a duly authorized representative, and shall
15 20 indicate agreement to the terms contained therein. A
15 21 consent order need not constitute an admission by any
15 22 person that any provision of this chapter, or any rule
15 23 or order adopted or issued hereunder, has been
15 24 violated, nor need it constitute a finding by the
15 25 superintendent that such person has violated any
15 26 provision of this chapter or any rule or order adopted
15 27 or issued under this chapter.
15 28 5. In cases involving extraordinary circumstances
15 29 requiring immediate action, the superintendent may
15 30 take any enforcement action authorized by this chapter
15 31 without providing the opportunity for a prior hearing,
15 32 but shall promptly afford a subsequent hearing upon an
15 33 application to rescind the action taken which is filed
15 34 with the superintendent within twenty days after
15 35 receipt of the notice of the superintendent's
15 36 emergency action.
15 37 6. Any person aggrieved by the conduct of a motor
15 38 vehicle equity line of credit lender under this
15 39 chapter in connection with the motor vehicle equity
15 40 line of credit lender's regulated activities may file
15 41 a written complaint with the superintendent, who may
15 42 investigate the complaint, and may pursue any other
15 43 remedy available to the person allowed by law.
15 44 7. In the course of the investigation of a
15 45 complaint, the superintendent may do any of the
15 46 following:
15 47 a. Subpoena witnesses.
15 48 b. Administer oaths.
15 49 c. Examine any individual under oath.
15 50 d. Subpoena the production of records, books,



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16 1 papers, contracts, or other documents relevant to such
16 2 investigation.

16 3 8. If any person fails to comply with a subpoena
16 4 of the superintendent issued pursuant to subsection 7
16 5 or to testify concerning any matter about which the
16 6 person may be questioned under this chapter, the
16 7 superintendent may petition any court of competent
16 8 jurisdiction for enforcement.

16 9 9. The license of any motor vehicle equity line of
16 10 credit lender under this chapter who fails to comply
16 11 with a subpoena of the superintendent may be suspended
16 12 pending compliance with the subpoena.

16 13 10. The superintendent may investigate and enforce
16 14 any and all complaints filed by any person which are
16 15 not criminal in nature, which complaint relates to the
16 16 business of motor vehicle equity line of credit
16 17 lending.

16 18 11. The superintendent, after notice and
16 19 opportunity for hearing, may censure, suspend for a
16 20 period not to exceed twelve months, or bar a person
16 21 from any position of employment, management, or
16 22 control of any motor vehicle equity line of credit
16 23 lender, if the superintendent finds any of the
16 24 following:

16 25 a. That censure, suspension, or bar is in the
16 26 public interest and that the person has intentionally
16 27 committed or caused a violation of this chapter or any
16 28 rule or order of the superintendent.

16 29 b. Any of the following has occurred:

16 30 (1) The person has been convicted of, pled guilty
16 31 to, pled nolo contendere to, or received a deferred
16 32 judgment for any crime in this or any other state if
16 33 the crime involved any offense reasonably related to
16 34 the qualifications, functions, or duties of a person
16 35 engaged in the business in accordance with this
16 36 chapter.

16 37 (2) The person has been held liable in any civil
16 38 action by final judgment, or any order by any public
16 39 agency, if the judgment or order involved any offense
16 40 reasonably related to the qualifications, functions,
16 41 or duties of a person engaged in the business in
16 42 accordance with the provisions of this chapter.

16 43 12. Persons suspended or barred under subsection
16 44 11 are prohibited from participating in any business
16 45 activity of a motor vehicle equity line of credit
16 46 lender and from engaging in any business activity on
16 47 the premises where a motor vehicle equity line of
16 48 credit lender is conducting its business in this
16 49 state. This subsection shall not be construed to
16 50 prohibit a suspended or barred person from having



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17 1 personal transactions processed by a motor vehicle
17 2 equity line of credit lender.
17 3 Sec. 17. NEW SECTION. 536B.17 RULEMAKING ==
17 4 INSPECTION OF BOOKS AND RECORDS.
17 5 1. The superintendent may adopt reasonable rules
17 6 in accordance with chapter 17A for the administration
17 7 and enforcement of this chapter. A copy of any rule
17 8 adopted by the superintendent shall be mailed to each
17 9 licensee under this chapter at least thirty days prior
17 10 to the effective date of the rule.
17 11 2. To assure compliance with the provisions of
17 12 this chapter, the superintendent may examine the
17 13 relevant business books and records of any motor
17 14 vehicle equity line of credit lender. The
17 15 superintendent may charge and collect reasonable and
17 16 actual expenses for any compliance examination
17 17 conducted under this chapter.
17 18 3. The superintendent is authorized to examine
17 19 persons licensed under this chapter and persons
17 20 reasonably suspected by the superintendent of
17 21 conducting business which requires a license under
17 22 this chapter, including all relevant books, records,
17 23 and papers employed by such persons in the transaction
17 24 of the person's business, and to summon and examine
17 25 witnesses under oath concerning matters relating to
17 26 the business of such persons, or such other matters as
17 27 may be relevant to the discovery of violations of this
17 28 chapter, including the conduct of a business without a
17 29 license as required under this chapter.
17 30 4. All books and records required to be preserved
17 31 by this chapter or any rules of the superintendent or
17 32 required by any federal statute, regulation, or
17 33 regulatory guideline, as applicable to each motor
17 34 vehicle equity line of credit lender, shall be
17 35 preserved and made available to the superintendent as
17 36 provided in this chapter, for a period of twenty-four
17 37 months from the date the motor vehicle equity line of
17 38 credit agreement was executed or the date the last
17 39 payment was received, whichever is later. The motor
17 40 vehicle equity line of credit lender may cause any or
17 41 all records at any time in its custody to be
17 42 reproduced and or preserved by the lender or by any
17 43 other person who agrees in writing to submit its
17 44 operations to the examination of the superintendent to
17 45 the extent that such operations directly affect such
17 46 recordkeeping. Any reproduced or preserved record
17 47 kept by microphotographic process, or electronic or
17 48 mechanical data storage technique, shall have the same
17 49 force and effect as the original record and be
17 50 admitted into evidence equally with the original. All



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18 1 records of a motor vehicle equity line of credit
18 2 lending business shall be maintained separately by the
18 3 motor vehicle equity line of credit lender from any
18 4 other business in which the motor vehicle equity line
18 5 of credit lender may engage.

18 6 Sec. 18. NEW SECTION. 536B.18 PREEMPTION OVER
18 7 LOCAL ENACTMENTS == CONFLICTING PROVISIONS.

18 8 1. An incorporated municipality, city, or county
18 9 in this state shall not enact an ordinance or
18 10 resolution or adopt any rules relating to this
18 11 chapter. The provisions of any ordinance, resolution,
18 12 or rules of any municipality, city, or county relative
18 13 to motor vehicle equity line of credit lending are
18 14 superseded by the provisions of this chapter.

18 15 2. Notwithstanding any other provision of the Code
18 16 to the contrary, this chapter shall apply to all motor
18 17 vehicle equity line of credit agreements made in this
18 18 state and shall govern in the event of any conflict
18 19 with any other provision of law.

18 20 Sec. 19. NEW SECTION. 536B.19 APPLICABILITY.

18 21 The following entities, if incorporated under the
18 22 laws of this or any other state or federal law, may
18 23 engage in the business of motor vehicle equity line of
18 24 credit lending and shall not be required to be
18 25 licensed or regulated under this chapter:

18 26 1. A bank.

18 27 2. A savings and loan association.

18 28 3. A credit union.

18 29 4. An affiliate of a bank, savings and loan
18 30 association, or credit union.

18 31 Sec. 20. NEW SECTION. 536B.20 BORROWER
18 32 INFORMATION.

18 33 A motor vehicle equity line of credit lender shall,
18 34 in addition to obtaining a statement of indebtedness
18 35 to determine a borrower's ability to repay a loan, and
18 36 all fees and expenses incident to the loan, obtain
18 37 certification from the borrower that the borrower
18 38 either does not have access to any form of
18 39 conventional financing such as through a bank, credit
18 40 union, or other source of funding, or in the event the
18 41 borrower has access to such forms or sources the
18 42 borrower elects not to utilize them and certifies the
18 43 ability to pay the indebtedness incurred. A motor
18 44 vehicle equity line of credit loan shall not be issued
18 45 by a lender unless the statement of indebtedness and
18 46 certification have been received by the lender. In
18 47 addition to the civil and criminal penalty provisions
18 48 of sections 536B.15 and 536B.16, a motor vehicle
18 49 equity line of credit lender who violates this section
18 50 shall be subject to the civil and criminal violation
19 1 of disclosure provisions of sections 537.5203 and
19 2 537.5302.>

19 3 #2. Title page, by striking lines 1 through 3 and
19 4 inserting the following: <An Act providing for
19 5 licensing and regulation of motor vehicle equity line
19 6 of credit lenders, providing for fees, and providing



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19 7 for specified consumer financial certification.>
19 8
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19 11 TOMENGA of Polk
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19 15 R. OLSON of Polk
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19 19 D. TAYLOR of Linn
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19 23 ANDERSON of Page
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19 27 PALMER of Mahaska
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19 31 WISE of Lee
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19 35 HUSER of Polk
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19 39 HUNTER of Polk
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19 43 TJEPKES of Webster
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19 47 STRUYK of Pottawattamie
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20 1 MAY of Dickinson
20 2
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20 5 CLUTE of Polk
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20 9 GRANZOW of Hardin
20 10 HF 5.503 82
20 11 rn/jg/25



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House Amendment 1040

PAG LIN

1 1 Amend the amendment, H=1029, to Senate File 61, as
1 2 passed by the Senate, as follows:
1 3 #1. Page 1, by inserting before line 3 the
1 4 following:
1 5 <#____. Page 3, lines 23 and 24, by striking the
1 6 words <board of directors of a school district and
1 7 the>.
1 8 #</strike>____. Page 3, by striking line 28 and inserting
1 9 the following: <purposes, the board of directors of a
1 10 school district>.>
1 11 #2. Page 1, by striking lines 11 and 12 and
1 12 inserting the following:
1 13 <To assist school districts required to establish
1 14 programs designed to eliminate harassment and bullying
1 15 in schools pursuant to section 280.28, subsection 4,
1 16 if enacted, by providing funds to provide for the
1 17 equivalent of one>.
1 18 #3. Page 1, by inserting after line 14 the
1 19 following:
1 20 <#____. Title page, line 3, by striking the words
1 21 <and providing> and inserting the following:
1 22 <providing>.
1 23 #</strike>____. Title page, line 4, by inserting after the
1 24 word <atters> the following: <, and making an
1 25 appropriation>.>
1 26 #4. By renumbering as necessary.
1 27
1 28
1 29
1 30 TYMESON of Madison
1 31 SF 61.532 82
1 32 kh/je/6763
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House File 172

HOUSE FILE

BY BERRY, SMITH, KRESSIG, WINCKLER,
PETTENGILL, WENTHE, WENDT,
R. OLSON, JACOBY, SCHUELLER,
FOEGE, LENSING, ANDERSON, SWAIM,
ABDUL=SAMAD, and FORD

Passed House, Date _____
Vote: Ayes _____ Nays _____
Approved

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act prescribing the frequency of a guardian ad litem's visits
- 2 to the residence of a child.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1828HH 82
- 5 jp/es/88



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House File 172 continued

PAG LIN

1 1 Section 1. Section 232.2, subsection 22, paragraph b,
1 2 subparagraph (3), Code 2007, is amended to read as follows:
1 3 (3) Visiting the home, residence, or both home and
1 4 residence of the child and any prospective home or residence
1 5 of the child, including each time placement is changed. At
1 6 least once every ninety days, the guardian ad litem shall
1 7 personally visit the residence of the child at a time when the
1 8 child is present in the residence. If the guardian ad litem
1 9 is not a court appointed special advocate or a court appointed
1 10 special advocate has not been appointed for the child, the
1 11 court may designate a court appointed special advocate or
1 12 other person with qualifications acceptable to the court to
1 13 perform the personal visit duty in lieu of the guardian ad
1 14 litem. The court designee shall provide recommendations to
1 15 the guardian ad litem in a timely manner that allows the
1 16 guardian ad litem to incorporate the recommendations in
1 17 representing the best interests of the child before the court.

1 18 EXPLANATION

1 19 This bill amends one of the duties contained in the
1 20 definition of the term "guardian ad litem" in Code section
1 21 232.2. A guardian ad litem is an individual appointed by the
1 22 juvenile court to represent the child's interests in any
1 23 judicial proceeding.

1 24 Current law requires the guardian ad litem to visit a
1 25 child's home or residence, or both, and the prospective home
1 26 or residence of the child, including each time the child's
1 27 placement is changed. The bill specifies that at least once
1 28 every 90 days, the guardian ad litem must visit the child's
1 29 residence at a time when the child is present in the
1 30 residence. The bill provides that the court may designate a
1 31 court appointed special advocate or other qualified person to
1 32 perform the personal visit duty in lieu of the guardian ad
1 33 litem. That designee is required to provide timely
1 34 recommendations to the guardian ad litem so that the
1 35 recommendations can be incorporated by the guardian ad litem



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House File 172 continued

2 1 in representing the best interests of the child before the
2 2 court.
2 3 LSB 1828HH 82
2 4 jp:nh/es/88



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House File 173 - Introduced

HOUSE FILE
 BY WHITAKER, KUHN, FREVERT,
 SWAIM, SCHUELLER, SMITH,
 and GASKILL

Passed House, Date _____ Passed Senate, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved

A BILL FOR

1 An Act providing authority to a county board of supervisors to
 2 establish a separation distance requirement between an animal
 3 feeding operation maintaining swine and a structure which is
 4 part of a swine farrowing and gestating operation, and
 5 providing an effective date.
 6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
 7 TLSB 1292HH 82
 8 da/gg/14



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House File 173 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 459.203A SWINE FARROWING AND
1 2 GESTATING OPERATIONS == SPECIAL BIOSECURITY SEPARATION
1 3 DISTANCES.
1 4 1. A county board of supervisors may adopt a swine
1 5 biosecurity ordinance requiring a separation distance in feet
1 6 between an animal feeding operation maintaining swine and a
1 7 structure which houses more than twenty-five animal units and
1 8 is part of a swine farrowing and gestating operation located
1 9 in the county. If the animal feeding operation or the
1 10 structure is located in a different county, the joint boards
1 11 of supervisors of the different counties may adopt the
1 12 biosecurity ordinance. On the effective date of the ordinance
1 13 requiring a separation distance, except as provided in
1 14 subsection 2 and section 459.205, the animal feeding operation
1 15 shall not be established or expanded within that separation
1 16 distance.

1 17 2. a. An animal feeding operation established or expanded
1 18 prior to the date that a separation distance became effective
1 19 as provided in a biosecurity ordinance and which does not
1 20 comply with the separation distance may continue to operate
1 21 regardless of the separation distance requirement.

1 22 b. An animal feeding operation may be expanded within a
1 23 separation distance required in a biosecurity ordinance if the
1 24 expansion is in accordance with the terms and conditions of a
1 25 variance granted by the county board of supervisors which
1 26 adopted the biosecurity ordinance.

1 27 Sec. 2. Section 459.205, subsection 3, Code 2007, is
1 28 amended to read as follows:

1 29 3. a. A confinement feeding operation structure which is
1 30 constructed or expanded within any distance from a any of the
1 31 following:

1 32 (1) A residence, educational institution, commercial
1 33 enterprise, or bona fide religious institution, ~~city, or~~
~~1 34 public use area,~~ if the residence, educational institution,
1 35 commercial enterprise, or bona fide religious institution was



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2 1 constructed or expanded, ~~or the boundaries of the city or~~
~~2 2 public use area were expanded,~~ after the date that the
2 3 confinement feeding operation was established.
2 4 (2) A city or public use area, if the boundaries of the
2 5 city or public use area were expanded after the date that the
2 6 confinement feeding operation was established.
2 7 (3) A swine farrowing and gestating operation, if the
2 8 swine farrowing and gestating operation was constructed or
2 9 expanded after the date that the confinement feeding operation
2 10 was established.
2 11 b. The date the confinement feeding operation was
2 12 established is the date on which the confinement feeding
2 13 operation commenced operating. A change in ownership or
2 14 expansion of the confinement feeding operation shall not
2 15 change the established date of operation.
2 16 Sec. 3. Section 459.303, subsection 1, unnumbered
2 17 paragraph 1, Code 2007, is amended to read as follows:
2 18 The department shall approve or disapprove applications for
2 19 permits for the construction, including the expansion, of
2 20 confinement feeding operation structures, as provided by rules
2 21 adopted pursuant to this chapter. ~~The department's decision~~
~~2 22 to department shall~~ approve or disapprove a permit for the
2 23 construction of a confinement feeding operation structure
2 24 ~~shall be~~ based on whether the application is submitted
2 25 according to procedures required by the department and the
2 26 application meets the requirements of this chapter, including
2 27 standards established by the department and separation
2 28 distance requirements for the construction and expansion of
2 29 confinement feeding operation structures. A person shall not
2 30 begin construction of a confinement feeding operation
2 31 structure requiring a permit under this section, unless the
2 32 department first approves the person's application and issues
2 33 to the person a construction permit. The department shall
2 34 provide conditions for requiring when a person must obtain a
2 35 construction permit.



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3 1 Sec. 4. EFFECTIVE DATE. This Act, being deemed of
3 2 immediate importance, takes effect upon enactment.

3 3 EXPLANATION

3 4 BACKGROUND. This bill amends Code chapter 459, the "Animal
3 5 Agriculture Compliance Act" (Code section 459.101). The Code
3 6 chapter generally regulates animal feeding operations. As
3 7 part of the regulation, the Code chapter provides for
3 8 confinement feeding operation structures, including
3 9 confinement feeding operation buildings. Regulations
3 10 affecting animal feeding operations are often based on size.
3 11 Since 2002, the size of a confinement feeding operation is
3 12 measured by animal unit capacity (2002 Iowa Acts, ch 1137).
3 13 An animal unit is classified by species and types within that
3 14 species. Butcher or breeding swine weighing more than 55
3 15 pounds equal 0.4 animal units and swine weighing between 15
3 16 and 55 pounds equal 0.1 animal units.

3 17 These regulations include separation distance requirements
3 18 depending on three factors: (1) the type of location
3 19 benefiting from the separation such as a home, school,
3 20 business, church, public use area, or thoroughfare; (2) when
3 21 the confinement feeding operation was constructed or expanded,
3 22 usually based on the effective date of a statute creating the
3 23 requirement; and (3) the capacity of the confinement feeding
3 24 operation (since 2002, its animal unit capacity). There are
3 25 several exceptions. Code section 459.205 provides several
3 26 exceptions. A separation distance requirement does not apply
3 27 to small animal feeding operations (500 or fewer animal
3 28 units). By its terms, a separation distance requirement does
3 29 not apply if the titleholder of the land benefiting from the
3 30 distance separation executes a written waiver with the
3 31 titleholder of the land where the structure is located.
3 32 Another exception provides that a separation distance
3 33 requirement does not apply when a benefited location
3 34 constructs or expands within an existing separation distance.

3 35 BILL'S PROVISIONS. The bill allows for the creation of a



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4 1 new separation distance requirement which benefits a
4 2 confinement building which is part of a swine farrowing and
4 3 gestating operation housing more than 25 animal units.
4 4 Specifically, the bill provides that a county board of
4 5 supervisors may adopt an ordinance (referred to as a
4 6 biosecurity ordinance) that establishes a separation distance
4 7 between an animal feeding operation maintaining swine and a
4 8 structure where sows and litters are housed. It provides that
4 9 such a separation requirement does not prohibit the status of
4 10 an animal feeding operation existing on the effective date
4 11 that the requirement became effective as provided in the
4 12 biosecurity ordinance. The bill provides that a county board
4 13 of supervisors may grant a variance to allow construction or
4 14 expansion within the separation distance. Code section
4 15 459.205 applies so that small animal feeding operations are
4 16 exempt from separation distance requirements. Similarly, Code
4 17 section 459.205 applies so that a neighboring landowner
4 18 benefiting from a separation distance may execute a waiver to
4 19 allow construction or expansion of a confinement feeding
4 20 operation structure within the separation distance. Finally,
4 21 the bill provides that a separation distance requirement does
4 22 not apply when the swine farrowing and gestating operation
4 23 constructs or expands within an existing separation distance.
4 24 The bill takes effect upon enactment.
4 25 LSB 1292HH 82
4 26 da:nh/gg/14



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House File 174

HOUSE FILE

BY D. OLSON, SWAIM, GASKILL,
 KRESSIG, JACOBY, SMITH,
 MERTZ, DANDEKAR, KAUFMANN,
 and DE BOEF

Passed House, Date _____ Passed Senate, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
 Approved

A BILL FOR

- 1 An Act exempting active duty pay of members of the armed forces,
- 2 armed forces military reserve, and national guard and
- 3 including a retroactive applicability date provision.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1056HH 82
- 6 mg/cf/24



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House File 174 continued

PAG LIN

1 1 Section 1. Section 422.7, Code 2007, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 50. Subtract, to the extent included,
1 4 active duty pay received by a person as a member on federal
1 5 active duty of the armed forces or as a member in the armed
1 6 forces military reserve or national guard serving on federal
1 7 active duty other than for training.
1 8 Sec. 2. RETROACTIVE APPLICABILITY DATE. This Act applies
1 9 retroactively to January 1, 2007, for tax years beginning on
1 10 or after that date.

1 11 EXPLANATION
1 12 This bill exempts active duty pay for members of the armed
1 13 forces, armed forces military reserve, and national guard who
1 14 serve on federal active duty other than for training.
1 15 The bill applies retroactively to January 1, 2007, for tax
1 16 years beginning on or after that date.
1 17 LSB 1056HH 82
1 18 mg:rj/cf/24



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House File 175

HOUSE FILE
BY D. OLSON

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
Approved

A BILL FOR

- 1 An Act establishing an efficiency in higher education Act.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 3 TLSB 1177HH 82
- 4 kh/gg/14



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House File 175 continued

PAG LIN

1 1 Section 1. NEW SECTION. 261E.1 TITLE.
1 2 This chapter shall be known and may be cited as the
1 3 "Efficiency in Higher Education Act".
1 4 Sec. 2. NEW SECTION. 261E.2 LEGISLATIVE FINDINGS ==
1 5 INTENT.
1 6 1. The general assembly finds and declares as follows:
1 7 a. Iowa's current and prospective employers have greater
1 8 expectations for the knowledge and skills base of Iowa's
1 9 workforce.
1 10 b. The demand continues to grow for baccalaureate degrees
1 11 as Iowans realize that the challenge of a global economy will
1 12 only be met by well-educated people.
1 13 c. Iowa's community colleges are an essential partner in
1 14 meeting this demand.
1 15 d. It is essential to establish policies and procedures in
1 16 the public higher education system that provide for efficient
1 17 transfer of courses, credits, and prerequisites for academic
1 18 majors.
1 19 e. The state universities must facilitate the efficient
1 20 and effective progression and transfer of students from
1 21 community colleges to baccalaureate education.
1 22 2. Therefore, it is the intent of the general assembly to
1 23 improve statewide coordination of transfer and articulation.
1 24 Sec. 3. NEW SECTION. 261E.3 TRANSFER AND ARTICULATION
1 25 COMMITTEE ESTABLISHED.
1 26 1. A transfer and articulation committee is established.
1 27 The committee shall consist of the following members:
1 28 a. The president, or the president's designee, of each
1 29 community college established pursuant to chapter 260C.
1 30 b. The president, or the president's designee, of each
1 31 institution of higher education governed by the state board of
1 32 regents.
1 33 c. Three members who shall be appointed by the president
1 34 of the state board of regents to represent the institutions of
1 35 higher education governed by the board.



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2 1 2. a. A vacancy on the committee shall be filled by
2 2 appointment in the same manner as the original appointment.
2 3 b. Members appointed pursuant to subsection 1, paragraph
2 4 "c", shall serve four-year staggered terms which shall begin
2 5 at 12:01 a.m. on May 1 in the year of appointment and expire
2 6 at 12:00 midnight on April 30 in the year of expiration.
2 7 3. The committee shall elect a chairperson and vice
2 8 chairperson. Meetings may be called by the chairperson or a
2 9 majority of the members.
2 10 4. Members shall be reimbursed for actual and necessary
2 11 expenses incurred while engaged in their official duties.
2 12 Expense payments shall be made from appropriations to the
2 13 state board of regents.
2 14 5. The department of education and the state board of
2 15 regents shall provide staff assistance and administrative
2 16 support to the committee.
2 17 6. The committee shall do all of the following:
2 18 a. Develop a methodology to review all existing and future
2 19 articulation agreements between the community colleges and the
2 20 state universities governed by the state board of regents.
2 21 b. Establish a uniform system to streamline and make the
2 22 transfer of credits from the community colleges to the state
2 23 universities transparent and verifiable for students
2 24 contemplating or completing coursework.
2 25 c. Develop a uniform course numbering system and uniform
2 26 course descriptions to allow easy comparison of courses
2 27 offered by the community colleges and state universities.
2 28 7. The committee may establish subcommittees to which the
2 29 committee may delegate some or all of its responsibilities
2 30 under subsection 6.
2 31 8. The committee shall submit a progress report to the
2 32 general assembly by January 15, 2008, and by January 15, 2009,
2 33 and thereafter shall report to the general assembly biennially
2 34 regarding its activities.
2 35 Sec. 4. INITIAL TERMS OF MEMBERS APPOINTED BY THE



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3 1 PRESIDENT OF THE STATE BOARD OF REGENTS. The initial members
3 2 of the transfer and articulation committee appointed by the
3 3 president of the state board of regents shall be appointed to
3 4 the following terms:
3 5 1. One member shall be appointed for a term of four years.
3 6 2. One member shall be appointed for a term of three
3 7 years.
3 8 3. One member shall be appointed for a term of two years.

3 9 EXPLANATION

3 10 This bill establishes an efficiency in higher education Act
3 11 to improve statewide coordination of transfer and articulation
3 12 of students and course or program content between community
3 13 colleges and the institutions of higher education governed by
3 14 the state board of regents.

3 15 The bill states the legislative findings and intent leading
3 16 to the establishment of a 20-member transfer and articulation
3 17 committee consisting of the presidents from all of the 14
3 18 community colleges, or their designees, the presidents of all
3 19 three state universities, or their designees, and three
3 20 members appointed by the president of the state board of
3 21 regents who also represent the state universities.

3 22 Members shall be reimbursed for actual and necessary
3 23 expenses incurred while engaged in their official duties.
3 24 Expense payments shall be made from appropriations to the
3 25 state board of regents. The department of education and the
3 26 state board of regents shall provide staff assistance and
3 27 administrative support to the committee.

3 28 The committee is charged with developing a methodology to
3 29 review all existing and future articulation agreements between
3 30 the community colleges and the state universities,
3 31 establishing a uniform system to streamline and make the
3 32 transfer of credits transparent and verifiable for students
3 33 contemplating or completing coursework, and developing a
3 34 uniform course numbering system and uniform course
3 35 descriptions to allow easy comparison of courses offered by



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4 1 the community colleges and state universities.
4 2 The committee must submit a progress report to the general
4 3 assembly by January 15, 2008, and by January 15, 2009, and
4 4 thereafter a biennial report of its activities.
4 5 LSB 1177HH 82
4 6 kh:nh/gg/14



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House File 176 - Introduced

HOUSE FILE

BY TYMESON, DRAKE, BOAL, DOLECHECK, ALONS,
 TOMENGA, FORRISTALL, L. MILLER,
 GRASSLEY, S. OLSON, PAULSEN, WIENCEK,
 HEATON, LUKAN, TJEPKES, DE BOEF, JACOBS,
 CHAMBERS, HUSEMAN, VAN FOSSEN, RAECKER,
 ROBERTS, SODERBERG, WORTHAN, CLUTE,
 RASMUSSEN, BAUDLER, KAUFMANN, RAYHONS,
 MAY, WINDSCHITL, GIPP, RANTS, HORBACH,
 WATTS, DEYOE, UPMEYER, GREINER, SANDS,
 HOFFMAN, VAN ENGELLENHOVEN, ARNOLD,
 GRANZOW, SCHICKEL, ANDERSON, and STRUYK

Passed House, Date _____
 Vote: Ayes _____ Nays _____
 Approved

Passed Senate, Date _____
 Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act revising appropriations for certain veterans' programs for
 2 the fiscal year beginning July 1, 2006, and providing an
 3 effective date.
 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
 5 TLSB 2002YH 82
 6 pf/je/5



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1 1 Section 1. 2005 Iowa Acts, chapter 175, section 4,
1 2 subsection 3, as enacted by 2006 Iowa Acts, chapter 1167,
1 3 section 3, as amended by 2006 Iowa Acts, chapter 1106, section
1 4 3, is amended to read as follows:
1 5 3. INJURED VETERANS GRANT PROGRAM
1 6 For implementation of a new injured veterans grant program,
1 7 contingent upon enactment of law by the Eighty-first General
1 8 Assembly, 2006 Session, codifying the new program requirements
1 9 in chapter 35A, for providing grants to military veterans
1 10 seriously injured in a combat zone since September 11, 2001:
1 11 \$ ~~1,000,000~~
1 12 1,250,000
1 13 If the general assembly enacts law codifying a new fund or
1 14 other requirements for the new program for which the
1 15 appropriation is made in this subsection, then notwithstanding
1 16 section 8.33, moneys appropriated in this subsection that
1 17 remain unencumbered or unobligated at the close of the fiscal
1 18 year shall not revert but shall remain available for
1 19 expenditure for the purposes designated until the close of the
1 20 succeeding fiscal year. However, if the general assembly does
1 21 not enact such law, the appropriation made in this subsection
1 22 shall revert as provided in section 8.33.
1 23 Sec. 2. 2005 Iowa Acts, chapter 175, section 4, subsection
1 24 4, as enacted by 2006 Iowa Acts, chapter 1167, section 3, is
1 25 amended to read as follows:
1 26 4. HOME OWNERSHIP ASSISTANCE PROGRAM
1 27 For transfer to the Iowa finance authority to be used for
1 28 continuation of the home ownership assistance program for
1 29 persons who are or were eligible members of the armed forces
1 30 of the United States, implemented pursuant to 2003 Iowa Acts,
1 31 chapter 179, section 21, subsection 5, as amended by 2005 Iowa
1 32 Acts, chapter 161, section 1, and chapter 115, section 37:
1 33 \$ ~~2,000,000~~
1 34 3,100,000
1 35 a. The Iowa finance authority shall give priority to



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2 1 processing the applications for assistance received after the
2 2 original allotment of funding for the program was exhausted.
2 3 b. Notwithstanding section 8.33, moneys appropriated in
2 4 this subsection that remain unencumbered or unobligated at the
2 5 close of the fiscal year shall not revert but shall remain
2 6 available for expenditure for the purposes designated until
2 7 the close of the fiscal year beginning July 1, 2007.

2 8 Sec. 3. EFFECTIVE DATE. This Act, being deemed of
2 9 immediate importance, takes effect upon enactment.

2 10 EXPLANATION

2 11 This bill provides supplemental appropriations for fiscal
2 12 year 2006=2007 for the injured veterans grant program and the
2 13 home ownership assistance program. The bill takes effect upon
2 14 enactment.

2 15 LSB 2002YH 82

2 16 pf:nh/je/5



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House File 177 - Introduced

HOUSE FILE
BY SWAIM

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
Approved

A BILL FOR

- 1 An Act allowing a competent adult to execute a written instrument
- 2 directing the final disposition of that person's remains.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1038HH 82
- 5 av/sh/8



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House File 177 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 144C.1 SHORT TITLE.
1 2 This chapter may be cited as the "Final Disposition
1 3 Directives Act".
1 4 Sec. 2. NEW SECTION. 144C.2 LEGISLATIVE FINDINGS ==
1 5 CONSTRUCTION.
1 6 1. The general assembly finds and declares the following:
1 7 a. A competent adult should have the right and power to
1 8 direct the final disposition of the adult's remains and should
1 9 be protected from the actions of interested persons who may
1 10 try to impose their wishes regarding such final disposition
1 11 contrary to the adult's desires.
1 12 b. A statute is necessary to establish the priority of
1 13 interested persons to direct the final disposition of an
1 14 adult's remains if the decedent failed to do so or if a
1 15 dispute arises between interested persons regarding such final
1 16 disposition.
1 17 c. The right of a competent adult to direct the final
1 18 disposition of the adult's remains should be exercised by the
1 19 adult in a written declaration to protect a third party who
1 20 relies in good faith on the directives in the declaration from
1 21 liability.
1 22 2. This chapter shall be interpreted liberally to carry
1 23 out a decedent's intent when not in conflict with this
1 24 chapter.
1 25 3. This chapter shall not be construed to do any of the
1 26 following:
1 27 a. Supersede the provisions of section 135.144.
1 28 b. Invalidate a declaration or will, codicil, trust, power
1 29 of appointment, or power of attorney, subject to the
1 30 provisions of section 144C.4, subsection 3.
1 31 c. Invalidate any act of an agent, guardian, or
1 32 conservator.
1 33 d. Affect any claim, right, or remedy that accrued prior
1 34 to the effective date of this Act.
1 35 e. Authorize or encourage acts that violate the



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2 1 constitution, statutes, rules, case law, or public policy of
2 2 Iowa or the United States.
2 3 f. Abridge contracts.
2 4 g. Modify the standards, ethics, or protocols of the
2 5 practice of medicine or mortuary science.
2 6 h. Compel or authorize a health care provider, hospital,
2 7 health care facility, elder group home, assisted living
2 8 program facility, adult day services program, or licensed
2 9 hospice program to administer medical treatment that is
2 10 medically inappropriate or contrary to laws of Iowa or the
2 11 United States.
2 12 i. Permit or authorize euthanasia or an affirmative or
2 13 deliberate act to end a person's life.
2 14 Sec. 3. NEW SECTION. 144C.3 DEFINITIONS.
2 15 As used in this chapter, unless the context otherwise
2 16 requires:
2 17 1. "Adult" means a person who is married or who is
2 18 eighteen years of age or older.
2 19 2. "Adult day services program" means adult day services
2 20 program as defined in section 231D.1.
2 21 3. "Assisted living program facility" means assisted
2 22 living program facility as defined in section 231C.2.
2 23 4. "Ceremony" means a formal act or set of formal acts
2 24 established by custom or authority to commemorate a decedent.
2 25 5. "Child" means a son or daughter of a parent, whether by
2 26 birth or adoption.
2 27 6. "Decedent" means a deceased adult.
2 28 7. "Declarant" means a competent adult who executes a
2 29 declaration pursuant to this chapter.
2 30 8. "Declaration" means a written instrument, executed by a
2 31 declarant in accordance with the requirements of this chapter,
2 32 that names a designee and may direct the final disposition of
2 33 the declarant's remains and the ceremonies planned after the
2 34 declarant's death.
2 35 9. "Designee" means a competent adult designated under a



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3 1 declaration to implement the declarant's wishes contained in
3 2 the declaration.
3 3 10. "Elder group home" means elder group home as defined
3 4 in section 231B.1.
3 5 11. "Final disposition" means the burial, interment,
3 6 cremation, removal from the state, or other disposition of
3 7 remains.
3 8 12. "Health care facility" means health care facility as
3 9 defined in section 135C.1.
3 10 13. "Health care provider" means health care provider as
3 11 defined in section 144A.2.
3 12 14. "Hospital" means hospital as defined in section
3 13 135B.1.
3 14 15. "Interested person" means a decedent's spouse, parent,
3 15 grandparent, adult child, adult sibling, adult grandchild, or
3 16 a designee.
3 17 16. "Licensed hospice program" means a licensed hospice
3 18 program as defined in section 135J.1.
3 19 17. "Reasonable under the circumstances", as applied to
3 20 implementation of a declarant's directives in a declaration,
3 21 means consideration of what is appropriate in relation to the
3 22 declarant's finances, cultural or family customs, and
3 23 religious or spiritual beliefs. "Reasonable under the
3 24 circumstances" may include but is not limited to consideration
3 25 of the declarant's preneed funeral, burial, or cremation plan,
3 26 and known or reasonably ascertainable creditors of the
3 27 declarant.
3 28 18. "Remains" means the body or cremated remains of a
3 29 decedent.
3 30 19. a. "Third party" means a person who is any of the
3 31 following:
3 32 (1) Is requested in a declaration to act in good faith in
3 33 reliance upon the declaration.
3 34 (2) Is requested to dispose of remains by an adult with
3 35 the right to dispose of a decedent's remains under section



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4 1 144C.6.

4 2 (3) Is delegated discretion in a declaration to direct
4 3 final disposition of a declarant's remains or to make
4 4 arrangements for the performance of ceremonies after a
4 5 declarant's death.

4 6 b. "Third party" includes but is not limited to a funeral
4 7 director, funeral establishment, cremation establishment, or
4 8 cemetery.

4 9 Sec. 4. NEW SECTION. 144C.4 DECLARATION == FINAL
4 10 DISPOSITION OF REMAINS.

4 11 1. A declaration shall name a designee and may include one
4 12 or more of the following directives:

4 13 a. What final disposition shall be made of the declarant's
4 14 remains.

4 15 b. What ceremony shall be performed after the declarant's
4 16 death.

4 17 2. A designee or a third party shall act in good faith to
4 18 fulfill the directives of a declaration in a manner that is
4 19 reasonable under the circumstances.

4 20 3. A funeral director, funeral establishment, cremation
4 21 establishment, cemetery, elder group home, assisted living
4 22 program facility, adult day services program, licensed hospice
4 23 program, or attorney, or any agent, owner, or employee of such
4 24 an entity, shall not serve as a designee unless related to the
4 25 declarant within the third degree of consanguinity.

4 26 Sec. 5. NEW SECTION. 144C.5 RELIANCE == IMMUNITIES.

4 27 1. A designee or third party who relies in good faith on a
4 28 declaration is not subject to civil liability or to criminal
4 29 prosecution or professional disciplinary action, to any
4 30 greater extent than if the designee or third party dealt
4 31 directly with the declarant as a fully competent and living
4 32 person.

4 33 2. A designee or third party who relies in good faith on a
4 34 declaration may presume, in the absence of actual knowledge to
4 35 the contrary, all of the following:



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- 5 1 a. That the declaration was validly executed.
5 2 b. That the declarant was competent at the time the
5 3 declaration was executed.
5 4 3. A third party who relies in good faith on a declaration
5 5 is not subject to civil or criminal liability for the proper
5 6 application of property delivered or surrendered in compliance
5 7 with directives contained in the declaration including but not
5 8 limited to trust funds held pursuant to chapter 523A.
5 9 4. A third party who has reasonable cause to question the
5 10 authenticity or validity of a declaration may promptly and
5 11 reasonably seek additional information from the person
5 12 proffering the declaration or from other persons to verify the
5 13 declaration.
5 14 5. This section shall not be construed to impair any
5 15 contractual obligations of a designee or third party incurred
5 16 in fulfillment of a declaration.
5 17 Sec. 6. NEW SECTION. 144C.6 FINAL DISPOSITION OF REMAINS
5 18 == RIGHT TO CONTROL.
5 19 1. The right to control final disposition of a decedent's
5 20 remains or to make arrangements for the ceremony after a
5 21 decedent's death vests in and devolves upon the following
5 22 persons who are competent adults at the time of the decedent's
5 23 death, in the following order:
5 24 a. A designee acting pursuant to the decedent's
5 25 declaration.
5 26 b. The surviving spouse of the decedent, if not legally
5 27 separated from the decedent, whose whereabouts is reasonably
5 28 ascertainable.
5 29 c. A surviving adult child of the decedent, or, if there
5 30 is more than one, a majority of the surviving adult children
5 31 whose whereabouts are reasonably ascertainable.
5 32 d. The surviving parents of the decedent whose whereabouts
5 33 are reasonably ascertainable.
5 34 e. A surviving adult grandchild of the decedent, or, if
5 35 there is more than one, a majority of the surviving adult



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6 1 grandchildren whose whereabouts are reasonably ascertainable.
6 2 f. A surviving adult sibling of the decedent, or, if there
6 3 is more than one, a majority of the surviving adult siblings
6 4 whose whereabouts are reasonably ascertainable.
6 5 g. A surviving grandparent of the decedent, or, if there
6 6 is more than one, a majority of the surviving grandparents
6 7 whose whereabouts are reasonably ascertainable.
6 8 h. An adult person in the next degree of kinship to the
6 9 decedent in the order named by law to inherit the estate of
6 10 the decedent under the rules of inheritance for intestate
6 11 succession or, if there is more than one, a majority of such
6 12 surviving persons whose whereabouts are reasonably
6 13 ascertainable.
6 14 i. A person who represents that the person knows the
6 15 identity of the decedent and who signs an affidavit warranting
6 16 the identity of the decedent and assuming the right to control
6 17 final disposition of the decedent's remains and the
6 18 responsibility to pay any expense attendant to such final
6 19 disposition. A person who warrants the identity of the
6 20 decedent pursuant to this paragraph is liable for all damages
6 21 that result, directly or indirectly, from that warrant.
6 22 j. The county medical examiner, if responsible for the
6 23 decedent's remains, or, if there is no county medical
6 24 examiner, the state medical examiner, if responsible for the
6 25 decedent's remains.
6 26 2. A third party may rely upon the directives of a person
6 27 who represents that the person is a member of a class of
6 28 persons described in subsection 1, paragraph "c", "e", "f",
6 29 "g", or "h", and who signs an affidavit stating that all other
6 30 members of the class, whose whereabouts are reasonably
6 31 ascertainable, have been notified of the decedent's death and
6 32 the person has received the assent of a majority of those
6 33 members of that class of persons to control final disposition
6 34 of the decedent's remains and to make arrangements for the
6 35 performance of a ceremony for the decedent.



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7 1 3. A third party may await a court order before proceeding
 7 2 with final disposition of a decedent's remains or arrangements
 7 3 for the performance of a ceremony for a decedent if the third
 7 4 party is aware of a dispute among persons who are members of
 7 5 the same class of persons described in subsection 1, or of a
 7 6 dispute between persons who are authorized under subsection 1
 7 7 and the executor named in a decedent's will or a personal
 7 8 representative appointed by the court.

7 9 4. If a declaration is contained in a will, the designee
 7 10 may immediately implement the declaration without probate. If
 7 11 a will that contains a declaration is not probated or is
 7 12 declared invalid for testamentary purposes, the acts of the
 7 13 designee in reliance on the declaration are valid to the
 7 14 extent that the designee acted in good faith.

7 15 Sec. 7. NEW SECTION. 144C.7 DECLARATION OF FINAL
 7 16 DISPOSITION OF REMAINS == FORM == REQUIREMENTS.

7 17 1. A declaration executed pursuant to this chapter may,
 7 18 but need not, be in the following form:

7 19 I hereby designate as my designee to
 7 20 implement my wishes relating to the final disposition of my
 7 21 remains and the ceremonies to be performed after my death.
 7 22 This declaration hereby revokes all prior declarations or
 7 23 other documents directing final disposition of my remains and
 7 24 the ceremonies to be performed after my death. This
 7 25 designation becomes effective upon my death.

7 26 My designee shall act consistently with my directives as
 7 27 stated in this declaration, in a manner that is reasonable
 7 28 under the circumstances. My designee has the discretion to
 7 29 determine when my directives are impossible or are not lawful,
 7 30 practical, or financially feasible. My directives are:

7 31 _____
 7 32 _____
 7 33 _____
 7 34 _____

7 35 I may revoke or amend this declaration at any time. I



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8 1 agree that a third party (such as a funeral or cremation
8 2 establishment, funeral director, or cemetery) who receives a
8 3 copy of this declaration may act in reliance on it.
8 4 Revocation of this declaration is not effective as to a third
8 5 party until the third party receives notice of the revocation.
8 6 My estate shall indemnify my designee and any third party for
8 7 costs incurred by them or claims arising against them as a
8 8 result of their good faith reliance on this declaration.

8 9 I execute this declaration as my free and voluntary act.

8 10 2. A declaration executed pursuant to this chapter shall
8 11 be in a written form that substantially complies with the form
8 12 contained in subsection 1, is properly completed, and is dated
8 13 and signed by the declarant or another person acting on the
8 14 declarant's behalf at the direction of and in the presence of
8 15 the declarant. In addition, a declaration shall be either of
8 16 the following:

8 17 a. Signed by at least two individuals who are not named
8 18 therein and who, in the presence of each other and the
8 19 declarant, witnessed the signing of the declaration by the
8 20 declarant, or another person acting on the declarant's behalf
8 21 at the direction of and in the presence of the declarant, and
8 22 witnessed the signing of the declaration by each other.

8 23 b. Acknowledged before a notarial officer.

8 24 3. A declaration may include specific directives,
8 25 including but not limited to:

8 26 a. Special instructions conveying the declarant's wishes
8 27 for the type of final disposition of the declarant's remains,
8 28 location of the final disposition, type of ceremony, location
8 29 of ceremony, and organ donation consistent with chapter 142C.

8 30 b. Designation of one or more alternate designees.

8 31 c. Contact information of designees and alternate
8 32 designees such as names, addresses, and telephone numbers.

8 33 d. Instructions for distribution of copies of the
8 34 declaration.

8 35 Sec. 8. NEW SECTION. 144C.8 REVOCATION OF DECLARATION.

9 1 1. A declaration or any directive contained in a
9 2 declaration is revocable by a declarant in writing.

9 3 2. Unless otherwise expressly provided in a declaration:

9 4 a. A dissolution of marriage, annulment of marriage, or
9 5 legal separation between the declarant and the declarant's
9 6 spouse that occurs subsequent to the execution of the
9 7 declaration constitutes an automatic revocation of the spouse
9 8 as a designee.

9 9 b. A designation of a person as a designee pursuant to a
9 10 declaration is ineffective if the designation is revoked by
9 11 the declarant in writing subsequent to the execution of the
9 12 declaration or if the designee is unable or unwilling to serve
9 13 as the designee.

9 14 Sec. 9. NEW SECTION. 144C.9 FORFEITURE OF DESIGNEE'S
9 15 AUTHORITY.

9 16 A designee shall forfeit all rights and authority under a
9 17 declaration and all rights and authority under the declaration
9 18 shall vest in and devolve upon an alternate designee, or if
9 19 there is none vest in and devolve pursuant to section 144C.6,
9 20 under either of the following circumstances:

9 21 1. The designee is charged with murder in the first or



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9 22 second degree or voluntary manslaughter in connection with the
9 23 declarant's death and those charges are known to a third
9 24 party, provided that if the charges against the designee are
9 25 dismissed or the designee is acquitted of the crime charged,
9 26 the authority of the designee under the declaration shall be
9 27 reinstated.

9 28 2. The designee does not exercise the designee's authority
9 29 under the declaration within two days of receiving
9 30 notification of the death of the declarant or within five days
9 31 of the declarant's death, whichever is earlier.

9 32 Sec. 10. NEW SECTION. 144C.10 INTERSTATE EFFECT OF
9 33 DECLARATION.

9 34 Unless otherwise expressly provided in a declaration:

9 35 1. It is presumed that the declarant intended to have a



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10 1 declaration executed pursuant to this chapter have the full
10 2 force and effect of law in any state of the United States, the
10 3 District of Columbia, and any other territorial possessions of
10 4 the United States.

10 5 2. A declaration or similar instrument executed in another
10 6 state that complies with the requirements of this chapter may
10 7 be relied upon, in good faith, by a third party in this state
10 8 so long as a directive of the declarant is not invalid,
10 9 illegal, or unconstitutional in this state.

10 10 Sec. 11. NEW SECTION. 144C.11 EFFECT OF DECLARATION.

10 11 1. The designee designated in a declaration shall have the
10 12 sole discretion pursuant to the declaration to determine what
10 13 final disposition of the declarant's remains and ceremonies to
10 14 be performed after the declarant's death are reasonable under
10 15 the circumstances.

10 16 2. The provisions of the most recent declaration executed
10 17 by a declarant shall control over any other document
10 18 concerning final disposition of the declarant's remains and
10 19 the ceremony to be performed after the declarant's death.

10 20 3. This chapter applies to a declaration executed or
10 21 exercised in Iowa and to a declaration executed or exercised
10 22 by a person who is a resident of Iowa when the instrument is
10 23 executed or exercised.

10 24 4. This chapter does not prohibit an interested person
10 25 from viewing a declarant in private, at the interested
10 26 person's expense, to assist in the bereavement process, unless
10 27 such a viewing is specifically prohibited in the declaration.

10 28 5. This chapter does not prohibit a person from conducting
10 29 a separate ceremony to commemorate a declarant, at the
10 30 person's expense, to assist in the bereavement process.

10 31 6. The rights of a donee created by an anatomical gift
10 32 pursuant to section 142C.11 are superior to the authority of a
10 33 designee under a declaration executed pursuant to this
10 34 chapter.

10 35 Sec. 12. NEW SECTION. 144C.12 PRACTICE OF MORTUARY



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11 1 SCIENCE.

11 2 This chapter shall not be construed to authorize the
11 3 unlicensed practice of mortuary science as provided in chapter
11 4 156.

11 5 Sec. 13. APPLICABILITY DATES.

11 6 1. This Act applies to all declarations executed on or
11 7 after the effective date of this Act.

11 8 2. The section of this Act enacting section 144C.6 applies
11 9 to all deaths occurring on or after the effective date of this
11 10 Act, except that section 144C.6, subsection 1, paragraph "a",
11 11 applies only to a designee designated in a declaration that is
11 12 executed on or after the effective date of this Act.

11 13 EXPLANATION

11 14 This bill creates new Code chapter 144C, entitled the
11 15 "Final Disposition Directives Act". The bill allows a
11 16 competent adult, that is, a person who is married or who is 18
11 17 years of age or older, to execute a written instrument called
11 18 a declaration which expresses the wishes of the person
11 19 concerning the final disposition of that person's remains and
11 20 the ceremonies to be performed after that person's death and
11 21 designates who should oversee those matters.

11 22 The bill provides that it shall not be construed to do any
11 23 of the following: supersede duties of the department of
11 24 public health related to a public disaster contained in Code
11 25 section 135.144; invalidate a declaration or will, codicil,
11 26 trust, power of appointment, or power of attorney, subject to
11 27 the provisions of the bill contained in Code section 144C.4,
11 28 subsection 3, that prohibit a funeral director, funeral
11 29 establishment, cremation establishment, cemetery, elder group
11 30 home, assisted living program facility, adult day services
11 31 program, licensed hospice program, or attorney, or any agent,
11 32 owner, or employee of such an entity, from serving as a
11 33 designee unless related to the declarant within the third
11 34 degree of consanguinity; invalidate any act of an agent,
11 35 guardian, or conservator; affect any claim, right, or remedy



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12 1 that accrued prior to the effective date of the bill,
12 2 authorize or encourage acts that violate the constitution,
12 3 statutes, rules, case law, or public policy of Iowa or the
12 4 United States; abridge contracts; modify the standards,
12 5 ethics, or protocols of the practice of medicine or mortuary
12 6 science; compel or authorize a health care provider, health
12 7 care facility, hospital, elder group home, assisted living
12 8 program facility, adult day care services program, or licensed
12 9 hospice program to administer medical treatment that is
12 10 medically inappropriate or contrary to laws of Iowa or the
12 11 United States; or permit or authorize euthanasia or an
12 12 affirmative or deliberate act to end a person's life.

12 13 The bill allows a third party to rely upon the directives
12 14 of a person who represents that the person is a member of a
12 15 class of persons set forth in the order of priority contained
12 16 in the bill if that person signs an affidavit stating that the
12 17 person has received the assent of a majority of all members of
12 18 the class, whose whereabouts are reasonably ascertainable, to
12 19 control final disposition of the decedent's remains and to
12 20 make arrangements for the performance of a ceremony for the
12 21 decedent.

12 22 The bill requires a declaration to name a designee and
12 23 allows a declaration to direct what final disposition should
12 24 be made of the declarant's remains and what ceremony should be
12 25 performed after the declarant's death. The bill prohibits a
12 26 funeral director, funeral establishment, cremation
12 27 establishment, cemetery, elder group home, assisted living
12 28 program facility, adult day services program, licensed hospice
12 29 program, or attorney, or any agent, owner, or employee of any
12 30 such entity, from serving as a designee under a declaration
12 31 unless related to the declarant within the third degree of
12 32 consanguinity. The bill requires a designee or third party to
12 33 act in good faith to fulfill the directives of a declaration
12 34 in a manner that is reasonable under the circumstances.

12 35 The bill provides some immunity from civil or criminal



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13 1 liability or professional disciplinary action for a designee
13 2 or a third party, such as a funeral director, funeral
13 3 establishment, cremation establishment, or cemetery, acting in
13 4 good faith reliance on a declaration. The bill provides that
13 5 its provisions shall not be construed to impair any
13 6 contractual obligations of a designee or third party incurred
13 7 in fulfillment of a declaration.

13 8 The bill sets forth an order of priority for determining
13 9 who has the right to control final disposition of a deceased
13 10 person's remains or to make arrangements for a ceremony after
13 11 a person's death. A designee acting pursuant to a declaration
13 12 has the highest priority, or if there is no designee, then the
13 13 surviving spouse and other relatives of the deceased person
13 14 whose whereabouts are reasonably ascertainable, a person who
13 15 knows the declarant, or the county or state medical examiner.

13 16 The bill allows a third party to await a court order before
13 17 proceeding with final disposition of the body or ceremony
13 18 arrangements in the event of a dispute among family members or
13 19 between family members and the executor of the decedent's will
13 20 or a personal representative appointed by the court. The bill
13 21 also allows a designee to implement a declaration contained in
13 22 a will immediately without probate.

13 23 The bill contains a suggested, but not mandatory, written
13 24 form for a declaration. A declaration must be in writing and
13 25 substantially comply with the form contained in the bill, be
13 26 properly completed, and be signed by the person making the
13 27 declaration, or another person acting on the declarant's
13 28 behalf at the direction of and in the presence of the
13 29 declarant.

13 30 The declaration must also either be signed by at least two
13 31 individuals who are not named in the document who, in the
13 32 presence of each other and the declarant, witness the signing
13 33 of the declaration by the declarant, or a person acting on the
13 34 declarant's behalf at the direction of and in the presence of
13 35 the declarant, and who witness the signing of the declaration



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14 1 by each other, or be acknowledged before a notarial officer.

14 2 The bill suggests specific directives that may be included
14 3 in a declaration such as special instructions conveying the
14 4 person's wishes concerning the type and location of the final
14 5 disposition and ceremonies, designation of alternate designees
14 6 and contact information for all designees, and instructions
14 7 for distribution of copies of the declaration.

14 8 The bill provides for forfeiture of a designee's rights and
14 9 authority under a declaration if the designee is charged with
14 10 murder in the first or second degree or voluntary manslaughter
14 11 of the deceased person, or if the designee's rights and
14 12 authority under the declaration are not exercised within two
14 13 days of receiving notification of the death of the declarant
14 14 or within five days of the declarant's death, whichever is
14 15 earlier.

14 16 The bill provides a presumption that a declaration executed
14 17 pursuant to the new Code chapter is intended to have full
14 18 force and effect throughout the United States, the District of
14 19 Columbia, and its territorial possessions and gives effect to
14 20 declarations or similar instruments executed in other states
14 21 that comply with the requirements of the new Code chapter.

14 22 The bill gives a designee the sole discretion to determine
14 23 what is "reasonable under the circumstances" by considering
14 24 what is appropriate in relation to the declarant's finances,
14 25 cultural or family customs, and religious or spiritual
14 26 beliefs, including consideration of any preneed funeral,
14 27 burial, or cremation plan, or creditors of the declarant in
14 28 implementing the provisions of a declaration.

14 29 The bill provides that the provisions of the most recent
14 30 declaration of a declarant control over any other document
14 31 concerning final disposition of that person's body or the
14 32 ceremonies to be performed after that person's death.

14 33 The bill provides that the new Code chapter applies to a
14 34 declaration executed or exercised in Iowa and to a declaration
14 35 executed or exercised by a person who is a resident of Iowa



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15 1 when the instrument is executed or exercised.

15 2 The bill does not prohibit an "interested person", defined
15 3 as a declarant's spouse, parent, grandparent, adult child,
15 4 adult sibling, adult grandchild, or a designee, from viewing a
15 5 declarant in private at the interested person's expense, to
15 6 assist in the bereavement process, unless such a viewing is
15 7 specifically prohibited in the declaration.

15 8 The bill does not prohibit a person from conducting a
15 9 separate ceremony to commemorate a declarant, at the person's
15 10 expense, to assist in the bereavement process.

15 11 The bill provides that the rights of a donee created by an
15 12 anatomical gift pursuant to Code section 142C.11 are superior
15 13 to the authority of a designee pursuant to a declaration.

15 14 The bill applies to all declarations executed on or after
15 15 the effective date of the bill. New Code section 144C.6,
15 16 which sets forth an order of priority for determining who has
15 17 the right to control final disposition and ceremonies for a
15 18 decedent, applies to all deaths occurring on or after the
15 19 effective date of the bill, except that Code section 144C.6,
15 20 subsection 1, paragraph "a", giving highest priority to a
15 21 designee in a declaration, applies only to a designee
15 22 designated in a declaration executed on or after the effective
15 23 date of the bill.

15 24 The bill provides that its provisions shall not be
15 25 construed to authorize the unlicensed practice of mortuary
15 26 science as provided in Code chapter 156.

15 27 LSB 1038HH 82

15 28 av:rj/sh/8



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House File 178 - Introduced

HOUSE FILE
BY D. OLSON

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
Approved

A BILL FOR

1 An Act relating to third-party payment of health care coverage
2 costs for the diagnosis and treatment of infertility and
3 providing an applicability date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TL5B 1011HH 82
6 av/je/5



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PAG LIN

1 1 Section 1. NEW SECTION. 514C.23 INFERTILITY COVERAGE.
1 2 1. Notwithstanding the uniformity of treatment
1 3 requirements of section 514C.6, a group policy, contract, or
1 4 plan providing for third-party payment or prepayment of
1 5 health, medical, and surgical coverage benefits issued by a
1 6 carrier, as defined in section 513B.2, or by an organized
1 7 delivery system authorized under 1993 Iowa Acts, ch. 158,
1 8 shall provide coverage benefits for the diagnosis and
1 9 treatment of infertility, if both of the following are
1 10 satisfied:
1 11 a. The policy, contract, or plan is issued to an employer
1 12 who on at least fifty percent of the employer's working days
1 13 during the preceding calendar year employed more than twenty=
1 14 five full-time equivalent employees. In determining the
1 15 number of full-time equivalent employees of an employer,
1 16 employers who are affiliated or who are able to file a
1 17 consolidated tax return for purposes of state taxation shall
1 18 be considered one employer.
1 19 b. The policy, contract, or plan provides coverage
1 20 benefits related to pregnancy.
1 21 2. Notwithstanding the uniformity of treatment
1 22 requirements of section 514C.6, a plan established pursuant to
1 23 chapter 509A for public employees shall provide coverage
1 24 benefits for the diagnosis and treatment of infertility.
1 25 3. For purposes of this section, "infertility" means the
1 26 inability to conceive after one year of unprotected sexual
1 27 intercourse or the inability to sustain a successful
1 28 pregnancy.
1 29 4. For purposes of this section, the diagnosis and
1 30 treatment of infertility includes but is not limited to all of
1 31 the following:
1 32 a. In vitro fertilization.
1 33 b. Uterine embryo lavage.
1 34 c. Embryo transfer.
1 35 d. Artificial insemination.



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- 2 1 e. Gamete intrafallopian tube transfer.
2 2 f. Zygote intrafallopian tube transfer.
2 3 g. Low tubal ovum transfer.
2 4 5. Coverage benefits required under this section for in
2 5 vitro fertilization, gamete intrafallopian tube transfer, or
2 6 zygote intrafallopian tube transfer shall be required only if
2 7 all of the following conditions are satisfied:
2 8 a. The covered individual has been unable to attain or
2 9 sustain a successful pregnancy through reasonable, less
2 10 costly, medically=appropriate infertility treatments for which
2 11 coverage is available under the policy, contract, or plan.
2 12 b. The covered individual has not undergone more than
2 13 three completed oocyte retrievals, except that if a live birth
2 14 follows a completed oocyte retrieval, then two more completed
2 15 oocyte retrievals shall be covered.
2 16 c. The procedures are performed at a medical facility that
2 17 conforms to the American college of obstetrics and gynecology
2 18 guidelines for in vitro fertilization clinics or to the
2 19 American society for reproductive medicine's minimum standards
2 20 for in vitro fertilization programs.
2 21 6. This section does not apply to a group policy,
2 22 contract, or plan issued to or by a religious institution or
2 23 organization or to or by an entity sponsored by a religious
2 24 institution or organization if the religious and moral
2 25 teachings or beliefs of the religious institution or
2 26 organization would be violated by providing the coverage
2 27 benefits otherwise required under this section.
2 28 7. This section shall not apply to accident=only,
2 29 specified disease, short=term hospital or medical, hospital
2 30 confinement indemnity, credit, dental, vision, Medicare
2 31 supplement, long=term care, basic hospital and medical=
2 32 surgical expense coverage as defined by the commissioner,
2 33 disability income insurance coverage, coverage issued as a
2 34 supplement to liability insurance, workers' compensation or
2 35 similar insurance, or automobile medical payment insurance, or



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3 1 individual accident and sickness policies issued to
3 2 individuals or to individual members of a member association.
3 3 8. This section applies to third-party payment provider
3 4 policies or contracts and to plans established pursuant to
3 5 chapter 509A that are delivered, issued for delivery,
3 6 continued, or renewed in this state on or after January 1,
3 7 2008.

3 8 EXPLANATION

3 9 This bill mandates payment of health care costs for the
3 10 diagnosis and treatment of infertility in certain health
3 11 insurance policies, contracts, or plans issued to employers of
3 12 more than 25 full-time employees who provide coverage benefits
3 13 related to pregnancy, and in plans established pursuant to
3 14 Code chapter 509A for public employees.

3 15 The bill defines "infertility" as the inability to conceive
3 16 after one year of unprotected sexual intercourse or the
3 17 inability to sustain a successful pregnancy.

3 18 The bill provides that coverage for the diagnosis and
3 19 treatment of infertility includes but is not limited to in
3 20 vitro fertilization, uterine embryo transfer, artificial
3 21 insemination, gamete intrafallopian tube transfer, zygote
3 22 intrafallopian tube transfer, and low tubal ovum transfer.

3 23 The bill limits the requirement for coverage for in vitro
3 24 fertilization, gamete intrafallopian tube transfer, or a
3 25 zygote intrafallopian tube transfer to those cases where the
3 26 covered individual has been unable to attain or sustain a
3 27 successful pregnancy through reasonable, less costly,
3 28 medically-appropriate infertility treatments for which
3 29 coverage is available under the policy, contract, or plan, and
3 30 the individual has not undergone more than three complete
3 31 oocyte retrievals, except that if a live birth follows a
3 32 completed oocyte retrieval, two more completed oocyte
3 33 retrievals are covered, and the procedures are performed at a
3 34 medical facility that meets guidelines of the American college
3 35 of obstetrics and gynecology or minimum standards of the



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4 1 American society for reproductive medicine for in vitro
4 2 fertilization programs.
4 3 Infertility coverage is not required in a group policy,
4 4 contract, or plan issued to or by a religious institution or
4 5 organization or an entity sponsored by such an institution or
4 6 organization if the religious and moral teachings or beliefs
4 7 of the religious institution or organization would be violated
4 8 by such a requirement.
4 9 The bill does not apply to certain specified types of
4 10 insurance policies.
4 11 The bill applies to third-party payment provider policies
4 12 or contracts and to plans established pursuant to Code chapter
4 13 509A that are delivered, issued for delivery, continued, or
4 14 renewed in this state on or after January 1, 2008.
4 15 LSB 1011HH 82
4 16 av:rj/je/5



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House File 179 - Introduced

HOUSE FILE
BY RAYHONS

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
Approved

A BILL FOR

- 1 An Act allowing stationary or European-style bird hunts on
- 2 hunting preserves.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 2152HH 82
- 5 av/gg/14



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1 1 Section 1. Section 481A.21, Code 2007, is amended to read
1 2 as follows:

1 3 481A.21 BIRDS AS TARGETS.

1 4 1. A person shall not keep or use any live pigeon or other
1 5 bird as a target, to be shot at for amusement or as a test of
1 6 skill in marksmanship, or shoot at a bird kept or used for
1 7 such purpose, or be a party to such shooting, or lease any
1 8 building, room, field, or premises, or knowingly permit the
1 9 use thereof, for the purpose of such shooting except as
1 10 otherwise provided in this section.

1 11 2. This section does not prevent any person from shooting
1 12 at live pigeons, sparrows, and starlings when used in the
1 13 training of hunting dogs.

1 14 3. This section does not prevent the commission from
1 15 adopting rules under chapter 17A which allow hunting preserves
1 16 to hold stationary or European-style bird hunts.

1 17 EXPLANATION

1 18 This bill allows the natural resource commission to adopt
1 19 rules under Code chapter 17A which allow stationary or
1 20 European-style bird hunts on hunting preserves.

1 21 LSB 2152HH 82

1 22 av:nh/gg/14



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House File 180 - Introduced

HOUSE FILE
BY MASCHER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
Approved

A BILL FOR

1 An Act increasing the taxes imposed on cigarettes and providing
2 for appropriation of the revenue generated to the medical
3 assistance program and for tobacco control and prevention, and
4 providing an effective date.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TL5B 1966HH 82
7 pf/gg/14



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1 1 Section 1. Section 453A.6, subsection 1, Code 2007, is
1 2 amended to read as follows:

1 3 1. There is imposed, and shall be collected and paid to
1 4 the department, ~~the following taxes~~ on all cigarettes used or
1 5 otherwise disposed of in this state for any purpose
1 6 whatsoever; a tax of ten cents on each cigarette.

1 7 CLASS A. ~~On cigarettes weighing not more than three pounds~~
~~1 8 per thousand, eighteen mills on each such cigarette.~~

1 9 CLASS B. ~~On cigarettes weighing more than three pounds per~~
~~1 10 thousand, eighteen mills on each such cigarette.~~

1 11 Sec. 2. Section 453A.35, Code 2007, is amended to read as
1 12 follows:

1 13 453A.35 TAX AND FEES PAID TO GENERAL FUND.

1 14 The proceeds derived from the sale of stamps and the
1 15 payment of taxes, fees, and penalties provided for under this
1 16 chapter, and the permit fees received from all permits issued
1 17 by the department, with the exception of the proceeds derived
1 18 from payment of taxes pursuant to section 453A.6, subsection
1 19 1, shall be credited to the general fund of the state. All
1 20 permit fees provided for in this chapter and collected by
1 21 cities in the issuance of permits granted by the cities shall
1 22 be paid to the treasurer of the city where the permit is
1 23 effective, or to another city officer as designated by the
1 24 council, and credited to the general fund of the city. Permit
1 25 fees so collected by counties shall be paid to the county
1 26 treasurer.

1 27 Sec. 3. NEW SECTION. 453A.35A HEALTH CARE ENHANCEMENT
1 28 FUND == TAX REVENUE DEPOSITED == APPROPRIATION.

1 29 1. A health care enhancement fund is created in the office
1 30 of the treasurer of state. The fund consists of the revenues
1 31 generated from the taxes imposed on cigarettes pursuant to
1 32 section 453A.6, subsection 1. Moneys in the fund shall be
1 33 used only as specified in this section and are appropriated
1 34 for the uses specified. Moneys deposited in the fund are not
1 35 subject to section 8.33 and shall not be transferred, used,



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House File 180 - Introduced continued

2 1 obligated, appropriated, or otherwise encumbered, except as
2 2 provided in this section. Notwithstanding section 12C.7,
2 3 subsection 2, interest or earnings on moneys deposited in the
2 4 fund shall be credited to the fund.

2 5 2. Moneys in the fund are appropriated for the fiscal year
2 6 beginning July 1, 2007, and for each fiscal year thereafter,
2 7 as follows:

2 8 a. To the department of human services, an amount
2 9 necessary, annually, for expenses incurred under the medical
2 10 assistance program.

2 11 b. To the department of public health, an amount
2 12 necessary, annually, for expenses relating to tobacco control
2 13 and prevention within the state.

2 14 Sec. 4. EFFECTIVE DATE. This Act, being deemed of
2 15 immediate importance, takes effect on the first day of the
2 16 month that begins following enactment.

2 17 EXPLANATION

2 18 This bill relates to an increase in the taxes imposed on
2 19 cigarettes and to the deposit and appropriation of the revenue
2 20 generated.

2 21 The bill provides for a tax on cigarettes of 10 cents on
2 22 each cigarette. The effect of the bill is to increase the tax
2 23 on a pack of 20 cigarettes from 36 cents per pack to \$2 per
2 24 pack.

2 25 The bill provides that the revenue generated (the 10 cents
2 26 per cigarette) is to be deposited in the health care
2 27 enhancement fund created in the bill. The bill provides that
2 28 moneys in the fund are appropriated for the fiscal year
2 29 beginning July 1, 2007, and annually thereafter, to the
2 30 department of human services, an amount necessary, annually,
2 31 for expenses incurred under the medical assistance program,
2 32 and to the department of public health, an amount necessary,
2 33 annually, for expenses relating to tobacco control and
2 34 prevention within the state.

2 35 LSB 1966HH 82



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House File 180 - Introduced continued

3 1 pf:rj/gg/14



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House File 181 - Introduced

HOUSE FILE

BY SCHUELLER, SANDS, WORTHAN,
DE BOEF, DOLECHECK, MERTZ,
FREVERT, GASKILL, and
ALONS

Passed House, Date _____
Vote: Ayes _____ Nays _____
Approved

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act concerning horse racing by providing minimum total purses
- 2 for races of standardbred horses at county fairs and including
- 3 an applicability and effective date provision.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1167YH 82
- 6 ec/je/5

PAG LIN



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House File 180 - Introduced continued

1 1 Section 1. Section 99F.6, subsection 4, paragraph a, Code
1 2 2007, is amended to read as follows:
1 3 a. Before a license is granted, the division of criminal
1 4 investigation of the department of public safety shall conduct
1 5 a thorough background investigation of the applicant for a
1 6 license to operate a gambling game operation on an excursion
1 7 gambling boat. The applicant shall provide information on a
1 8 form as required by the division of criminal investigation. A
1 9 qualified sponsoring organization licensed to operate gambling
1 10 games under this chapter shall distribute the receipts of all
1 11 gambling games, less reasonable expenses, charges, taxes,
1 12 fees, and deductions allowed under this chapter, as winnings
1 13 to players or participants or shall distribute the receipts
1 14 for educational, civic, public, charitable, patriotic, or
1 15 religious uses as defined in section 99B.7, subsection 3,
1 16 paragraph "b". However, a licensee to conduct gambling games
1 17 under this chapter shall, unless an operating agreement for an
1 18 excursion gambling boat otherwise provides, distribute at
1 19 least three percent of the adjusted gross receipts for each
1 20 license year for educational, civic, public, charitable,
1 21 patriotic, or religious uses as defined in section 99B.7,
1 22 subsection 3, paragraph "b". However, if a licensee who is
1 23 also licensed to conduct pari-mutuel wagering at a horse
1 24 racetrack has unpaid debt from the pari-mutuel racetrack
1 25 operations, the first receipts of the gambling games operated
1 26 within the racetrack enclosure less reasonable operating
1 27 expenses, taxes, and fees allowed under this chapter shall be
1 28 first used to pay the annual indebtedness. The commission
1 29 shall authorize, subject to the debt payments for horse
1 30 racetracks and the provisions of paragraph "b" for dog
1 31 racetracks, a licensee who is also licensed to conduct
1 32 pari-mutuel dog or horse racing to use receipts from gambling
1 33 games within the racetrack enclosure to supplement purses for
1 34 races particularly for Iowa-bred horses pursuant to an
1 35 agreement which shall be negotiated between the licensee and



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House File 180 - Introduced continued

2 1 representatives of the dog or horse owners. For agreements
2 2 subject to commission approval concerning purses for horse
2 3 racing beginning on or after January 1, ~~2006~~ 2007, and ending
2 4 before January 1, 2021, the agreements shall provide that
2 5 total annual purses for all horse racing shall be no less than
2 6 eleven percent of the first two hundred million dollars of net
2 7 receipts, and six percent of net receipts above two hundred
2 8 million dollars, and shall provide that at least one million
2 9 dollars of the total annual purses shall be used for purses
2 10 for races of standardbred horses at county fairs. Agreements
2 11 that are subject to commission approval concerning horse
2 12 purses for a particular period of time beginning on or after
2 13 January 1, 2006, and ending before January 1, 2021, shall be
2 14 jointly submitted to the commission for approval. A qualified
2 15 sponsoring organization shall not make a contribution to a
2 16 candidate, political committee, candidate's committee, state
2 17 statutory political committee, county statutory political
2 18 committee, national political party, or fund-raising event as
2 19 these terms are defined in section 68A.102. The membership of
2 20 the board of directors of a qualified sponsoring organization
2 21 shall represent a broad interest of the communities. For
2 22 purposes of this paragraph, "net receipts" means the annual
2 23 adjusted gross receipts from all gambling games less the
2 24 annual amount of money pledged by the owner of the facility to
2 25 fund a project approved to receive vision Iowa funds as of
2 26 July 1, 2004.
2 27 Sec. 2. EFFECTIVE DATE == RETROACTIVE APPLICABILITY. This
2 28 Act takes effect upon enactment and is retroactively
2 29 applicable to January 1, 2007, and is applicable on and after
2 30 that date.

2 31 EXPLANATION

2 32 This bill establishes that agreements on horse racing
2 33 purses negotiated for horse racing conducted through January
2 34 2021 shall provide that at least \$1,000,000 of the total
2 35 annual purses shall be used for purses for races for



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3 1 standardbred horses at county fairs. The bill takes effect
3 2 upon enactment and is retroactively applicable to January 1,
3 3 2007.
3 4 LSB 1167YH 82
3 5 ec:rj/je/5



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House File 182 - Introduced

HOUSE FILE
BY LENSING

Passed House, Date _____
Vote: Ayes _____ Nays _____
Approved

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act concerning disclosures of information by health care
- 2 workers and providing penalties.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 2155YH 82
- 5 ec/je/5



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House File 182 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 147.105 PATIENT PROTECTION ==
1 2 HEALTH CARE WORKERS == REPORT OF ADVERSE EVENTS.
1 3 1. DEFINITIONS. As used in this section, unless the
1 4 context otherwise requires:
1 5 a. "Health care worker" means any individual employed by
1 6 or under contract with a hospital, health care provider, or
1 7 health care agency to provide health care services.
1 8 b. "Professional standards of care" means authoritative
1 9 statements that describe a level of care or performance common
1 10 to the profession by which the quality of professional
1 11 practice can be judged and which reflect the values and
1 12 priorities of the profession.
1 13 2. A health care worker, who reasonably believes a
1 14 particular practice the health care worker has observed
1 15 occurring at the health care worker's place of employment,
1 16 based on the health care worker's professional standards of
1 17 care or professional code of ethics, is a violation of health
1 18 and safety laws or a breach of public safety that may lead to
1 19 harm to patients, consumers, or citizens, may report the
1 20 information relating to the violation or breach within
1 21 fourteen days of its occurrence to the health care worker's
1 22 supervisor or employer, in order that corrective action can be
1 23 taken. The health care worker shall be protected against
1 24 reprisals or retaliatory or punitive action by the individual
1 25 or institution receiving such a report.
1 26 3. If after a reasonable period of time for correction of
1 27 the violation or breach reported pursuant to subsection 2, the
1 28 health care worker continues to see the particular practice
1 29 occurring in the workplace giving rise to the report, the
1 30 health care worker may disclose information to the licensing
1 31 board, the department, the division of insurance in the
1 32 department of commerce, a member or employee of the general
1 33 assembly, the attorney general, a state-mandated health
1 34 information collection agency, any other public official or
1 35 law enforcement agency, federal government agency or program,



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2 1 the governing board of the health care worker's employer or
2 2 institution, or the health care worker's professional
2 3 association, and shall be protected against reprisals or
2 4 retaliatory or punitive actions by the individual or
2 5 institution if disclosure of the information is not otherwise
2 6 prohibited by statute and if the information meets any of the
2 7 following requirements:

2 8 a. Constitutes state-mandated health data required to be
2 9 submitted to state agencies.

2 10 b. Informs state agencies or entities of violations of
2 11 state health, safety, occupational health, licensure, or
2 12 insurance laws.

2 13 c. Is reasonably believed by the health care worker to be
2 14 a violation of health and safety laws or a breach of public
2 15 safety that may lead to harm to patients, consumers, or
2 16 citizens, based upon the health care worker's professional
2 17 standards of care or professional code of ethics.

2 18 A health care worker making a disclosure which violates any
2 19 provision of the federal Health Insurance Portability and
2 20 Accountability Act, Pub. L. No. 104=191, shall not be entitled
2 21 to protection pursuant to this section nor entitled to civil
2 22 remedies which might otherwise be available pursuant to
2 23 subsection 7.

2 24 4. A health care worker disclosing in good faith the
2 25 information described in subsections 2 and 3 shall be presumed
2 26 to have established a prima facie case showing a violation of
2 27 subsection 2 or 3 by the health care worker's employer if the
2 28 individual or institution employing the health care worker
2 29 knows or has reason to know of the disclosure, and if
2 30 subsequent to and as a result of the disclosure, one or more
2 31 of the following actions were initiated by the employer:

2 32 a. Discharge of the health care worker from employment.

2 33 b. Failure by the employer to take action regarding a
2 34 health care worker's appointment to, promotion or proposed
2 35 promotion to, or receipt of any advantage or benefit in the



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3 1 health care worker's position of employment.
3 2 c. Any adverse change to the health care worker's terms or
3 3 conditions of employment or any administrative, civil, or
3 4 criminal action or other effort that diminished the
3 5 professional competence, reputation, stature, or marketability
3 6 of the health care worker.
3 7 An employer shall have the burden of proof regarding any
3 8 attempt to show that actions taken pursuant to this subsection
3 9 were for a legitimate business purpose.
3 10 5. If an individual or institution employing a health care
3 11 worker is determined to have violated state health, safety, or
3 12 occupational health and health licensure laws or regulations,
3 13 or professional standards of care or a professional code of
3 14 ethics, after a disclosure pursuant to subsection 2 or 3
3 15 results in an action as described in subsection 4, such a
3 16 determination shall create a presumption of retaliation or
3 17 reprisal against the health care worker in violation of this
3 18 section. Disclosure of a reasonable belief that violations of
3 19 health and safety laws or breaches of public safety have
3 20 occurred that have caused or have a potential to cause harm to
3 21 patients, consumers, and citizens shall immediately trigger
3 22 the protection afforded by this section.
3 23 6. A person who violates this section commits a simple
3 24 misdemeanor and is subject to a civil action as follows:
3 25 a. A person who violates this section is liable to an
3 26 aggrieved health care worker for affirmative relief, including
3 27 reinstatement with or without back pay, or any other equitable
3 28 relief the court deems appropriate, including attorney fees
3 29 and costs and punitive or exemplary damages.
3 30 b. When a person commits, is committing, or proposes to
3 31 commit an act in violation of this section, an injunction may
3 32 be granted through an action in district court to prohibit the
3 33 person from continuing such acts. The action for injunctive
3 34 relief may be brought by an aggrieved health care worker or by
3 35 the county attorney.



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4 1 7. In addition to any other penalties applicable to a
4 2 person who violates this section, an individual, institution,
4 3 or organization employing a person who violates this section
4 4 shall be subject to a civil penalty in the amount of one
4 5 thousand dollars per violation.

4 6 EXPLANATION

4 7 This bill provides protection for health care workers
4 8 against retaliation or reprisals resulting from the disclosure
4 9 of certain information.

4 10 The bill creates new Code section 147.105 to provide
4 11 protection for health care workers against retaliation or
4 12 reprisals resulting from the disclosure of certain
4 13 information.

4 14 The new Code section provides that a health care worker who
4 15 discloses information to a state or federal board, department,
4 16 or agency, including the attorney general and law enforcement
4 17 personnel, as described in the bill, after a reasonable
4 18 opportunity to make a report and take corrective action has
4 19 transpired on the part of the individual or institution which
4 20 employs the health care worker and which is the subject of the
4 21 disclosure, shall be protected against reprisals or
4 22 retaliatory or punitive actions by the employer if disclosure
4 23 of the information is not otherwise prohibited by statute.

4 24 The bill provides that for this provision to apply, the
4 25 information disclosed shall constitute state-mandated health
4 26 data required to be submitted to a state agency, or inform a
4 27 state agency or entity of a violation of state health, safety,
4 28 occupational health, licensure, and insurance laws, or is
4 29 reasonably believed by the health care worker to be a
4 30 violation of health and safety laws or a breach of public
4 31 safety that may lead to harm to patients, consumers, or
4 32 citizens, based upon the health care worker's professional
4 33 standards of care and professional code of ethics. The bill
4 34 provides that this provision shall not be applicable to a
4 35 disclosure which constitutes a violation of the federal Health



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5 1 Insurance Portability and Accountability Act.
5 2 The new Code section provides that a health care worker
5 3 disclosing in good faith this information shall be presumed to
5 4 have established a prima facie case if the employer knows or
5 5 has reason to know of the disclosure, and if following and as
5 6 a result of the disclosure the health care worker was
5 7 discharged from employment, or there was a failure by the
5 8 employer to take action regarding a health care worker's
5 9 appointment or promotion, or any adverse change to the health
5 10 care worker's terms or conditions of employment as well as any
5 11 administrative, civil, or criminal action or other effort that
5 12 diminishes the professional competence, reputation, stature,
5 13 or marketability of the health care worker. The bill provides
5 14 that the employer shall have the burden of proof regarding any
5 15 attempt to show that these actions were undertaken for a
5 16 legitimate business purpose.

5 17 The new Code section provides that if an employer is
5 18 determined to have violated state health, safety, or
5 19 occupational health or health licensure laws or regulations,
5 20 or professional standards of care or a professional code of
5 21 ethics, after a disclosure by a health care worker resulting
5 22 in an action taken against the worker as described in the
5 23 bill, this creates a presumption of retaliation or reprisal.
5 24 The bill provides that violations of health and safety laws or
5 25 breaches of public safety that have caused or have a potential
5 26 to cause harm to patients, consumers, and citizens immediately
5 27 trigger protection.

5 28 The new Code section provides that violations constitute a
5 29 simple misdemeanor, and may also be grounds for a civil
5 30 action. The bill provides that in such an action, an employer
5 31 may be liable to an aggrieved health care worker for
5 32 affirmative relief, including reinstatement with or without
5 33 back pay, and other equitable relief the court deems
5 34 appropriate, including attorney fees and costs and punitive or
5 35 exemplary damages. The bill also provides for injunctive



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House File 182 - Introduced continued

6 1 relief. The bill provides that in addition to other
6 2 penalties, an individual, institution, or organization
6 3 employing a person found to be in violation of the bill's
6 4 provisions shall be subject to a civil penalty in the amount
6 5 of \$1,000 per violation.
6 6 LSB 2155YH 82
6 7 ec:nh/je/5



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House File 183 - Introduced

HOUSE FILE
BY RAECKER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
Approved

A BILL FOR

1 An Act providing for an individual income tax deduction for
2 contributions made to a qualified tuition program established
3 by a state other than Iowa and including effective and
4 retroactive applicability date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1914HH 82
7 mg/es/88



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House File 183 - Introduced continued

PAG LIN

1 1 Section 1. Section 422.7, Code 2007, is amended by adding
1 2 the following new subsection:

1 3 NEW SUBSECTION. 32A. a. Subtract contributions made by
1 4 the taxpayer as a participant in a qualified tuition program,
1 5 as defined in section 529(b) of the Internal Revenue Code,
1 6 established by a state other than Iowa or an agency or
1 7 instrumentality of such state. The maximum amount that may be
1 8 subtracted under this paragraph equals the maximum amount that
1 9 is deductible under section 12D.3, subsection 1, paragraph
1 10 "a", for contributions made to the Iowa educational savings
1 11 plan trust minus any amount subtracted pursuant to subsection
1 12 32, paragraph "a", of this section.

1 13 b. Add the amount of cash refunds or withdrawals refunded
1 14 to the taxpayer as a participant in a qualified tuition
1 15 program that is not used to satisfy qualified higher education
1 16 expenses, as defined in section 529(e) of the Internal Revenue
1 17 Code, to the extent previously deducted under paragraph "a".

1 18 Sec. 2. EFFECTIVE AND RETROACTIVE DATE. This Act, being
1 19 deemed of immediate importance, takes effect upon enactment
1 20 and applies retroactively to January 1, 2007, for tax years
1 21 beginning on or after that date.

1 22 EXPLANATION

1 23 This bill allows for an individual income tax deduction for
1 24 contributions made to a qualified tuition program established
1 25 by a state other than Iowa. The program is the counterpart to
1 26 the Iowa educational savings plan trust (state program) and
1 27 allows a taxpayer to make contributions to a trust set up in
1 28 the name of a designated beneficiary to pay the costs
1 29 associated with higher education. The amount that may be
1 30 deducted is the maximum amount that may be deducted for
1 31 contributions to the Iowa state program (almost \$2,600 for tax
1 32 year 2006, to be adjusted for inflation) less any amount that
1 33 has been deducted for the tax year for contributions to the
1 34 Iowa state program.

1 35 The bill also provides that any refunds or withdrawals made



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2 1 which the taxpayer receives and which are not used for
2 2 qualified tuition costs are to be included in income to the
2 3 extent previously deducted.
2 4 The bill takes effect upon enactment and applies
2 5 retroactively to January 1, 2007, for tax years beginning on
2 6 or after that date.
2 7 LSB 1914HH 82
2 8 mg:rj/es/88.1



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House File 184 - Introduced

HOUSE FILE
 BY GAYMAN, SMITH, HEDDENS,
 HUNTER, FOEGE, WENTHE,
 KRESSIG, and JOCHUM

Passed House, Date _____ Passed Senate, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
 Approved

A BILL FOR

1 An Act relating to the personal needs allowance for medical
 2 assistance recipients, providing an effective date, and
 3 providing for retroactive applicability.
 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
 5 TLSB 1861HH 82
 6 pf/gg/14



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House File 184 - Introduced continued

PAG LIN

1 1 Section 1. Section 249A.30A, Code 2007, is amended to read
1 2 as follows:
1 3 249A.30A MEDICAL ASSISTANCE == PERSONAL NEEDS ALLOWANCE.
1 4 The personal needs allowance ~~under the medical assistance~~
1 5 ~~program~~, which may be retained by a recipient of medical
1 6 assistance who is a resident of a nursing facility, an
1 7 intermediate care facility for persons with mental
1 8 retardation, or an intermediate care facility for persons with
1 9 mental illness, as defined in section 135C.1, or who is a
1 10 resident of a psychiatric medical institution for children as
1 11 defined in section 135H.1, shall be fifty dollars per month.
1 12 Sec. 2. EFFECTIVE DATE == RETROACTIVE APPLICABILITY. This
1 13 Act, being deemed of immediate importance, takes effect upon
1 14 enactment, and is retroactively applicable to July 1, 2006.
1 15 EXPLANATION
1 16 This bill provides that, in addition to medical assistance
1 17 recipients who are residents of nursing facilities, the
1 18 personal needs allowance which may be retained by medical
1 19 assistance recipients who are residents of intermediate care
1 20 facilities for persons with mental retardation, intermediate
1 21 care facilities for persons with mental illness, or
1 22 psychiatric medical institutions for children is \$50.
1 23 The bill takes effect upon enactment and is retroactively
1 24 applicable to July 1, 2006.
1 25 LSB 1861HH 82
1 26 pf:rj/gg/14.1



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House File 185 - Introduced

HOUSE FILE
BY KRESSIG

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved

A BILL FOR

- 1 An Act requiring health care benefit coverage for certain
- 2 prosthetic devices and providing an applicability date.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1942YH 82
- 5 av/gg/14



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House File 185 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 514C.23 COVERAGE FOR PROSTHETIC
1 2 DEVICES.
1 3 1. Notwithstanding the uniformity of treatment
1 4 requirements of section 514C.6, a policy or contract providing
1 5 for third-party payment or prepayment of health or medical
1 6 expenses shall provide coverage benefits for prosthetic
1 7 devices when prescribed by a physician licensed under chapter
1 8 148, 150, or 150A. Such coverage benefits for prosthetic
1 9 devices shall provide coverage for prosthetic devices that, at
1 10 a minimum, equals the coverage and payment for prosthetic
1 11 devices provided under federal laws for health insurance for
1 12 the aged and disabled pursuant to 42 U.S.C. } 1395k, 1395l,
1 13 and 1395m, and 42 C.F.R. } 414.202, 414.210, 414.228, and
1 14 410.100, as applicable.
1 15 2. a. This section applies to the following classes of
1 16 third-party payment provider contracts or policies delivered,
1 17 issued for delivery, continued, or renewed in this state on or
1 18 after July 1, 2007:
1 19 (1) Individual or group accident and sickness insurance
1 20 providing coverage on an expense-incurred basis.
1 21 (2) An individual or group hospital or medical service
1 22 contract issued pursuant to chapter 509, 514, or 514A.
1 23 (3) An individual or group health maintenance organization
1 24 contract regulated under chapter 514B.
1 25 (4) A plan established pursuant to chapter 509A for public
1 26 employees.
1 27 (5) An organized delivery system licensed by the director
1 28 of public health.
1 29 b. This section shall not apply to accident only,
1 30 specified disease, short-term hospital or medical, hospital
1 31 confinement indemnity, credit, dental, vision, Medicare
1 32 supplement, long-term care, basic hospital and medical=
1 33 surgical expense coverage as defined by the commissioner,
1 34 disability income insurance coverage, coverage issued as a
1 35 supplement to liability insurance, workers' compensation or



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House File 185 - Introduced continued

2 1 similar insurance, or automobile medical payment insurance.

2 2 EXPLANATION

2 3 This bill provides that despite the uniformity of treatment
2 4 requirements of Code section 514C.6, an individual or group
2 5 policy or contract providing for third-party payments of
2 6 health or medical expenses is required to provide coverage
2 7 benefits for prosthetic devices that provide, at a minimum,
2 8 coverage for prosthetic devices equal to the coverage that is
2 9 provided for under federal laws for the aged and disabled.
2 10 The bill applies to such contracts or policies delivered,
2 11 issued for delivery, continued, or renewed in this state on or
2 12 after July 1, 2007.

2 13 LSB 1942YH 82

2 14 av:rj/gg/14



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House File 186 - Introduced

HOUSE FILE
BY WESSEL=KROESCHELL

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved

A BILL FOR

- 1 An Act specifying the functions of the Clarinda correctional
- 2 facility.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1894HH 82
- 5 jm/gg/14



Iowa General Assembly
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House File 186 - Introduced continued

PAG LIN

1 1 Section 1. Section 904.205, Code 2007, is amended to read
1 2 as follows:
1 3 904.205 CLARINDA CORRECTIONAL FACILITY.
1 4 The state correctional facility at Clarinda shall be
1 5 utilized as a secure men's correctional facility primarily for
1 6 offenders with chemical dependence, mental retardation, or
1 7 ~~social inadequacies~~ other disabilities.

1 8 EXPLANATION

1 9 This bill specifies the functions of the Clarinda
1 10 correctional facility.

1 11 The bill specifies the correctional facility shall be
1 12 utilized for offenders with chemical dependence, mental
1 13 retardation, or other disabilities. Under current law, in
1 14 addition to being utilized for chemical dependence and mental
1 15 retardation, the facility shall be utilized for social
1 16 inadequacies.

1 17 LSB 1894HH 82

1 18 jm:nh/gg/14



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House File 187 - Introduced

HOUSE FILE

BY PETERSEN, ABDUL=SAMAD, REICHERT,
 JOCHUM, WISE, KUHN, WINCKLER,
 LENSING, and SWAIM

Passed House, Date _____
 Vote: Ayes _____ Nays _____
 Approved

Passed Senate, Date _____
 Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to state and local regulation of smoking.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 3 TL5B 1162YH 82
- 4 pf/sh/8



Iowa General Assembly
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February 01, 2007

House File 187 - Introduced continued

PAG LIN

1 1 Section 1. Section 142B.6, unnumbered paragraph 3, Code
1 2 2007, is amended by striking the unnumbered paragraph.
1 3 Sec. 2. NEW SECTION. 142B.7 LOCAL REGULATION OF SMOKING.
1 4 1. A city, county, or local board of health may provide
1 5 for the enforcement, by ordinance or rule, of standards or
1 6 requirements that are higher or more stringent than those
1 7 imposed under this chapter.

1 8 2. An ordinance or rule adopted under subsection 1 may
1 9 specifically include but is not limited to any of the
1 10 following:

1 11 a. An ordinance or rule that eliminates or limits the
1 12 exemptions specified in section 142B.2, subsection 1.

1 13 b. An ordinance or rule that prohibits the designation of
1 14 smoking areas notwithstanding section 142B.2, subsection 2.

1 15 c. An ordinance or rule that eliminates or limits the
1 16 exemption in section 142B.2, subsection 2, relating to a
1 17 public place consisting of a single room or a bar.

1 18 EXPLANATION

1 19 This bill provides that a city, county, or local board of
1 20 health may adopt an ordinance or rule to provide for the
1 21 enforcement of standards and requirements that are higher or
1 22 more stringent than those imposed under Code chapter 142B
1 23 (smoking prohibitions).

1 24 The bill provides that an ordinance or rule may
1 25 specifically: eliminate or limit the exemptions relating to
1 26 designation of a smoking area or the application of
1 27 designation of a smoking area to an entire room or hall that
1 28 is used for a private social function, or to factories,
1 29 warehouses, or similar places of work not usually frequented
1 30 by the general public; prohibit the designation of a smoking
1 31 area; or eliminate or limit the provisions allowing for
1 32 exemptions for a single room or a bar.

1 33 The bill also eliminates the provision relating to
1 34 enforcement of the smoking prohibitions Code chapter in an
1 35 equitable and uniform manner throughout the state.



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House File 187 - Introduced continued

2 1 LSB 1162YH 82
2 2 pf:nh/sh/8



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February 01, 2007

House File 188

HOUSE FILE
BY HUSER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
Approved

A BILL FOR

- 1 An Act modifying water service requirements for rural water
- 2 providers.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1992HH 82
- 5 eg/gg/14

PAG LIN



Iowa General Assembly
Daily Bills, Amendments, Study Bills, LSA Fiscal Notes & Bill Analysis
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House File 187 - Introduced continued

1 1 Section 1. NEW SECTION. 357A.2A WATER SERVICE WITHIN TWO
1 2 MILES OF A CITY == NOTICE.
1 3 1. A district or a rural water association incorporated
1 4 under this chapter or chapter 504 shall not provide water
1 5 service, other than water service provided as of April 1,
1 6 1987, within two miles of the limits of a city, except as
1 7 provided in this section.
1 8 2. A district or a rural water association incorporated
1 9 under this chapter or chapter 504 may give notice of intent to
1 10 provide water service to a new area within two miles of a city
1 11 by submitting a water plan to the city council, or if the city
1 12 has a municipal water utility that is governed by a board of
1 13 trustees to the city's utility board. The plan is only
1 14 required to indicate the area within two miles of the city
1 15 which the district or rural water association intends to
1 16 serve. If the city fails to respond to the plan within ninety
1 17 days of the city's receipt of the plan, the district or rural
1 18 water association may provide service in the area designated
1 19 in the plan. The city may inform the district or the rural
1 20 water association within ninety days of the city's receipt of
1 21 the plan that the city requires additional time or information
1 22 to study the question of providing water service outside the
1 23 limits of the city. If additional time or information is
1 24 required, the city shall respond to the plan within one
1 25 hundred eighty days of the city's receipt of the plan. In
1 26 responding to the plan, the city may waive its right to
1 27 provide water service within the areas designated for service
1 28 by the district or rural water association, or the city may
1 29 reserve the right to provide water service in some or all of
1 30 the areas which the district or association intends to serve.
1 31 If the city reserves the right to provide water service within
1 32 some or all of the areas which the district or rural water
1 33 association intends to serve, the city shall provide service
1 34 within four years of the city's receipt of the plan. This
1 35 section does not preclude a city from providing water service



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House File 187 - Introduced continued

2 1 in an area which is annexed by the city.

2 2 Sec. 2. Section 357A.2, unnumbered paragraphs 4 and 5,
2 3 Code 2007, are amended by striking the unnumbered paragraphs.

2 4 EXPLANATION

2 5 This bill creates new Code section 357A.2A that is
2 6 substantially similar to current Code section 357A.2 that
2 7 restricts a rural water district or a rural water association
2 8 from providing water service within two miles of a city. A
2 9 rural water district or a rural water association that intends
2 10 to provide such water service is required to notify the city
2 11 council or the city's utility board.

2 12 The bill makes the distinction between a rural water
2 13 district and a rural water association. A rural water
2 14 association is not a "district", i.e., organized under Code
2 15 chapter 357A. See Rural Water System #1 v. City of Sioux
2 16 Center, Iowa, 202 F.3d 1035 (8th Cir. 2000).

2 17 LSB 1992HH 82

2 18 eg:rj/gg/14



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House File 189

HOUSE FILE
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 1)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
Approved

A BILL FOR

- 1 An Act relating to the hourly reimbursement rate of attorneys
- 2 representing indigent persons.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1324HV 82
- 5 jm/gg/14



Iowa General Assembly
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House File 189 continued

PAG LIN

1 1 Section 1. Section 815.7, Code 2007, is amended to read as
1 2 follows:

1 3 815.7 FEES TO ATTORNEYS.

1 4 1. An attorney who has not entered into a contract
1 5 authorized under section 13B.4 and who is appointed by the
1 6 court to represent any person pursuant to section 814.11 or
1 7 815.10 shall be entitled to reasonable compensation and
1 8 expenses.

1 9 2. For appointments made on or after July 1, 1999, through
1 10 June 30, 2006, the reasonable compensation shall be calculated
1 11 on the basis of sixty dollars per hour for class "A" felonies,
1 12 fifty-five dollars per hour for class "B" felonies, and fifty
1 13 dollars per hour for all other cases.

1 14 3. For appointments made on or after July 1, 2006, through
1 15 June 30, 2007, the reasonable compensation shall be calculated
1 16 on the basis of sixty-five dollars per hour for class "A"
1 17 felonies, sixty dollars per hour for all other felonies, sixty
1 18 dollars per hour for misdemeanors, and fifty-five dollars per
1 19 hour for all other cases.

1 20 4. For appointments made on or after July 1, 2007, the
1 21 reasonable compensation shall be calculated on the basis of
1 22 seventy dollars per hour for class "A" felonies, sixty-five
1 23 dollars per hour for class "B" felonies, and sixty dollars per
1 24 hour for all other cases.

1 25 5. The expenses shall include any sums as are necessary
1 26 for investigations in the interest of justice, and the cost of
1 27 obtaining the transcript of the trial record and briefs if an
1 28 appeal is filed. The attorney need not follow the case into
1 29 another county or into the appellate court unless so directed
1 30 by the court. If the attorney follows the case into another
1 31 county or into the appellate court, the attorney shall be
1 32 entitled to compensation as provided in this section. Only
1 33 one attorney fee shall be so awarded in any one case except
1 34 that in class "A" felony cases, two may be authorized.

1 35 EXPLANATION



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House File 189 continued

2 1 This bill relates to the hourly reimbursement rate for an
2 2 attorney representing indigent persons.
2 3 The bill raises the hourly rate from \$65 to \$70 for class
2 4 "A" felonies, \$60 to \$65 for class "B" felonies, and maintains
2 5 the hourly rate for all other felonies and misdemeanors at
2 6 \$60. The bill also raises the hourly rate for all other cases
2 7 requiring attorney representation from \$55 to \$60.
2 8 LSB 1324HV 82
2 9 jm:rj/gg/14



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House File 190 - Introduced

HOUSE FILE
BY BAILEY

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved

A BILL FOR

1 An Act providing for and making an appropriation to the
2 department of elder affairs for statewide expansion of the
3 elder abuse initiative program.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1875HH 82
6 rh/gg/14



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House File 190 - Introduced continued

PAG LIN

1 1 Section 1. APPROPRIATION == DEPARTMENT OF ELDER AFFAIRS ==
 1 2 ELDER ABUSE INITIATIVE PROGRAM. There is appropriated from
 1 3 the general fund of the state to the department of elder
 1 4 affairs for the fiscal year beginning July 1, 2007, and ending
 1 5 June 30, 2008, the following amount, or so much thereof as is
 1 6 necessary, to be used for the purpose designated:
 1 7 For the purpose of statewide expansion of the elder abuse
 1 8 initiative program established pursuant to section 231.56A for
 1 9 the prevention, intervention, detection, and reporting of
 1 10 elder abuse, neglect, and exploitation to ensure the
 1 11 protection of citizens of Iowa who are 60 years of age or
 1 12 older:
 1 13 \$ 2,243,043
 1 14 EXPLANATION
 1 15 This bill appropriates \$2,243,043 from the general fund of
 1 16 the state to the department of elder affairs for the fiscal
 1 17 year beginning July 1, 2007, and ending June 30, 2008, for
 1 18 statewide expansion of the elder abuse initiative program
 1 19 established pursuant to Code section 231.56A for the
 1 20 prevention, intervention, detection, and reporting of elder
 1 21 abuse, neglect, and exploitation of citizens of Iowa who are
 1 22 60 years of age or older.
 1 23 LSB 1875HH 82
 1 24 rh:jp/gg/14



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House File 191 - Introduced

HOUSE FILE
BY PETTENGILL

Passed House, Date _____	Passed Senate, Date _____
Vote: Ayes _____ Nays _____	Vote: Ayes _____ Nays _____
Approved	

A BILL FOR

- 1 An Act prohibiting the use of artificial light on wildlife for
- 2 hunting or recreational purposes.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1154HH 82
- 5 av/je/5



Iowa General Assembly
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House File 191 - Introduced continued

PAG LIN

1 1 Section 1. Section 481A.93, Code 2007, is amended to read
1 2 as follows:
1 3 481A.93 ~~HUNTING BY~~ USE OF ARTIFICIAL LIGHT.
1 4 1. A person shall not throw or cast the rays of a
1 5 spotlight, headlight, or other artificial light on a highway,
1 6 or in a field, woodland, or forest for the purpose of
1 7 spotting, locating, or taking or attempting to take or hunt a
1 8 bird or animal, except raccoons or other fur-bearing animals
1 9 when treed with the aid of dogs, ~~while having in possession or~~
~~1 10 control, either singly or as one of a group of persons, any~~
~~1 11 firearm, bow, or other implement or device whereby a bird or~~
~~1 12 animal could be killed or taken.~~
1 13 2. This section does not apply to deer being taken by or
1 14 under the control of a local governmental body within its
1 15 corporate limits pursuant to an approved special deer
1 16 population control plan.
1 17 EXPLANATION
1 18 This bill prohibits the use of spotlights, headlights, or
1 19 other artificial light to spot, locate, take or attempt to
1 20 take, or hunt a bird or animal, except raccoons or other
1 21 fur-bearing animals when treed with the aid of dogs.
1 22 Currently the use of artificial light in such a manner is
1 23 prohibited only when the light is used by a person or group of
1 24 persons that is also in possession of a weapon or device to
1 25 kill or take the bird or animal.
1 26 LSB 1154HH 82
1 27 av:nh/je/5.1



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House File 192 - Introduced

HOUSE FILE
BY HUSER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
Approved

A BILL FOR

- 1 An Act relating to notice and collection of delinquent charges by
- 2 certain city utilities or city enterprises.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1053HH 82
- 5 sc/gg/14



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House File 192 - Introduced continued

PAG LIN

1 1 Section 1. Section 384.84, subsection 2, paragraphs c and
1 2 d, Code 2007, are amended to read as follows:

1 3 c. A city utility or enterprise service to a property or
1 4 premises shall not be discontinued unless prior written notice
1 5 is sent, by ordinary mail, to the account holder ~~by ordinary~~
~~1 6 mail in whose name the delinquent rates or charges were~~
1 7 incurred, informing the account holder of the nature of the
1 8 delinquency and affording the account holder the opportunity
1 9 for a hearing prior to discontinuance of service. If the
1 10 account holder is a tenant, and if the owner or landlord of
1 11 the property has made a written request for notice, the notice
1 12 shall also be given to the owner or landlord.

1 13 d. (1) If a delinquent amount is owed by an account
1 14 holder for a utility service associated with a prior property
1 15 or premises, a city utility, city enterprise, or combined city
1 16 enterprise may withhold service from the same account holder
1 17 at any new property or premises until such time as the account
1 18 holder pays the delinquent amount owing on the account
1 19 associated with the prior property or premises. A city
1 20 utility, city enterprise, or combined city enterprise shall
1 21 not withhold service from, or discontinue service to, a
1 22 subsequent owner of the prior property or premises unless such
1 23 delinquent amount has been certified in a timely manner to the
1 24 county treasurer as provided in subsection 3, paragraph "a",
1 25 subparagraph (1).

1 26 (2) Delinquent amounts that have not been certified in a
1 27 timely manner to the county treasurer as provided in
1 28 subsection 3, paragraph "a", subparagraph (2), are not
1 29 collectible against any subsequent owner of the property or
1 30 premises.

1 31 Sec. 2. Section 384.84, subsection 3, paragraphs a, b, and
1 32 c, Code 2007, are amended to read as follows:

1 33 a. (1) Except as provided in paragraph "d", all rates or
1 34 charges for the services of sewer systems, storm water
1 35 drainage systems, sewage treatment, solid waste collection,



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House File 192 - Introduced continued

2 1 water, solid waste disposal, or any of these services, if not
2 2 paid as provided by ordinance of the council or resolution of
2 3 the trustees, are a lien upon the property or premises served
2 4 by any of these services upon certification to the county
2 5 treasurer that the rates or charges are due.

2 6 (2) If the delinquent rates or charges were incurred prior
2 7 to a transfer of the property or premises and such
2 8 delinquencies were not certified to the county treasurer prior
2 9 to the date of transfer, the delinquent rates or charges are
2 10 not eligible to be certified to the county treasurer. If
2 11 certification of such delinquent rates or charges is attempted
2 12 subsequent to a transfer of the property or premises, the
2 13 county treasurer shall return the certification to the city
2 14 utility, city enterprise, or combined city enterprise
2 15 attempting certification along with a notice stating that the
2 16 delinquent rates or charges cannot be made a lien against the
2 17 property or premises.

2 18 b. ~~This~~ The lien under paragraph "a" may be imposed upon a
2 19 property or premises even if a city utility or enterprise
2 20 service to the property or premises has been or may be
2 21 discontinued as provided in this section.

2 22 c. A lien for a city utility or enterprise service under
2 23 paragraph "a" shall not be certified to the county treasurer
2 24 for collection unless prior written notice of intent to
2 25 certify a lien is given to the account holder ~~of~~ in whose name
2 26 the delinquent ~~account~~ rates or charges were incurred at least
2 27 thirty days prior to certification. If the account holder is
2 28 a tenant, and if the owner or landlord of the property has
2 29 made a written request for notice, the notice shall also be
2 30 given to the owner or landlord. The notice shall be sent to
2 31 the appropriate persons by ordinary mail not less than thirty
2 32 days prior to certification of the lien to the county
2 33 treasurer.

2 34 EXPLANATION

2 35 Under current law, delinquent rates or charges for the



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House File 192 - Introduced continued

3 1 services of water, sewer systems, storm water drainage
3 2 systems, sewage treatment, or solid waste collection and
3 3 disposal provided by a city utility, city enterprise, or
3 4 combined city enterprise (utility) become a lien against the
3 5 property receiving the services upon certification of the
3 6 delinquent amount to the county treasurer. The delinquent
3 7 amount then becomes collectible as a special assessment.
3 8 Special assessments are collected in the same manner as
3 9 property taxes. Current law also provides that service may be
3 10 discontinued at the property if rates or charges for these
3 11 services become delinquent. Notice of discontinuance of
3 12 service or notice of intent to certify a delinquency to the
3 13 county treasurer for collection must be provided to the
3 14 account holder.

3 15 This bill specifies that notice of discontinuance or notice
3 16 of intent to certify a delinquency to the county treasurer
3 17 must be provided to the account holder in whose name the
3 18 delinquent amount rates or charges were incurred.

3 19 The bill also provides that if delinquent rates or charges
3 20 were incurred prior to a transfer of the property where the
3 21 service was provided and such delinquency was not certified to
3 22 the county treasurer prior to the date of transfer, the
3 23 delinquency is not eligible for certification to the county
3 24 treasurer, and if certification of such a delinquency is
3 25 attempted, the county treasurer is directed to return the
3 26 certification to the utility along with a notice stating that
3 27 the delinquent rates or charges cannot be made a lien against
3 28 the property.

3 29 The bill further provides that service to a new account
3 30 holder may not be withheld or discontinued based on delinquent
3 31 charges incurred by a prior account holder at the same
3 32 premises unless the utility has certified the delinquent
3 33 amount to the county treasurer in a timely manner, i.e., prior
3 34 to transfer of the property.

3 35 The bill further provides that such delinquent amount is



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4 1 not collectible from the new account holder unless the
4 2 delinquent amount has been certified to the county treasurer
4 3 in a timely manner, i.e., prior to transfer of the property.
4 4 LSB 1053HH 82
4 5 sc:rj/gg/14



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House File 193 - Introduced

HOUSE FILE

BY KAUFMANN, GRANZOW, DOLECHECK,
 ALONS, SODERBERG, DRAKE, RAYHONS,
 SCHICKEL, WORTHAN, HUSEMAN,
 BAUDLER, VAN FOSSEN, WINDSCHITL,
 WATTS, LUKAN, GRASSLEY, DEYOE,
 HEATON, UPMEYER, and RASMUSSEN

Passed House, Date _____
 Vote: Ayes _____ Nays _____
 Approved

Passed Senate, Date _____
 Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act establishing a standing appropriation to support fairs.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 3 TL5B 1527YH 82
- 4 da/je/5



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House File 193 - Introduced continued

PAG LIN

1 1 Section 1. Section 8.57, subsection 6, paragraph g, Code
1 2 2007, is amended to read as follows:
1 3 g. (1) Notwithstanding any other provision to the
1 4 contrary, and prior to the appropriation of moneys from the
1 5 rebuild Iowa infrastructure fund pursuant to paragraph "c",
1 6 and section 8.57A, subsection 4, moneys shall first be
1 7 appropriated from the rebuild Iowa infrastructure fund to the
1 8 vertical infrastructure fund as provided in section 8.57B,
1 9 subsection 4.

1 10 (2) (a) For each fiscal year beginning on and after July
1 11 1, 2007, one million five hundred ninety thousand dollars is
1 12 appropriated from the rebuild Iowa infrastructure fund to the
1 13 treasurer of state for allocation as state aid to eligible
1 14 fairs as provided in chapter 174.

1 15 (b) Until July 1, 2009, the moneys to support state aid as
1 16 provided in subparagraph subdivision (a) are appropriated
1 17 after the appropriation made pursuant to subparagraph (1). On
1 18 and after that date the moneys are appropriated to support
1 19 state aid to eligible fairs notwithstanding any provision to
1 20 the contrary, and prior to the appropriation of moneys from
1 21 the rebuild Iowa infrastructure fund pursuant to this
1 22 subsection.

1 23 EXPLANATION

1 24 This bill provides a standing limited appropriation to the
1 25 treasurer of state from the rebuild Iowa infrastructure fund
1 26 for allocation to county and district fairs that are members
1 27 of the association of Iowa fairs and entitled to state aid as
1 28 provided in Code chapter 174. According to Code section
1 29 174.9, state aid is to be used for capital improvements
1 30 including the improvement made to a fairgrounds, including the
1 31 acquisition of land or the construction or renovation of
1 32 facilities located on the fairgrounds.

1 33 LSB 1527YH 82
1 34 da:rj/je/5.1



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House Joint Resolution 2

HOUSE JOINT RESOLUTION

BY GRANZOW, DRAKE, KAUFMANN,
DE BOEF, TOMENGA, ALONS,
RAYHONS, JACOBS, R. OLSON,
HEDDENS, TJEPKES, CLUTE,
WESSEL=KROESCHELL, WINCKLER,
LENSING, BOAL, S. OLSON, and
MAY

Passed House, Date	Passed Senate, Date
Vote: Ayes Nays	Vote: Ayes Nays
Approved	

HOUSE JOINT RESOLUTION

1 A Joint Resolution proposing an amendment to the Constitution of
2 the State of Iowa to change the length of term of office for
3 members of the Iowa House of Representatives from two years to
4 four years.
5 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TL5B 1479YH 82
7 sc/je/5



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House Joint Resolution 2 continued

PAG LIN

1 1 Section 1. The following amendment to the Constitution of
1 2 the State of Iowa is proposed:
1 3 1. Section 3 of Article III of the Constitution of the
1 4 State of Iowa is repealed and the following adopted in lieu
1 5 thereof:
1 6 REPRESENTATIVES. SEC. 3. The members of the House of
1 7 Representatives shall be chosen by the qualified electors of
1 8 their respective districts, and their term of office shall
1 9 commence on the first day of January following their election
1 10 which is not a Sunday or legal holiday, and continue four
1 11 years, and until their successors are elected and qualified.
1 12 Representatives shall be classified by statute so that as
1 13 nearly as possible one-half of the members of the House of
1 14 Representatives shall be elected every two years. The state
1 15 shall be divided into senatorial and representative districts
1 16 so that each Senate district is composed of two House of
1 17 Representatives districts. The election for a Senate district
1 18 shall not be held in the same year as the election for the two
1 19 House of Representatives districts composing the Senate
1 20 district, except as otherwise required pursuant to section 35.
1 21 The General Assembly shall make such changes in the law
1 22 governing the time of election and terms of office of
1 23 Representatives as shall be necessary to make the time of
1 24 their election and terms of office conform to this section
1 25 effective for terms of office beginning on or after January 1,
1 26 2013.
1 27 2. Section 35 of Article III of the Constitution of the
1 28 State of Iowa, as amended by amendment number 4 of the
1 29 Amendments of 1868, amendment number 2 of the Amendments of
1 30 1904, and amendment number 3 of the Amendments of 1968, is
1 31 repealed and the following adopted in lieu thereof:
1 32 SENATORS AND REPRESENTATIVES == NUMBER AND DISTRICTS. SEC.
1 33 35. The General Assembly shall in each year immediately
1 34 following the United States decennial census determine the
1 35 number of Senators and Representatives to be elected to the



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House Joint Resolution 2 continued

2 1 General Assembly and establish senatorial and representative
2 2 districts. The General Assembly shall complete the
2 3 apportionment prior to September 1 of the year so required.
2 4 If the apportionment fails to become law prior to September 15
2 5 of such year, the Supreme Court shall cause the State to be
2 6 apportioned into senatorial and representative districts to
2 7 comply with the requirements of the Constitution prior to
2 8 December 31 of such year. The reapportioning authority shall,
2 9 where necessary in establishing senatorial and representative
2 10 districts, shorten the term of any Senator or Representative
2 11 prior to completion of the term. Any Senator or
2 12 Representative whose term is so terminated shall not be
2 13 compensated for the uncompleted part of the term.
2 14 Sec. 2. REFERRAL AND PUBLICATION. The foregoing proposed
2 15 amendment to the Constitution of the State of Iowa is referred
2 16 to the General Assembly to be chosen at the next general
2 17 election for members of the General Assembly and the Secretary
2 18 of State is directed to cause it to be published for three
2 19 consecutive months previous to the date of that election as
2 20 provided by law.

2 21 EXPLANATION

2 22 This joint resolution proposes an amendment to the
2 23 Constitution of the State of Iowa to change the term of office
2 24 for members of the Iowa house of representatives from two
2 25 years to four years effective for terms of office beginning on
2 26 or after January 1, 2013. The amendment also provides that
2 27 each senatorial district shall be made up of two house of
2 28 representatives districts and the election for the two house
2 29 districts shall not be held in the same year as the election
2 30 for the senate district unless redistricting shortens the
2 31 terms of some members of certain senate or house districts.
2 32 The resolution, if adopted, would be referred to the next
2 33 general assembly for adoption a second time before being
2 34 submitted to the electorate for ratification.
2 35 LSB 1479YH 82



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House Joint Resolution 2 continued

3 1 sc:rj/je/5



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House Resolution 10

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House Joint Resolution 2 continued

1 1 HOUSE RESOLUTION NO. _____
1 2 BY FORD, BERRY, ABDUL=SAMAD, McCARTHY,
1 3 H. MILLER, HUNTER, T. TAYLOR, JOCHUM,
1 4 SMITH, WISE, FOEGE, D. TAYLOR, COHOON,
1 5 MURPHY, WHITAKER, MERTZ, REICHERT,
1 6 GASKILL, LYKAM, DANDEKAR, WENDT, BELL,
1 7 BUKTA, FREVERT, HEDDENS, PETTENGILL,
1 8 KRESSIG, LENSING, WINCKLER, STAED,
1 9 MASCHER, REASONER, BAILEY, PALMER,
1 10 HUSER, DAVITT, D. OLSON, OLDSO,
1 11 JACOBY, SCHUELLER, T. OLSON, WENTHE,
1 12 KELLEY, QUIRK, PETERSEN, SHOMSHOR,
1 13 GAYMAN, SWAIM, KUHN, PAULSEN, STRUYK,
1 14 RAECKER, ANDERSON, and RANTS
1 15 A Resolution honoring the National Bar Association
1 16 for over eight decades of service to the cause of
1 17 civil rights and equal justice for all.
1 18 WHEREAS, the State of Iowa played an important role
1 19 in the early civil rights movement when, in 1925, the
1 20 National Bar Association was organized in Des Moines,
1 21 Iowa; and
1 22 WHEREAS, the founding members of the National Bar
1 23 Association were James B. Morris, attorney, editor and
1 24 publisher of the Iowa Bystander; Gertrude Durden Rush,
1 25 first African-American woman attorney in Iowa; Samuel
1 26 J. Brown, first African-American Phi Beta Kappa
1 27 inductee and first African-American graduate of the
1 28 University of Iowa Law School, attorney and founder of
1 29 the Des Moines branch of the National Association for
1 30 the Advancement of Colored People; Charles P. Howard,



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House Joint Resolution 2 continued

2 1 attorney and founder of the National Negro Publishers
2 2 Association; and George H. Woodson, first
2 3 African-American attorney to practice in Iowa, first
2 4 African-American nominated as a candidate for state
2 5 representative to the Iowa General Assembly, and the
2 6 National Bar Association's first president; and
2 7 WHEREAS, at that time 120 African-American
2 8 attorneys were members of the organization, at a time
2 9 when there were fewer than 1,000 African-American
2 10 attorneys in the nation; and
2 11 WHEREAS, from those early years the National Bar
2 12 Association has grown to 84 affiliate chapters in the
2 13 United States, with affiliates in several countries,
2 14 representing a professional network of over 40,000
2 15 lawyers, judges, educators, and law students; and
2 16 WHEREAS, the credo of the National Bar Association
2 17 is to advance the science of jurisprudence; improve
2 18 the administration of justice; preserve the
2 19 independence of the judiciary and to uphold the honor
2 20 and integrity of the legal profession; to promote
2 21 professional and social intercourse among the members
2 22 of the American and the international bars; to promote
2 23 legislation that will improve the economic condition
2 24 of all American citizens, regardless of race, sex or
2 25 creed in their efforts to secure a free and
2 26 untrammled use of the franchise guaranteed by the
2 27 Constitution of the United States; and to protect the
2 28 civil and political rights of the citizens and
2 29 residents of the United States; and
2 30 WHEREAS, the National Bar Association is the



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House Joint Resolution 2 continued

3 1 nation's oldest and largest national association
3 2 representing African-American lawyers and jurists; and
3 3 WHEREAS, for over 80 years the National Bar
3 4 Association has led the fight in defense of the rights
3 5 of African-Americans and poor people everywhere,
3 6 supporting civil rights, the pro bono legal movement,
3 7 providing legal assistance to needy individuals, and
3 8 supporting equal opportunity and voting rights; and
3 9 WHEREAS, in August 2006, Mr. Linnes Finney, Jr. was
3 10 inaugurated as the 64th President of the National Bar
3 11 Association, capping a distinguished legal career as a
3 12 litigator, arbitrator, and public speaker; and
3 13 WHEREAS, Mr. Finney, Jr., together with Drake
3 14 University Law School Dean David Walker, will on
3 15 February 1, 2007, bestow to the Drake University Law
3 16 School the papers of the National Bar Association, for
3 17 archival and research purposes; NOW THEREFORE,
3 18 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES,
3 19 That the House of Representatives honors the National
3 20 Bar Association for its commitment to the cause of
3 21 civil rights and equal justice and for over eight
3 22 decades of tireless work for African-Americans, the
3 23 poor, and the disenfranchised in this country and
3 24 around the world.
3 25 LSB 2095HH 82
3 26 jr:rj/es/88



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House Resolution 11 - Introduced

PAG LIN

1 1 HOUSE RESOLUTION NO.
1 2 BY RANTS, GREINER, VAN FOSSEN, UPMEYER, and ALONS
1 3 A Resolution to recognize and honor Representative Dolores
1 4 Mertz on her appointment as National Chairman of the
1 5 Board of Directors of the American Legislative Exchange
1 6 Council.
1 7 WHEREAS, in 1973 the American Legislative Exchange
1 8 Council (ALEC) was created as a nonpartisan membership
1 9 association supporting limited government, free
1 10 markets, federalism, and individual freedom; and
1 11 WHEREAS, over more than 25 years ALEC=sponsored
1 12 task forces have developed policy covering virtually
1 13 every responsibility of state government; and
1 14 WHEREAS, a long=time member of ALEC, Representative
1 15 Dolores Mertz has shown her leadership and guidance by
1 16 bringing significant health and welfare reform issues
1 17 to ALEC as its Health and Human Services Task Force
1 18 Chair; and
1 19 WHEREAS, in 1999 Representative Mertz was first
1 20 elected as a member of the Board of Directors of ALEC
1 21 and later served as first Vice Chairman; and
1 22 WHEREAS, Representative Mertz has now been
1 23 appointed the National Chairman of the Board of
1 24 Directors of the American Legislative Exchange
1 25 Council; NOW THEREFORE,
1 26 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES,
1 27 That the House of Representatives congratulates and
1 28 honors one of its own, Dolores Mertz, for her years of
1 29 service with the American Legislative Exchange Council
1 30 and for her well=deserved appointment as chairman of



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House Resolution 11 - Introduced continued

2 1 that organization.

2 2 LSB 1924YH 82

2 3 jr:rj/je/5



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House Study Bill 132

 SENATE/HOUSE FILE

 BY (PROPOSED JUDICIAL

 BRANCH BILL)

Passed Senate, Date	Passed House, Date
Vote: Ayes Nays	Vote: Ayes Nays
Approved	

A BILL FOR

1 An Act relating to the issuance of temporary orders modifying an
 2 order of child support or custody.
 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
 4 TL5B 1258DP 82
 5 pf/je/5



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House Study Bill 132 continued

PAG LIN

1 1 Section 1. Section 598.21C, Code 2007, is amended to read
1 2 as follows:

1 3 598.21C MODIFICATION OF CHILD SUPPORT, SPOUSAL SUPPORT, ~~OR~~
1 4 MEDICAL SUPPORT, AND CHILD CUSTODY ORDERS.

1 5 1. CRITERIA FOR MODIFICATION. Subject to 28 U.S.C. }

1 6 1738B, the court may subsequently modify child, spousal, or
1 7 medical support orders when there is a substantial change in
1 8 circumstances. In determining whether there is a substantial
1 9 change in circumstances, the court shall consider the
1 10 following:

1 11 a. Changes in the employment, earning capacity, income, or
1 12 resources of a party.

1 13 b. Receipt by a party of an inheritance, pension, or other
1 14 gift.

1 15 c. Changes in the medical expenses of a party.

1 16 d. Changes in the number or needs of dependents of a
1 17 party.

1 18 e. Changes in the physical, mental, or emotional health of
1 19 a party.

1 20 f. Changes in the residence of a party.

1 21 g. Remarriage of a party.

1 22 h. Possible support of a party by another person.

1 23 i. Changes in the physical, emotional, or educational
1 24 needs of a child whose support is governed by the order.

1 25 j. Contempt by a party of existing orders of court.

1 26 k. Entry of a dispositional or permanency order in
1 27 juvenile court pursuant to chapter 232 placing custody or
1 28 physical care of a child with a party who is obligated to pay
1 29 support for a child. Any filing fees or court costs for a
1 30 modification filed or ordered pursuant to this paragraph are
1 31 waived.

1 32 l. Other factors the court determines to be relevant in an
1 33 individual case.

1 34 2. ADDITIONAL CRITERIA FOR MODIFICATION OF CHILD SUPPORT
1 35 ORDERS.



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House Study Bill 132 continued

2 1 a. Subject to 28 U.S.C. } 1738B, but notwithstanding
2 2 subsection 1, a substantial change of circumstances exists
2 3 when the court order for child support varies by ten percent
2 4 or more from the amount which would be due pursuant to the
2 5 most current child support guidelines established pursuant to
2 6 section 598.21B or the obligor has access to a health benefit
2 7 plan, the current order for support does not contain
2 8 provisions for medical support, and the dependents are not
2 9 covered by a health benefit plan provided by the obligee,
2 10 excluding coverage pursuant to chapter 249A or a comparable
2 11 statute of a foreign jurisdiction.
2 12 b. This basis for modification is applicable to petitions
2 13 filed on or after July 1, 1992, notwithstanding whether the
2 14 guidelines prescribed by section 598.21B were used in
2 15 establishing the current amount of support. Upon application
2 16 for a modification of an order for child support for which
2 17 services are being received pursuant to chapter 252B, the
2 18 court shall set the amount of child support based upon the
2 19 most current child support guidelines established pursuant to
2 20 section 598.21B, including provisions for medical support
2 21 pursuant to chapter 252E. The child support recovery unit
2 22 shall, in submitting an application for modification,
2 23 adjustment, or alteration of an order for support, employ
2 24 additional criteria and procedures as provided in chapter 252H
2 25 and as established by rule.
2 26 3. APPLICABLE LAW. Unless otherwise provided pursuant to
2 27 28 U.S.C. } 1738B, a modification of a support order entered
2 28 under chapter 234, 252A, 252C, 600B, this chapter, or any
2 29 other support chapter or proceeding between parties to the
2 30 order is void unless the modification is approved by the
2 31 court, after proper notice and opportunity to be heard is
2 32 given to all parties to the order, and entered as an order of
2 33 the court. If support payments have been assigned to the
2 34 department of human services pursuant to section 234.39,
2 35 239B.6, or 252E.11, or if services are being provided pursuant



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House Study Bill 132 continued

3 1 to chapter 252B, the department is a party to the support
3 2 order.

3 3 3A. MODIFICATION OF CHILD CUSTODY ORDERS. Modifications
3 4 of orders pertaining to child custody shall be made pursuant
3 5 to chapter 598B. If the petition for a modification of an
3 6 order pertaining to child custody asks either for joint
3 7 custody or that joint custody be modified to an award of sole
3 8 custody, the modification, if any, shall be made pursuant to
3 9 section 598.41.

3 10 3B. TEMPORARY MODIFICATION OF CHILD SUPPORT OR CHILD
3 11 CUSTODY ORDERS. While an application for modification of a
3 12 child support or child custody order is pending, the court
3 13 may, on its own motion or upon application by either party,
3 14 enter a temporary order modifying an order of child support or
3 15 child custody. The court may enter such temporary order only
3 16 after service of the original notice, and an order shall not
3 17 be entered until at least five days' notice of hearing, and
3 18 opportunity to be heard, is provided to all parties. In
3 19 entering temporary orders under this subsection, the court
3 20 shall consider all pertinent matters, which may be
3 21 demonstrated by affidavits, as the court may direct. The
3 22 hearing on the application shall be limited to matters set
3 23 forth in the application, the affidavits of the parties, and
3 24 the required statements of income. The court shall not hear
3 25 any other matter relating to the application for modification,
3 26 respondent's answer, or any pleadings connected with the
3 27 application for modification or the answer.

3 28 4. RETROACTIVITY OF MODIFICATION. Judgments for child
3 29 support or child support awards entered pursuant to this
3 30 chapter, chapter 234, 252A, 252C, 252F, 600B, or any other
3 31 chapter of the Code which are subject to a modification
3 32 proceeding may be retroactively modified only from three
3 33 months after the date the notice of the pending petition for
3 34 modification is served on the opposing party. The three-month
3 35 limitation applies to a modification action pending on or



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4 1 after July 1, 1997. The prohibition of retroactive
4 2 modification does not bar the child support recovery unit from
4 3 obtaining orders for accrued support for previous time
4 4 periods. Any retroactive modification which increases the
4 5 amount of child support or any order for accrued support under
4 6 this subsection shall include a periodic payment plan. A
4 7 retroactive modification shall not be regarded as a
4 8 delinquency unless there are subsequent failures to make
4 9 payments in accordance with the periodic payment plan.
4 10 5. MODIFICATION OF PERIODIC DUE DATE. The periodic due
4 11 date established under a prior order for payment of child
4 12 support shall not be changed in any modified order under this
4 13 section, unless the court determines that good cause exists to
4 14 change the periodic due date. If the court determines that
4 15 good cause exists, the court shall include the rationale for
4 16 the change in the modified order and shall address the issue
4 17 of reconciliation of any payments due or made under a prior
4 18 order which would result in payment of the child support
4 19 obligation under both the prior and the modified orders.
4 20 6. MODIFICATION BY CHILD SUPPORT RECOVERY UNIT.
4 21 Notwithstanding any other provision of law to the contrary,
4 22 when an application for modification or adjustment of support
4 23 is submitted by the child support recovery unit, the sole
4 24 issues which may be considered by the court in that action are
4 25 the application of the guidelines in establishing the amount
4 26 of support pursuant to section 598.21B, and provision for
4 27 medical support under chapter 252E. When an application for a
4 28 cost-of-living alteration of support is submitted by the child
4 29 support recovery unit pursuant to section 252H.24, the sole
4 30 issue which may be considered by the court in the action is
4 31 the application of the cost-of-living alteration in
4 32 establishing the amount of child support. Issues related to
4 33 custody, visitation, or other provisions unrelated to support
4 34 shall be considered only under a separate application for
4 35 modification.



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5 1 7. NECESSARY CONTENT OF ORDER. Orders made pursuant to
5 2 this section need mention only those factors relevant to the
5 3 particular case for which the orders are made but shall
5 4 contain the names, birth dates, addresses, and counties of
5 5 residence of the petitioner and respondent.

5 6 8. DUTY OF CLERK OF COURT. If the court modifies an
5 7 order, and the original decree was entered in another county
5 8 in Iowa, the clerk of court shall send a copy of the
5 9 modification by regular mail, electronic transmission, or
5 10 facsimile to the clerk of court for the county where the
5 11 original decree was entered.

5 12 EXPLANATION

5 13 This bill authorizes the court to temporarily modify a
5 14 child custody or child support order when an application to
5 15 modify is pending. The bill provides for notice of the
5 16 parties and limits the matters which may be addressed by the
5 17 court in entering the temporary order.

5 18 LSB 1258DP 82

5 19 pf:nh/je/5



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House Study Bill 133

SENATE/HOUSE FILE
BY (PROPOSED GOVERNOR'S
OFFICE OF DRUG CONTROL
POLICY BILL)

Passed Senate, Date _____
Vote: Ayes _____ Nays _____
Approved

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act adding hallucinogenic substances to the list of schedule I
- 2 controlled substances, and providing penalties.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1248DP 82
- 5 jm/je/5



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House Study Bill 133 continued

PAG LIN

1 1 Section 1. Section 124.204, subsection 4, Code 2007, is
1 2 amended by adding the following new paragraphs:

1 3 NEW PARAGRAPH. u. Salvia divinorum.

1 4 NEW PARAGRAPH. v. Salvinorin A.

1 5 EXPLANATION

1 6 This bill adds hallucinogenic substances to the list of
1 7 schedule I controlled substances.

1 8 The bill adds "salvia divinorum" and "salvinorin A", also
1 9 known as "divinorin A", to the list of schedule I controlled
1 10 substances.

1 11 A schedule I controlled substance is considered to have a
1 12 high potential for abuse and no medical purpose in treatment
1 13 in the United States.

1 14 The bill makes it a class "C" felony pursuant to Code
1 15 section 124.401, subsection 1, paragraph c, subparagraph (8),
1 16 for any unauthorized person to manufacture, deliver, or
1 17 possess with the intent to manufacture or deliver, salvia
1 18 divinorum or salvinorin A, including its counterfeit or a
1 19 simulated form, or to act with, enter into a common scheme or
1 20 design with, or conspire with one or more other persons to
1 21 manufacture, deliver, or possess with the intent to
1 22 manufacture or deliver salvia divinorum or salvinorin A.

1 23 The bill also makes it a serious misdemeanor pursuant to
1 24 Code section 124.401, subsection 5, for any unauthorized
1 25 person to possess salvia divinorum or salvinorin A.

1 26 A class "C" felony is punishable by confinement for no more
1 27 than 10 years and a fine of at least \$1,000 but not more than
1 28 \$10,000. A serious misdemeanor is punishable by confinement
1 29 for no more than one year and a fine of at least \$315 but not
1 30 more than \$1,875.

1 31 LSB 1248DP 82

1 32 jm:nh/je/5



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House Study Bill 134

SENATE/HOUSE FILE
BY (PROPOSED JUDICIAL
BRANCH BILL)

Passed Senate, Date _____
Vote: Ayes _____ Nays _____
Approved

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act funding courthouse security programs through the enhanced
- 2 court collections fund and the county general fund.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1377DP 82
- 5 jm/je/5



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House Study Bill 134 continued

PAG LIN

1 1 Section 1. Section 356.7, subsection 5, Code 2007, is
1 2 amended to read as follows:
1 3 5. ~~a. Of the moneys collected and credited to the county~~
1 4 ~~general fund as provided in this section, sixty Forty percent~~
1 5 ~~of the moneys collected and credited to the county general~~
1 6 ~~fund pursuant to this section shall be used for the following~~
1 7 ~~purposes:~~
1 8 ~~a. Courthouse security equipment and law enforcement~~
1 9 ~~personnel costs.~~
1 10 ~~b. (1) Infrastructure improvements of a jail, including~~
1 11 ~~new or remodeling costs.~~
1 12 ~~c. (2) Infrastructure improvements of juvenile detention~~
1 13 ~~facilities, including new or remodeling costs.~~
1 14 b. Twenty percent of the moneys collected and credited to
1 15 the county general fund pursuant to this section shall be used
1 16 for courthouse security equipment and law enforcement
1 17 personnel.
1 18 c. The sheriff may submit a plan or recommendations to the
1 19 county board of supervisors for the use of the funds as
1 20 provided in this subsection or the sheriff and board may
1 21 jointly develop a plan for the use of the funds. Subject to
1 22 the requirements of this subsection, funds may be used in the
1 23 manner set forth in an agreement entered into under chapter
1 24 28E.
1 25 d. The county board of supervisors shall review the plan
1 26 or recommendations submitted by the sheriff during the normal
1 27 budget process of the county.
1 28 Sec. 2. Section 602.1304, subsection 2, paragraph a, Code
1 29 2007, is amended to read as follows:
1 30 a. The enhanced court collections fund is created in the
1 31 state treasury under the authority of the supreme court. The
1 32 fund shall be separate from the general fund of the state and
1 33 the balance in the fund shall not be considered part of the
1 34 balance of the general fund of the state. Notwithstanding
1 35 section 8.33, moneys in the fund shall not revert to the



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House Study Bill 134 continued

2 1 general fund, unless and to the extent the total amount of
2 2 moneys deposited into the fund in a fiscal year would exceed
2 3 the maximum annual deposit amount established for the
2 4 collections fund by the general assembly. The initial maximum
2 5 annual deposit amount for a fiscal year is ~~four~~ five million
2 6 dollars. Notwithstanding section 12C.7, subsection 2,
2 7 interest or earnings on moneys in the collections fund shall
2 8 remain in the collections fund and any interest and earnings
2 9 shall be in addition to the maximum annual deposit amount.

2 10 Sec. 3. Section 602.1304, subsection 2, paragraph c, Code
2 11 2007, is amended to read as follows:

2 12 c. ~~Moneys in the collections fund~~ The first four million
2 13 dollars deposited in the fund during the fiscal year shall be
2 14 used by the judicial branch for the Iowa court information
2 15 system; records management equipment, services, and projects;
2 16 other technological improvements; electronic legal research
2 17 equipment, systems, and projects; and the study, development,
2 18 and implementation of other innovations and projects that
2 19 would improve the administration of justice. ~~The~~ Such moneys
2 20 in the collection fund may also be used for capital
2 21 improvements necessitated by the installation of or connection
2 22 with the Iowa court information system, the Iowa
2 23 communications network, and other technological improvements
2 24 approved by the judicial branch.

2 25 Sec. 4. Section 602.1304, subsection 2, Code 2007, is
2 26 amended by adding the following new paragraph:

2 27 NEW PARAGRAPH. d. If the moneys deposited into the fund
2 28 exceed four million dollars during the fiscal year, then up to
2 29 one million dollars of any excess moneys shall be used to fund
2 30 a courthouse security grant program. The program shall make
2 31 grants to counties for the purpose of providing and improving
2 32 courthouse security. The moneys shall be used by the county
2 33 for the purchase of security equipment and building
2 34 enhancements that improve courthouse security. The supreme
2 35 court shall prescribe rules to implement this paragraph.



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House Study Bill 134 continued

3 1 EXPLANATION
3 2 This bill relates to courthouse security programs, and
3 3 funding such programs through the enhanced court collections
3 4 fund and the county general fund.
3 5 The bill requires a county to use 20 percent of the fees
3 6 collected from inmates at the county jail for courthouse
3 7 security. The bill also requires the county to use 40 percent
3 8 of the fees collected from inmates for infrastructure
3 9 improvements at the county jail or infrastructure improvements
3 10 at juvenile detention facilities. Current law requires the
3 11 county to use 60 percent of the fees collected from inmates
3 12 for courthouse security, infrastructure improvements at the
3 13 county jail, and infrastructure improvements at juvenile
3 14 detention facilities, but does not allocate the distribution
3 15 of the fees. Under current law and under the bill, the
3 16 remaining 40 percent of the fees remain in the county general
3 17 fund.
3 18 The bill increases the maximum annual deposit into the
3 19 enhanced court collections fund from \$4 million to \$5 million.
3 20 If the annual deposit into the fund exceeds \$4 million, the
3 21 bill provides that up to \$1 million of the excess funds shall
3 22 be used to establish a courthouse security grant program. The
3 23 bill provides that the grants shall be used by counties for
3 24 the purchase of courthouse security equipment or building
3 25 enhancements that improve courthouse security.
3 26 Current law limits the use of moneys deposited into the
3 27 enhanced court collections fund to projects related to the
3 28 Iowa court information system, for records management
3 29 equipment, and court technological improvements. The enhanced
3 30 court collections fund is funded through fees and other
3 31 revenue collected by the judicial branch.
3 32 LSB 1377DP 82
3 33 jm:nh/je/5



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House Study Bill 135

SENATE/HOUSE FILE
 BY (PROPOSED JUDICIAL BRANCH
 BILL)

Passed Senate, Date _____
 Vote: Ayes _____ Nays _____
 Approved

Passed House, Date _____
 Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to judicial branch procedures, including
- 2 appointments of court of appeals judges, district judges,
- 3 district associate judges, associate juvenile judges,
- 4 associate probate judges, magistrates, clerks of the district
- 5 court, and patient advocates, and compensation to judges and
- 6 other court personnel serving as fiduciaries.
- 7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 8 TLSB 1375DP 82
- 9 jm/gg/14



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House Study Bill 135 continued

PAG LIN

1 1 Section 1. NEW SECTION. 46.14A COURT OF APPEALS ==
1 2 NOMINEES.
1 3 Vacancies in the court of appeals shall be filled by
1 4 appointment by the governor from a list of nominees submitted
1 5 by the state judicial nominating commission. Three nominees
1 6 shall be submitted for each vacancy. Nominees to the court of
1 7 appeals shall have the qualifications prescribed for nominees
1 8 to the supreme court.
1 9 Sec. 2. Section 46.15, Code 2007, is amended to read as
1 10 follows:
1 11 46.15 APPOINTMENTS TO BE FROM NOMINEES.
1 12 1. All appointments to the supreme court and court of
1 13 appeals shall be made from the nominees of the state judicial
1 14 nominating commission, and all appointments to the district
1 15 court shall be made from the nominees of the district judicial
1 16 nominating commission. ~~Nominees to the court of appeals shall~~
~~1 17 have the qualifications prescribed for nominees to the supreme~~
~~1 18 court.~~
1 19 2. ~~Vacancies in the court of appeals shall be filled by~~
~~1 20 appointment by the governor from a list of nominees submitted~~
~~1 21 by the state judicial nominating commission. Five nominees~~
~~1 22 shall be submitted for each vacancy. If the governor fails to~~
1 23 make an appointment within thirty days after a list of
1 24 nominees has been submitted, the appointment shall be made
1 25 from the list of nominees by the chief justice of the supreme
1 26 court.
1 27 Sec. 3. Section 229.19, subsection 1, unnumbered paragraph
1 28 1, Code 2007, is amended to read as follows:
1 29 ~~The district court in each county with a population of~~
~~1 30 under three hundred thousand inhabitants and the board of~~
~~1 31 supervisors in~~ In each county with a population of three
1 32 hundred thousand or more inhabitants the board of supervisors
1 33 shall appoint an individual who has demonstrated by prior
1 34 activities an informed concern for the welfare and
1 35 rehabilitation of persons with mental illness, and who is not



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House Study Bill 135 continued

2 1 an officer or employee of the department of human services nor
2 2 of any agency or facility providing care or treatment to
2 3 persons with mental illness, to act as advocate representing
2 4 the interests of patients involuntarily hospitalized by the
2 5 court, in any matter relating to the patients' hospitalization
2 6 or treatment under section 229.14 or 229.15. In each county
2 7 with a population of under three hundred thousand inhabitants,
2 8 the chief judge of the judicial district encompassing the
2 9 county shall appoint the advocate.

2 10 PARAGRAPH DIVIDED. The court or, if the advocate is
2 11 appointed by the county board of supervisors, the board shall
2 12 assign the advocate appointed from a patient's county of legal
2 13 settlement to represent the interests of the patient. If a
2 14 patient has no county of legal settlement, the court or, if
2 15 the advocate is appointed by the county board of supervisors,
2 16 the board shall assign the advocate appointed from the county
2 17 where the hospital or facility is located to represent the
2 18 interests of the patient.

2 19 PARAGRAPH DIVIDED. The advocate's responsibility with
2 20 respect to any patient shall begin at whatever time the
2 21 attorney employed or appointed to represent that patient as
2 22 respondent in hospitalization proceedings, conducted under
2 23 sections 229.6 to 229.13, reports to the court that the
2 24 attorney's services are no longer required and requests the
2 25 court's approval to withdraw as counsel for that patient.
2 26 However, if the patient is found to be seriously mentally
2 27 impaired at the hospitalization hearing, the attorney
2 28 representing the patient shall automatically be relieved of
2 29 responsibility in the case and an advocate shall be assigned
2 30 to the patient at the conclusion of the hearing unless the
2 31 attorney indicates an intent to continue the attorney's
2 32 services and the court so directs. If the court directs the
2 33 attorney to remain on the case, the attorney shall assume all
2 34 the duties of an advocate. The clerk shall furnish the
2 35 advocate with a copy of the court's order approving the



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3 1 withdrawal and shall inform the patient of the name of the
3 2 patient's advocate.

3 3 PARAGRAPH DIVIDED. With regard to each patient whose
3 4 interests the advocate is required to represent pursuant to
3 5 this section, the advocate's duties shall include all of the
3 6 following:

3 7 Sec. 4. Section 602.1215, subsection 1, Code 2007, is
3 8 amended to read as follows:

3 9 1. Subject to the provisions of section 602.1209,
3 10 subsection 3, the ~~district judges~~ chief judge of each the
3 11 judicial election district shall ~~by majority vote~~ appoint
3 12 persons to serve as clerks of the district court within the
3 13 judicial election district. The ~~district judges~~ chief judge
3 14 of a judicial election district may appoint a person to serve
3 15 as clerk of the district court for more than one but not more
3 16 than four contiguous counties in the same judicial district.
3 17 A person does not qualify for appointment to the office of
3 18 clerk of the district court unless the person is at the time
3 19 of application a resident of the state. A clerk of the
3 20 district court may be removed from office for cause by a
3 21 ~~majority vote of the district judges~~ chief judge of the
3 22 judicial election district. Before removal, the clerk of the
3 23 district court shall be notified of the cause for removal.

3 24 Sec. 5. Section 602.6201, subsection 2, Code 2007, is
3 25 amended to read as follows:

3 26 2. A district judge must be a resident of the judicial
3 27 election district in which appointed and retained. Subject to
3 28 the provision for reassignment of judges under section
3 29 602.6108, a district judge shall serve in the district of the
3 30 judge's residence while in office, regardless of the number of
3 31 judgeships to which the district is entitled under the formula
3 32 prescribed by the supreme court in subsection 3.

3 33 Sec. 6. Section 602.6201, subsection 3, Code 2007, is
3 34 amended by striking the subsection and inserting in lieu
3 35 thereof the following:



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4 1 3. The supreme court shall prescribe, subject to the
4 2 restrictions of this section, a formula to determine the
4 3 number of district judges who will serve in each judicial
4 4 election district. The formula shall be based upon a model
4 5 that measures and applies an estimated case-related workload
4 6 formula of judicial officers, and shall account for
4 7 administrative duties, travel time, and other judicial duties
4 8 not related to a specific case.

4 9 Sec. 7. Section 602.6201, subsections 4, 5, 6, 7, 8, 9,
4 10 and 10, Code 2007, are amended to read as follows:

4 11 4. For purposes of this section, a vacancy means the
4 12 death, resignation, retirement, or removal of a district
4 13 judge, or the failure of a district judge to be retained in
4 14 office at the judicial election, or an increase in judgeships
4 15 under this section the formula prescribed in subsection 3.

4 16 5. In those judicial election districts having more
4 17 district judges than the number of judgeships specified by the
4 18 formula prescribed in subsection 3, vacancies shall not be
4 19 filled.

4 20 6. In those judicial election districts having fewer or
4 21 the same number of district judges as the number of judgeships
4 22 specified by the formula prescribed in subsection 3, vacancies
4 23 in the number of district judges shall be filled as they
4 24 occur.

4 25 7. In those judicial districts that contain more than one
4 26 judicial election district, a vacancy in a judicial election
4 27 district shall not be filled if the total number of district
4 28 judges in all judicial election districts within the judicial
4 29 district equals or exceeds the aggregate number of judgeships
4 30 to which all of the judicial election districts of the
4 31 judicial district are authorized by the formula in subsection
4 32 3.

4 33 8. An incumbent district judge shall not be removed from
4 34 office because of a reduction in the number of authorized
4 35 judgeships specified by the formula prescribed in subsection



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5 1 3.

5 2 9. During February of each year, and at other times as
5 3 appropriate, the state court administrator shall make the
5 4 determinations ~~required under this section~~ specified by the
5 5 formula prescribed in subsection 3, and shall notify the
5 6 appropriate nominating commissions and the governor of
5 7 appointments that are required.

5 8 10. Notwithstanding the formula for determining the number
5 9 of ~~judgeships in this section~~ district judges prescribed in
5 10 subsection 3, the number of district judges shall not exceed
5 11 one hundred sixteen during the period commencing July 1, 1999.

5 12 Sec. 8. Section 602.6201, subsections 11 and 12, Code
5 13 2007, are amended by striking the subsections.

5 14 Sec. 9. Section 602.6502, Code 2007, is amended to read as
5 15 follows:

5 16 602.6502 ~~MEMBER OF COMMISSION NOT TO BE APPOINTED TO~~
5 17 ~~OFFICE PROHIBITIONS TO APPOINTMENT.~~

5 18 A member of a county magistrate appointing commission shall
5 19 not be appointed to the office of magistrate, and shall not be
5 20 nominated for or appointed to the office of district associate
5 21 judge, office of associate juvenile judge, or office of
5 22 associate probate judge. A member of the commission shall not
5 23 be eligible to vote for the appointment or nomination of a
5 24 family member, current law partner, or current business
5 25 partner. For purposes of this section, "family member" means
5 26 a spouse, son, daughter, brother, sister, uncle, aunt, first
5 27 cousin, nephew, niece, father-in-law, mother-in-law,
5 28 son-in-law, daughter-in-law, brother-in-law, sister-in-law,
5 29 father, mother, stepfather, stepmother, stepson, stepdaughter,
5 30 stepbrother, stepsister, half brother, or half sister.

5 31 Sec. 10. Section 633.201, Code 2007, is amended to read as
5 32 follows:

5 33 633.201 COURT OFFICERS AS FIDUCIARIES.

5 34 Judges, clerks, and deputy clerks serving as fiduciaries
5 35 shall not be allowed any compensation for services as such



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6 1 fiduciaries. A judge, clerk, or deputy clerk serving as a
6 2 fiduciary may be compensated for fiduciary services if the
6 3 services are for a family member's estate, trust,
6 4 guardianship, or conservatorship. For purposes of this
6 5 section, "family member" means a spouse, child, grandchild,
6 6 parent, grandparent, sibling, niece, nephew, cousin, or other
6 7 relative or individual with significant personal ties to the
6 8 fiduciary.

6 9 EXPLANATION

6 10 This bill relates to judicial branch procedures, including
6 11 appointments of court of appeals judges, district court
6 12 judges, magistrates, clerks of the district court, and patient
6 13 advocates, and compensation to judges and other court
6 14 personnel serving as fiduciaries.

6 15 The bill changes the number of nominees the state judicial
6 16 nominating commission certifies to the governor when a vacancy
6 17 occurs on the court of appeals. Under the bill, the state
6 18 judicial nominating commission certifies three nominees to the
6 19 governor for an appointment to the court of appeals. Current
6 20 law provides that the state judicial nominating commission
6 21 certify five nominees to the governor for an appointment to
6 22 the court of appeals.

6 23 The bill provides that in each county with a population of
6 24 under 300,000 inhabitants, the chief judge of the judicial
6 25 district encompassing the county shall appoint the patient
6 26 advocate. Current law provides that the district court in
6 27 each county with a population under 300,000 inhabitants
6 28 appoints the patient advocate. In counties with a population
6 29 equal to or greater than 300,000 inhabitants, the board of
6 30 supervisors would continue to appoint the patient advocate. A
6 31 patient advocate represents the interests of patients
6 32 involuntarily hospitalized by the court.

6 33 The bill provides that the chief judge of the judicial
6 34 district shall appoint each clerk of the district court within
6 35 the judicial district. The bill also provides that the chief



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7 1 judge may remove the clerk of the district court for cause.
7 2 Current law provides that the district judges of each judicial
7 3 election district, by a majority vote, appoint or remove the
7 4 clerk of the district court within the judicial election
7 5 district.

7 6 The bill eliminates the formula for the distribution of
7 7 district judges among the judicial election districts in Code
7 8 section 602.6201(3) and replaces it with a formula prescribed
7 9 by the supreme court. The bill provides that the formula
7 10 prescribed by the supreme court shall be based upon a model
7 11 that measures and applies an estimated case-related workload
7 12 formula of judicial officers, and shall account for
7 13 administrative duties, travel time, and other judicial duties
7 14 not related to a specific case. Under the bill and in current
7 15 law, an incumbent district judge shall not be removed from
7 16 office because of a reduction in the number of authorized
7 17 judgeships within a particular judicial election district, and
7 18 the number of judges remains capped at 116 district judges.

7 19 Under the bill, a member of the county magistrate
7 20 appointing commission is prohibited from being appointed to or
7 21 nominated for the office of associate juvenile judge or
7 22 associate probate judge. Current law prohibits a member of
7 23 the commission from being appointed to or nominated for the
7 24 position of magistrate or the office of district associate
7 25 judge.

7 26 The bill also prohibits a member of the county magistrate
7 27 appointing commission from voting for a family member or
7 28 current law or business partner for a magistrate position, or
7 29 the office of district associate judge, associate juvenile
7 30 judge, or associate probate judge.

7 31 The bill provides that a judge, clerk, or deputy clerk
7 32 serving as a fiduciary may be compensated for providing
7 33 fiduciary services if such services are for a close friend's
7 34 or family member's estate, trust, guardianship, or
7 35 conservatorship. Current law prohibits a judge, clerk, or



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8 1 deputy clerk from being compensated for providing fiduciary
8 2 services.
8 3 LSB 1375DP 82
8 4 jm:rj/gg/14.1



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House Study Bill 136

SENATE/HOUSE FILE
BY (PROPOSED ATTORNEY
GENERAL BILL)

Passed Senate, Date _____
Vote: Ayes _____ Nays _____
Approved

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to a criminal defendant filing an application for
- 2 postconviction relief.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1103DP 82
- 5 jm/je/5



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House Study Bill 136 continued

PAG LIN

1 1 Section 1. Section 822.2, subsection 1, unnumbered
 1 2 paragraph 1, Code 2007, is amended to read as follows:

1 3 Any person who has been convicted of, or sentenced for, a
 1 4 ~~public an indictable offense as defined in section 801.4 and~~
 1 5 who claims any of the following may institute, without paying
 1 6 a filing fee, a proceeding under this chapter to secure
 1 7 relief:

1 8 Sec. 2. Section 822.3, Code 2007, is amended to read as
 1 9 follows:

1 10 822.3 HOW TO COMMENCE PROCEEDING == LIMITATION.

1 11 A proceeding is commenced by filing an application verified
 1 12 by the applicant with the clerk of the district court in which
 1 13 the conviction or sentence took place. However, if the
 1 14 applicant is seeking relief under section 822.2, subsection 1,
 1 15 paragraph "f", the application shall be filed with the clerk
 1 16 of the district court of the county in which the applicant is
 1 17 being confined within ninety days from the date the
 1 18 disciplinary decision is final. All other applications must
 1 19 be filed within ~~three years~~ eighteen months from the date the
 1 20 conviction or decision is final or, in the event of an appeal,
 1 21 from the date the writ of procedendo is issued. However, this
 1 22 limitation does not apply to a ground of fact or law that
 1 23 could not have been raised within the applicable time period.
 1 24 Facts within the personal knowledge of the applicant and the
 1 25 authenticity of all documents and exhibits included in or
 1 26 attached to the application must be sworn to affirmatively as
 1 27 true and correct. The supreme court may prescribe the form of
 1 28 the application and verification. The clerk shall docket the
 1 29 application upon its receipt and promptly bring it to the
 1 30 attention of the court and deliver a copy to the county
 1 31 attorney and the attorney general.

1 32 EXPLANATION

1 33 This bill relates to a criminal defendant filing an
 1 34 application for postconviction relief.

1 35 The bill prohibits a person convicted of a simple



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2 1 misdemeanor from filing an application for relief. The bill
2 2 does not prohibit any other criminal defendant from filing an
2 3 application for postconviction relief.

2 4 The bill also condenses the time period to file most
2 5 applications for postconviction relief. The bill provides
2 6 that applications for postconviction relief must be filed
2 7 within 18 months from the date of the final decision at the
2 8 trial court level or, if the case is appealed, then within 18
2 9 months of the date the appeal becomes final and a writ of
2 10 procedendo is issued. Under current law, a person is granted
2 11 three years from the date the case becomes final to file an
2 12 application for postconviction relief.

2 13 Under the bill and in current law, a person is not time
2 14 barred from filing an application for postconviction relief if
2 15 an issue arises that could not have been raised during the
2 16 time period granted to file an application for postconviction
2 17 relief.

2 18 An application for postconviction relief generally is an
2 19 application to the court, after an unsuccessful appeal, by a
2 20 criminal defendant attacking the constitutionality or validity
2 21 of the sentence of the criminal defendant.

2 22 LSB 1103DP 82

2 23 jm:nh/je/5



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House Study Bill 137

SENATE/HOUSE FILE
BY (PROPOSED JUDICIAL
BRANCH BILL)

Passed Senate, Date _____
Vote: Ayes _____ Nays _____
Approved

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to the assessment of civil and criminal court
- 2 fees and penalties.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1374DP 82
- 5 jm/je/5



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1 1 Section 1. Section 602.8106, subsection 1, Code 2007, is
 1 2 amended by adding the following new paragraph:
 1 3 NEW PARAGRAPH. h. For a motion to show cause in a
 1 4 probation revocation, the fee shall be the same amount as the
 1 5 fee for filing and docketing a complaint, information, or
 1 6 citation for the underlying case from which the motion arises.
 1 7 Sec. 2. Section 633.31, subsection 2, paragraph c, Code
 1 8 2007, is amended to read as follows:
 1 9 c. For filing and indexing a transcript ~~5.00~~
 1 10 50.00
 1 11 Sec. 3. Section 908.11, Code 2007, is amended by adding
 1 12 the following new subsection:
 1 13 NEW SUBSECTION. 5. If the court revokes the probation of
 1 14 a defendant who receives a deferred judgment, the court shall
 1 15 not rescind or modify the civil penalty assessed pursuant to
 1 16 section 907.14.

1 17 EXPLANATION

1 18 This bill relates to assessing civil and criminal court
 1 19 fees and penalties.
 1 20 The bill provides that the clerk of the district court
 1 21 shall collect a fee upon the filing of a motion to show cause
 1 22 in a probation revocation proceeding equal to the fee for
 1 23 filing and docketing a complaint, information, or citation in
 1 24 the underlying case from which the motion arises.
 1 25 The bill increases the fee for filing and indexing a
 1 26 transcript in a probate proceeding from \$5 to \$50.
 1 27 Under the bill, if the court revokes the probation of a
 1 28 defendant who receives a deferred judgment, the court shall
 1 29 not rescind or modify the civil penalty assessed against that
 1 30 person pursuant to Code section 907.14.
 1 31 LSB 1374DP 82
 1 32 jm:nh/je/5



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House Study Bill 138

SENATE/HOUSE FILE
 BY (PROPOSED ATTORNEY
 GENERAL BILL)

Passed Senate, Date _____
 Vote: Ayes _____ Nays _____
 Approved

Passed House, Date _____
 Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to appealing the determination a person is a
- 2 sexually violent predator.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1100DP 82
- 5 jm/gg/14



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House Study Bill 138 continued

PAG LIN

1 1 Section 1. Section 229A.7, subsections 5 and 6, Code 2007,
1 2 are amended to read as follows:

1 3 5. At trial, the court or jury shall determine whether,
1 4 beyond a reasonable doubt, the respondent is a sexually
1 5 violent predator. If the case is before a jury, the verdict
1 6 shall be unanimous that the respondent is a sexually violent
1 7 predator.

1 8 5A. If the court or jury determines that the respondent is
1 9 a sexually violent predator, the respondent shall be committed
1 10 to the custody of the director of the department of human
1 11 services for control, care, and treatment until such time as
1 12 the person's mental abnormality has so changed that the person
1 13 is safe to be placed in a transitional release program or
1 14 discharged. ~~The determination may be appealed.~~

1 15 6. If the court or jury determines that the respondent is
1 16 a sexually violent predator, the court shall order the
1 17 respondent to submit a DNA sample for DNA profiling pursuant
1 18 to section 81.4.

1 19 6A. The determination as to whether the respondent is or
1 20 is not a sexually violent predator may be appealed by the
1 21 respondent or the state.

1 22 EXPLANATION

1 23 This bill relates to the civil commitment of a sexually
1 24 violent predator.

1 25 The bill provides that when a jury or court determines a
1 26 person is or is not a sexually violent predator, the person
1 27 determined to be a sexually violent predator or the state may
1 28 appeal.

1 29 LSB 1100DP 82

1 30 jm:rj/gg/14



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House Study Bill 139

SENATE/HOUSE FILE
BY (PROPOSED GOVERNOR'S OFFICE
OF DRUG CONTROL POLICY BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved

A BILL FOR

- 1 An Act increasing the law enforcement initiative surcharge,
- 2 expanding its applicability, and making an appropriation.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1276DP 82
- 5 jm/je/5



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PAG LIN

1 1 Section 1. Section 602.8108, subsection 5, Code 2007, is
1 2 amended to read as follows:
1 3 5. The clerk of the district court shall remit all moneys
1 4 collected from the assessment of the law enforcement
1 5 initiative surcharge provided in section 911.3 to the state
1 6 court administrator no later than the fifteenth day of each
1 7 month for deposit in the general fund of the state and fifty
1 8 percent of the amount deposited is appropriated to the
1 9 governor's office of drug control policy for supporting
1 10 multijurisdictional drug enforcement.

1 11 Sec. 2. Section 911.3, subsection 1, Code 2007, is amended
1 12 to read as follows:

1 13 1. In addition to any other surcharge, the court or clerk
1 14 of the district court shall assess a law enforcement
1 15 initiative surcharge of ~~one~~ two hundred ~~twenty-five~~ fifty
1 16 dollars if an adjudication of guilt or a deferred judgment has
1 17 been entered for a criminal violation under any of the
1 18 following:

- 1 19 a. Chapter 124, 155A, 321J, 453B, 713, 714, 715A, or 716.
- 1 20 b. Section 719.8, 725.1, 725.2, or 725.3.

1 21 EXPLANATION

1 22 This bill relates to the law enforcement initiative
1 23 surcharge. The bill raises the law enforcement initiative
1 24 surcharge from \$125 to \$250 and expands the assessment of the
1 25 surcharge to any criminal violation, including deferred
1 26 judgments, under Code chapter 321J (operating while
1 27 intoxicated).

1 28 The other criminal violations affected by increasing the
1 29 law enforcement initiative surcharge include violations under
1 30 the following Code chapters: 124 (controlled substances),
1 31 155A (pharmacy-related criminal violations), 453B (unlawful
1 32 dealing of certain substances), 713 (burglary), 714 (theft and
1 33 fraud), 715A (forgery), and 716 (damage to property and
1 34 trespass). The surcharge also applies to criminal violations
1 35 of Code sections 719.8 (furnishing a controlled substance or



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2 1 alcohol to inmates), 725.1 (prostitution), 725.2 (pimping),
2 2 and 725.3 (pandering).
2 3 Under the bill and in current law, the law enforcement
2 4 initiative surcharge is collected by the clerk of the district
2 5 court and remitted to the state court administrator for
2 6 deposit into the general fund of the state. However, under
2 7 the bill, 50 percent of the surcharge deposited into the
2 8 general fund of the state shall be appropriated to the
2 9 governor's office of drug control policy for the support of
2 10 multijurisdictional drug enforcement.
2 11 LSB 1276DP 82
2 12 jm:nh/je/5



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House Study Bill 140

HOUSE FILE
 BY (PROPOSED COMMITTEE ON
 JUDICIARY BILL BY
 CHAIRPERSON SWAIM)

Passed House, Date _____ Passed Senate, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
 Approved

A BILL FOR

- 1 An Act relating to revising the uniform commercial code, by
- 2 providing for warehouse receipts, bills of lading, and other
- 3 documents of title.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1073HC 82
- 6 da/je/5



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2 1 ~~g.~~ h. "Issuer" means a bailee ~~who~~ that issues a document
2 2 ~~except that in relation to~~ of title or, in the case of an
2 3 ~~unaccepted delivery order, it means the person~~ who ~~that~~ orders
2 4 ~~the possessor of goods to deliver. Issuer~~ The term includes
2 5 ~~any a person for whom~~ which an agent or employee purports to
2 6 ~~act in issuing a document if the agent or employee has real or~~
2 7 ~~apparent authority to issue documents, notwithstanding that~~
2 8 ~~even if the issuer received no did not receive any goods, or~~
2 9 ~~that the goods were misdescribed, or that in any other respect~~
2 10 ~~the agent or employee violated that agent's or employee's the~~
2 11 ~~issuer's instructions.~~
2 12 i. "Person entitled under the document" means the holder,
2 13 in the case of a negotiable document of title, or the person
2 14 to which delivery of the goods is to be made by the terms of,
2 15 or pursuant to instructions in a record under, a nonnegotiable
2 16 document of title.
2 17 j. "Record" means information that is inscribed on a
2 18 tangible medium or that is stored in an electronic or other
2 19 medium and is retrievable in perceivable form.
2 20 k. "Sign" means, with present intent to authenticate or
2 21 adopt a record:
2 22 (1) to execute or adopt a tangible symbol; or
2 23 (2) to attach to or logically associate with the record an
2 24 electronic sound, symbol, or process.
2 25 l. "Shipper" means a person that enters into a contract of
2 26 transportation with a carrier.
2 27 ~~h. m. "Warehouse operator" is~~ "Warehouse" means a person
2 28 engaged in the business of storing goods for hire.
2 29 2. Other definitions applying to this Article or to
2 30 specified Parts thereof, and the sections in which they appear
2 31 are:
2 32 "Duly negotiate" _____ Section 554.7501
2 33 "Person entitled under
2 34 the document" _____ Section 554.7403(4)
2 35 ~~3.~~ Definitions in other Articles applying to this Article



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House Study Bill 140 continued

4 1 this Article governs.

4 2 Sec. 4. Section 554.7104, Code 2007, is amended to read as
4 3 follows:

4 4 554.7104 ~~NEGOTIABLE AND NONNEGOTIABLE WAREHOUSE RECEIPT,~~
4 5 ~~BILL OF LADING OR OTHER DOCUMENT OF TITLE.~~

4 6 1. ~~A warehouse receipt, bill of lading or other~~ Except as
4 7 otherwise provided in subsection 3, a document of title is
4 8 negotiable

4 9 ~~a. if by its terms the goods are to be delivered to bearer~~
4 10 ~~or to the order of a named person; or.~~

4 11 ~~b. where recognized in overseas trade, if it runs to a~~
4 12 ~~named person or assigns.~~

4 13 2. ~~Any other~~ A document of title other than the one
4 14 described in subsection 1 is nonnegotiable. A bill of lading
4 15 in which it is stated that states that the goods are consigned
4 16 to a named person is not made negotiable by a provision that
4 17 the goods are to be delivered only against a written an order
4 18 in a record signed by the same or another named person.

4 19 3. A document of title is nonnegotiable if, at the time it
4 20 is issued, the document has a conspicuous legend, however
4 21 expressed, that it is nonnegotiable.

4 22 Sec. 5. Section 554.7105, Code 2007, is amended to read as
4 23 follows:

4 24 554.7105 ~~CONSTRUCTION AGAINST NEGATIVE IMPLICATION~~
4 25 ~~REISSUANCE IN ALTERNATIVE MEDIUM.~~

4 26 1. ~~The omission from either Part 2 or Part 3 of this~~
4 27 ~~Article of a provision corresponding to a provision made in~~
4 28 ~~the other Part does not imply that a corresponding rule of law~~
4 29 ~~is not applicable. Upon request of a person entitled under an~~
4 30 electronic document of title, the issuer of the electronic
4 31 document may issue a tangible document of title as a
4 32 substitute for the electronic document if:

4 33 a. the person entitled under the electronic document
4 34 surrenders control of the document to the issuer; and

4 35 b. the tangible document when issued contains a statement



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5 1 that it is issued in substitution for the electronic document.

5 2 2. Upon issuance of a tangible document of title in

5 3 substitution for an electronic document of title in accordance

5 4 with subsection 1:

5 5 a. the electronic document ceases to have any effect or

5 6 validity; and

5 7 b. the person that procured issuance of the tangible

5 8 document warrants to all subsequent persons entitled under the

5 9 tangible document that the warrantor was a person entitled

5 10 under the electronic document when the warrantor surrendered

5 11 control of the electronic document to the issuer.

5 12 3. Upon request of a person entitled under a tangible

5 13 document of title, the issuer of the tangible document may

5 14 issue an electronic document of title as a substitute for the

5 15 tangible document if:

5 16 a. the person entitled under the tangible document

5 17 surrenders possession of the document to the issuer; and

5 18 b. the electronic document when issued contains a

5 19 statement that it is issued in substitution for the tangible

5 20 document.

5 21 4. Upon issuance of an electronic document of title in

5 22 substitution for a tangible document of title in accordance

5 23 with subsection 3:

5 24 a. the tangible document ceases to have any effect or

5 25 validity; and

5 26 b. the person that procured issuance of the electronic

5 27 document warrants to all subsequent persons entitled under the

5 28 electronic document that the warrantor was a person entitled

5 29 under the tangible document when the warrantor surrendered

5 30 possession of the tangible document to the issuer.

5 31 Sec. 6. NEW SECTION. 554.7106 CONTROL OF ELECTRONIC

5 32 DOCUMENT OF TITLE.

5 33 1. A person has control of an electronic document of title

5 34 if a system employed for evidencing the transfer of interests

5 35 in the electronic document reliably establishes that person as



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6 1 the person to which the electronic document was issued or
6 2 transferred.
6 3 2. A system satisfies subsection 1, and a person is deemed
6 4 to have control of an electronic document of title, if the
6 5 document is created, stored, and assigned in such a manner
6 6 that:
6 7 a. a single authoritative copy of the document exists
6 8 which is unique, identifiable, and, except as otherwise
6 9 provided in paragraphs "d", "e", and "f", unalterable;
6 10 b. the authoritative copy identifies the person asserting
6 11 control as:
6 12 (1) the person to which the document was issued; or
6 13 (2) if the authoritative copy indicates that the document
6 14 has been transferred, the person to which the document was
6 15 most recently transferred;
6 16 c. the authoritative copy is communicated to and
6 17 maintained by the person asserting control or its designated
6 18 custodian;
6 19 d. copies or amendments that add or change an identified
6 20 assignee of the authoritative copy can be made only with the
6 21 consent of the person asserting control;
6 22 e. each copy of the authoritative copy and any copy of a
6 23 copy is readily identifiable as a copy that is not the
6 24 authoritative copy; and
6 25 f. any amendment of the authoritative copy is readily
6 26 identifiable as authorized or unauthorized.
6 27 Sec. 7. Section 554.7201, Code 2007, is amended to read as
6 28 follows:
6 29 554.7201 ~~WHO~~ PERSON THAT MAY ISSUE A WAREHOUSE RECEIPT ==
6 30 STORAGE UNDER ~~GOVERNMENT~~ BOND.
6 31 1. A warehouse receipt may be issued by any warehouse
6 32 ~~operator~~.
6 33 2. ~~Where~~ If goods, including distilled spirits and
6 34 agricultural commodities, are stored under a statute requiring
6 35 a bond against withdrawal or a license for the issuance of



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7 1 receipts in the nature of warehouse receipts, a receipt issued
7 2 for the goods ~~has like effect as~~ is deemed to be a warehouse
7 3 receipt even ~~though~~ if issued by a person ~~who~~ that is the
7 4 owner of the goods and is not a warehouse ~~operator~~.

7 5 Sec. 8. Section 554.7202, Code 2007, is amended to read as
7 6 follows:

7 7 554.7202 FORM OF WAREHOUSE RECEIPT == ~~ESSENTIAL TERMS~~ ==
~~7 8 OPTIONAL TERMS EFFECT OF OMISSION.~~

7 9 1. A warehouse receipt need not be in any particular form.

7 10 2. Unless a warehouse receipt ~~embodies within its written~~
~~7 11 or printed terms~~ provides for each of the following, the
7 12 warehouse ~~operator~~ is liable for damages caused to a person
7 13 injured by ~~the~~ its omission ~~to a person injured thereby:~~

7 14 a. a statement of the location of the warehouse facility
7 15 where the goods are stored;

7 16 b. the date of issue of the receipt;

7 17 c. the ~~consecutive number~~ unique identification code of
7 18 the receipt;

7 19 d. a statement whether the goods received will be
7 20 delivered to the bearer, to a ~~specified~~ named person, or to a
7 21 ~~specified~~ named person or ~~that person's~~ its order;

7 22 e. the rate of storage and handling charges, ~~except that~~
~~7 23 where~~ unless goods are stored under a field warehousing
7 24 arrangement, in which case a statement of that fact is
7 25 sufficient on a nonnegotiable receipt;

7 26 f. a description of the goods or ~~of~~ the packages
7 27 containing them;

7 28 g. the signature of the warehouse ~~operator, which may be~~
~~7 29 made by the warehouse operator's~~ authorized or its agent;

7 30 h. if the receipt is issued for goods ~~of which~~ that the
7 31 warehouse ~~operator is owner~~ owns, either solely, ~~or~~ jointly,
7 32 or in common with others, a statement of the fact of ~~such~~ that
7 33 ownership; and

7 34 i. a statement of the amount of advances made and of
7 35 liabilities incurred for which the warehouse ~~operator~~ claims a



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8 1 lien or security interest, ~~(section 554.7209)~~. ~~If unless the~~
8 2 precise amount of ~~such~~ advances made or ~~of such~~ liabilities
8 3 incurred ~~is~~, at the time of the issue of the receipt, is
8 4 unknown to the warehouse ~~operator~~ or to ~~the warehouse~~
~~operator's~~ its agent who issues it that issued the receipt, in
8 6 which case a statement of the fact that advances have been
8 7 made or liabilities incurred and the purpose thereof of the
8 8 advances or liabilities is sufficient.

8 9 3. A warehouse ~~operator~~ may insert in ~~the~~ its receipt any
8 10 other terms which that are not contrary to the provisions of
8 11 this chapter and do not impair the warehouse operator's its
8 12 obligation of delivery (section 554.7403) under section
8 13 554.7403 or its duty of care (section 554.7204) under section
8 14 554.7204. Any contrary provisions shall be provision is
8 15 ineffective.

8 16 Sec. 9. Section 554.7203, Code 2007, is amended to read as
8 17 follows:

8 18 554.7203 LIABILITY FOR NONRECEIPT OR MISDESCRIPTION.

8 19 A party to or purchaser for value in good faith of a
8 20 document of title, other than a bill of lading relying in
~~either case, that relies~~ upon the description ~~therein~~ of the
8 22 goods in the document may recover from the issuer damages
8 23 caused by the nonreceipt or misdescription of the goods,
8 24 except to the extent that:

8 25 1. the document conspicuously indicates that the issuer
8 26 does not know whether any all or part or all of the goods in
8 27 fact were received or conform to the description, ~~as where~~
8 28 such as the case in which the description is in terms of marks
8 29 or labels or kind, quantity, or condition, or the receipt or
8 30 description is qualified by "contents, condition, and quality
8 31 unknown", "said to contain", or the like, words of similar
8 32 import, if such the indication be is true; or

8 33 2. the party or purchaser otherwise has notice of the
8 34 nonreceipt or misdescription.

8 35 Sec. 10. Section 554.7204, Code 2007, is amended to read
9 1 as follows:

9 2 554.7204 DUTY OF CARE == CONTRACTUAL LIMITATION OF
9 3 ~~WAREHOUSE OPERATOR'S~~ WAREHOUSE'S LIABILITY.

9 4 1. A warehouse ~~operator~~ is liable for damages for loss of
9 5 or injury to the goods caused by ~~the warehouse operator's its~~
9 6 failure to exercise ~~such~~ care in with regard to ~~them as the~~
9 7 goods that a reasonably careful person would exercise under
9 8 like similar circumstances but unless. Unless otherwise
9 9 agreed, the warehouse operator is not liable for damages which
9 10 that could not have been avoided by the exercise of such that
9 11 care.

9 12 2. Damages may be limited by a term in the warehouse
9 13 receipt or storage agreement limiting the amount of liability
9 14 in case of loss or damage, ~~and setting forth a specific~~
~~liability per article or item, or value per unit of weight,~~
9 16 beyond which the warehouse operator shall is not be liable;
~~provided, however, that such liability may on written. Such a~~
9 18 limitation is not effective with respect to the warehouse's
9 19 liability for conversion to its own use. On request of the
9 20 bailor in a record at the time of signing such the storage
9 21 agreement or within a reasonable time after receipt of the



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9 22 warehouse receipt, the warehouse's liability may be increased
9 23 on part or all of the goods thereunder, in which covered by
9 24 the storage agreement or the warehouse receipt. In this
9 25 event, increased rates may be charged based on such an
9 26 increased valuation, but that no such increase shall be
~~9 27 permitted contrary to a lawful limitation of liability~~
~~9 28 contained in the warehouse operator's tariff, if any of the~~
~~9 29 goods. No such limitation is effective with respect to the~~
~~9 30 warehouse operator's liability for conversion to the warehouse~~
~~9 31 operator's own use.~~
9 32 3. Reasonable provisions as to the time and manner of
9 33 presenting claims and ~~instituting~~ commencing actions based on
9 34 the bailment may be included in the warehouse receipt or
9 35 tariff storage agreement.



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10 1 4. This section does not modify or repeal any provision
10 2 under chapter 203, 203C, or 203D.
10 3 Sec. 11. Section 554.7205, Code 2007, is amended to read
10 4 as follows:
10 5 554.7205 TITLE UNDER WAREHOUSE RECEIPT DEFEATED IN CERTAIN
10 6 CASES.
10 7 A buyer in ~~the~~ ordinary course of business of fungible
10 8 goods sold and delivered by a warehouse ~~operator who~~ that is
10 9 also in the business of buying and selling such goods takes
10 10 the goods free of any claim under a warehouse receipt even
10 11 though it if the receipt is negotiable and has been duly
10 12 negotiated.
10 13 Sec. 12. Section 554.7206, Code 2007, is amended to read
10 14 as follows:
10 15 554.7206 TERMINATION OF STORAGE AT ~~WAREHOUSE OPERATOR'S~~
10 16 WAREHOUSE'S OPTION.
10 17 1. A warehouse ~~operator may on notifying, by giving notice~~
10 18 to the person on whose account the goods are held and any
10 19 other person known to claim an interest in the goods, may
10 20 require payment of any charges and removal of the goods from
10 21 the warehouse at the termination of the period of storage
10 22 fixed by the document, of title or, if ~~no~~ a period is not
10 23 fixed, within a stated period not less than thirty days after
10 24 the ~~notification~~ warehouse gives notice. If the goods are not
10 25 removed before the date specified in the ~~notification notice,~~
10 26 the warehouse ~~operator~~ may sell them ~~in accordance with the~~
10 27 ~~provisions of the pursuant to section on enforcement of a~~
10 28 ~~warehouse operator's lien (section 554.7210)~~ 554.7210.
10 29 2. If a warehouse ~~operator~~ in good faith believes that ~~the~~
10 30 goods are about to deteriorate or decline in value to less
10 31 than the amount of ~~the warehouse operator's~~ its lien within
10 32 the time ~~prescribed~~ provided in subsection 1 ~~for notification,~~
10 33 ~~advertisement and sale and section 554.7210,~~ the warehouse
10 34 ~~operator~~ may specify in the ~~notification~~ notice given under
10 35 subsection 1 any reasonable shorter time for removal of the



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11 1 goods and ~~in case,~~ if the goods are not removed, may sell them
 11 2 at public sale held not less than one week after a single
 11 3 advertisement or posting.

11 4 3. If, as a result of a quality or condition of the goods
 11 5 of which the warehouse ~~operator had no~~ did not have notice at
 11 6 the time of deposit, the goods are a hazard to other property,
 11 7 ~~or to~~ the warehouse facilities, or ~~to~~ other persons, the
 11 8 warehouse ~~operator~~ may sell the goods at public or private
 11 9 sale without advertisement or posting on reasonable
 11 10 notification to all persons known to claim an interest in the
 11 11 goods. If the warehouse, ~~operator~~ after a reasonable effort,
 11 12 is unable to sell the goods ~~the warehouse operator,~~ it may
 11 13 dispose of them in any lawful manner and ~~shall does not~~ incur
 11 14 ~~no~~ liability by reason of ~~such~~ that disposition.

11 15 4. ~~The A~~ warehouse ~~operator must~~ shall deliver the goods
 11 16 to any person entitled to them under this Article upon due
 11 17 demand made at any time ~~prior to~~ before sale or other
 11 18 disposition under this section.

11 19 5. ~~The A~~ warehouse ~~operator~~ may satisfy ~~the warehouse~~
~~11 20 operator's~~ its lien from the proceeds of any sale or
 11 21 disposition under this section but ~~must~~ shall hold the balance
 11 22 for delivery on the demand of any person to ~~whom~~ which the
 11 23 warehouse ~~operator~~ would have been bound to deliver the goods.

11 24 Sec. 13. Section 554.7207, Code 2007, is amended to read
 11 25 as follows:

11 26 554.7207 GOODS MUST BE KEPT SEPARATE == FUNGIBLE GOODS.

11 27 1. Unless the warehouse receipt ~~otherwise~~ provides
 11 28 otherwise, a warehouse ~~operator must~~ shall keep separate the
 11 29 goods covered by each receipt so as to permit at all times
 11 30 identification and delivery of those goods ~~except that.~~
 11 31 However, different lots of fungible goods may be commingled.

11 32 2. Fungible If different lots of fungible goods ~~so~~ are
 11 33 commingled, the goods are owned in common by the persons
 11 34 entitled thereto and the warehouse ~~operator~~ is severally
 11 35 liable to each owner for that owner's share. ~~where~~ If,



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12 1 because of overissue, a mass of fungible goods is insufficient
12 2 to meet all the receipts ~~which~~ the warehouse ~~operator~~ has
12 3 issued against it, the persons entitled include all holders to
12 4 ~~whom~~ which overissued receipts have been duly negotiated.

12 5 Sec. 14. Section 554.7208, Code 2007, is amended to read
12 6 as follows:

12 7 554.7208 ALTERED WAREHOUSE RECEIPTS.

12 8 ~~Where~~ If a blank in a negotiable tangible warehouse receipt
12 9 has been filled in without authority, a good-faith purchaser
12 10 for value and without notice of the ~~want~~ lack of authority may
12 11 treat the insertion as authorized. Any other unauthorized
12 12 alteration leaves any tangible or electronic warehouse receipt
12 13 enforceable against the issuer according to its original
12 14 tenor.

12 15 Sec. 15. Section 554.7209, Code 2007, is amended to read
12 16 as follows:

12 17 554.7209 LIEN OF WAREHOUSE OPERATOR.

12 18 1. A warehouse ~~operator~~ has a lien against the bailor on
12 19 the goods covered by a warehouse receipt or storage agreement
12 20 or on the proceeds thereof in ~~the warehouse operator's~~ its
12 21 possession for charges for storage or transportation
12 22 ~~(including, including demurrage and terminal charges)~~ charges,
12 23 insurance, labor, or other charges, present or future, in
12 24 relation to the goods, and for expenses necessary for
12 25 preservation of the goods or reasonably incurred in their sale
12 26 pursuant to law. If the person on whose account the goods are
12 27 held is liable for ~~like~~ similar charges or expenses in
12 28 relation to other goods whenever deposited and it is stated in
12 29 the warehouse receipt or storage agreement that a lien is
12 30 claimed for charges and expenses in relation to other goods,
12 31 the warehouse ~~operator~~ also has a lien against ~~that person~~ the
12 32 goods covered in the warehouse receipt or storage agreement or
12 33 on the proceeds thereof in its possession for such those
12 34 charges and expenses, whether or not the other goods have been
12 35 delivered by the warehouse ~~operator~~. ~~But~~ However, as against



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13 1 a person to ~~whom~~ which a negotiable warehouse receipt is duly
13 2 negotiated, a ~~warehouse operator's~~ warehouse's lien is limited
13 3 to charges in an amount or at a rate specified ~~on~~ in the
13 4 warehouse receipt or, if no charges are so specified, ~~then~~ to
13 5 a reasonable charge for storage of the specific goods covered
13 6 by the receipt subsequent to the date of the receipt.
13 7 2. ~~The~~ A warehouse ~~operator~~ may also reserve a security
13 8 interest against the bailor for ~~a~~ the maximum amount specified
13 9 on the receipt for charges other than those specified in
13 10 subsection 1, such as for money advanced and interest. ~~Such a~~
13 11 The security interest is governed by ~~the~~ Article ~~on Secured~~
~~13 12 Transactions (Article 9) 9.~~
13 13 3. ~~a.~~ A ~~warehouse operator's~~ warehouse's lien for charges
13 14 and expenses under subsection 1 or a security interest under
13 15 subsection 2 is also effective against any person ~~who~~ that so
13 16 entrusted the bailor with possession of the goods that a
13 17 pledge of them by the bailor to a ~~good faith~~ good=fai
13 18 purchaser for value would have been valid ~~but.~~ However, the
13 19 lien or security interest is not effective against a person as
~~13 20 to whom the that before issuance of a document confers no~~
~~13 21 right of title had a legal interest or perfected security~~
13 22 interest in the goods covered by it under section 554.7503.
13 23 and that did not:
13 24 a. deliver or entrust the goods or any document of title
13 25 covering the goods to the bailor or the bailor's nominee with:
13 26 (1) actual or apparent authority to ship, store, or sell;
13 27 (2) power to obtain delivery under section 554.7403; or
13 28 (3) power of disposition under sections 554.2403,
13 29 554.13304, subsection 2, 554.13305, subsection 2, 554.9320, or
13 30 554.9321, subsection 3, or other statute or rule of law; or
13 31 b. acquiesce in the procurement by the bailor or its
13 32 nominee of any document.
13 33 ~~b.~~ 4. A ~~warehouse operator's~~ warehouse's lien on
13 34 household goods for charges and expenses in relation to the
13 35 goods under subsection 1 is also effective against all persons



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14 1 if the depositor was the legal possessor of the goods at the
14 2 time of deposit. ~~"Household~~ In this subsection, "household
14 3 goods" means furniture, furnishings ~~and, or~~ and, or personal effects
14 4 used by the depositor in a dwelling.

14 5 ~~4. 5.~~ A warehouse ~~operator loses the warehouse operator's~~
14 6 its lien on any goods ~~which the warehouse operator that it~~
14 7 voluntarily delivers or unjustifiably refuses to deliver.

14 8 Sec. 16. Section 554.7210, Code 2007, is amended to read
14 9 as follows:

14 10 554.7210 ENFORCEMENT OF ~~WAREHOUSE OPERATOR'S~~ WAREHOUSE'S
14 11 LIEN.

14 12 1. Except as otherwise provided in subsection 2, a
14 13 ~~warehouse operator's~~ warehouse's lien may be enforced by
14 14 public or private sale of the goods, in ~~block~~ bulk or in
14 15 ~~parcels~~ packages, at any time or place and on any terms ~~which~~
14 16 that are commercially reasonable, after notifying all persons
14 17 known to claim an interest in the goods. ~~Such~~ The
14 18 notification must include a statement of the amount due, the
14 19 nature of the proposed sale, and the time and place of any
14 20 public sale. The fact that a better price could have been
14 21 obtained by a sale at a different time or in a ~~different~~
14 22 method different from that selected by the warehouse ~~operator~~
14 23 is not of itself sufficient to establish that the sale was not
14 24 made in a commercially reasonable manner. ~~If the~~ The
14 25 warehouse ~~operator either~~ sells in a commercially reasonable
14 26 manner if the warehouse sells the goods in the usual manner in
14 27 any recognized market therefor, or if the warehouse operator
14 28 sells at the price current in such that market at the time of
14 29 the warehouse operator's sale, or if the warehouse operator
14 30 ~~has otherwise sold~~ sells in conformity with commercially
14 31 reasonable practices among dealers in the type of goods sold,
14 32 ~~the warehouse operator has sold in a commercially reasonable~~
14 33 ~~manner.~~ A sale of more goods than apparently necessary to be
14 34 offered to ~~insure~~ ensure satisfaction of the obligation is not
14 35 commercially reasonable, except in cases covered by the



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15 1 preceding sentence.

15 2 2. A warehouse ~~operator's~~ may enforce its lien on goods,
15 3 other than goods stored by a merchant in the course of ~~the~~
~~15 4 merchant's~~ its business may be enforced only as follows, only
15 5 if the following requirements are satisfied:

15 6 a. All persons known to claim an interest in the goods
15 7 must be notified.

~~15 8 b. The notification must be delivered in person or sent by~~
~~15 9 registered or certified letter to the last known address of~~
~~15 10 any person to be notified.~~

15 11 ~~e.~~ b. The notification must include an itemized statement
15 12 of the claim, a description of the goods subject to the lien,
15 13 a demand for payment within a specified time not less than ten
15 14 days after receipt of the notification, and a conspicuous
15 15 statement that unless the claim is paid within that time the
15 16 goods will be advertised for sale and sold by auction at a
15 17 specified time and place.

15 18 ~~d.~~ c. The sale must conform to the terms of the
15 19 notification.

15 20 ~~e.~~ d. The sale must be held at the nearest suitable place
15 21 to ~~that~~ where the goods are held or stored.

15 22 ~~f.~~ e. After the expiration of the time given in the
15 23 notification, an advertisement of the sale must be published
15 24 once a week for two weeks consecutively in a newspaper of
15 25 general circulation where the sale is to be held. The
15 26 advertisement must include a description of the goods, the
15 27 name of the person on whose account ~~they~~ the goods are being
15 28 held, and the time and place of the sale. The sale must take
15 29 place at least fifteen days after the first publication. If
15 30 there is no newspaper of general circulation where the sale is
15 31 to be held, the advertisement must be posted at least ten days
15 32 before the sale in not ~~less~~ fewer than six conspicuous places
15 33 in the neighborhood of the proposed sale.

15 34 3. Before any sale pursuant to this section, any person
15 35 claiming a right in the goods may pay the amount necessary to



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16 1 satisfy the lien and the reasonable expenses incurred ~~under~~ in
16 2 complying with this section. In that event, the goods ~~must~~
16 3 may not be sold, but must be retained by the warehouse
16 4 ~~operator~~ subject to the terms of the receipt and this Article.
16 5 4. ~~The A warehouse operator~~ may buy at any public sale
16 6 held pursuant to this section.
16 7 5. A purchaser in good faith of goods sold to enforce a
16 8 ~~warehouse operator's~~ warehouse's lien takes the goods free of
16 9 any rights of persons against ~~whom~~ which the lien was valid,
16 10 despite the warehouse's noncompliance ~~by the warehouse~~
~~16 11 operator with the requirements of~~ with this section.
16 12 6. ~~The A warehouse operator~~ may satisfy ~~the warehouse~~
~~16 13 operator's~~ its lien from the proceeds of any sale pursuant to
16 14 this section but ~~must~~ shall hold the balance, if any, for
16 15 delivery on demand to any person to ~~whom~~ which the warehouse
16 16 ~~operator~~ would have been bound to deliver the goods.
16 17 7. The rights provided by this section ~~shall be~~ are in
16 18 addition to all other rights allowed by law to a creditor
16 19 against ~~the creditor's~~ a debtor.
16 20 8. ~~Where~~ If a lien is on goods stored by a merchant in the
16 21 course of ~~the merchant's~~ its business, the lien may be
16 22 enforced in accordance with ~~either~~ subsection 1 or 2.
16 23 9. ~~The A warehouse operator~~ is liable for damages caused
16 24 by failure to comply with the requirements for sale under this
16 25 section and, in case of willful violation, is liable for
16 26 conversion.
16 27 Sec. 17. Section 554.7301, Code 2007, is amended to read
16 28 as follows:
16 29 554.7301 LIABILITY FOR NONRECEIPT OR MISDESCRIPTION ==
16 30 "SAID TO CONTAIN" == "SHIPPER'S WEIGHT, LOAD, AND COUNT" ==
16 31 IMPROPER HANDLING.
16 32 1. A consignee of a nonnegotiable bill ~~who~~ of lading which
16 33 has given value in good faith, or a holder to ~~whom~~ which a
16 34 negotiable bill has been duly negotiated, relying in either
~~16 35 case~~ upon the description ~~therein~~ of the goods, in the bill or



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17 1 upon the date ~~therein~~ shown in the bill, may recover from the
17 2 issuer damages caused by the misdating of the bill or the
17 3 nonreceipt or misdescription of the goods, except to the
17 4 extent that the ~~document~~ bill indicates that the issuer does
17 5 not know whether any part or all of the goods in fact were
17 6 received or conform to the description, ~~as where~~ such as in a
17 7 case in which the description is in terms of marks or labels
17 8 or kind, quantity, or condition or the receipt or description
17 9 is qualified by "contents or condition of contents of packages
17 10 unknown", "said to contain", "shipper's weight, load, and
17 11 count", or ~~the like~~ words of similar import, if ~~such that~~
17 12 indication be is true.

17 13 2. ~~When~~ If goods are loaded by ~~an~~ the issuer ~~who is a~~
17 14 ~~common carrier, the~~ of a bill of lading;

17 15 a. the issuer ~~must~~ shall count the packages of goods if
17 16 ~~package freight~~ shipped in packages and ascertain the kind and
17 17 quantity if shipped in bulk freight. ~~In such cases; and~~

17 18 b. words such as "shipper's weight, load, and count", or
17 19 ~~other~~ words of similar import indicating that the description
17 20 was made by the shipper are ineffective except as to ~~freight~~
17 21 goods concealed by in packages.

17 22 3. ~~When~~ If ~~bulk freight is~~ goods are loaded by a shipper
17 23 ~~who that~~ that makes available to the issuer of a bill of lading
17 24 adequate facilities for weighing ~~such freight~~ those goods, ~~an~~
17 25 ~~the issuer who is a common carrier must~~ shall ascertain the
17 26 kind and quantity within a reasonable time after receiving the
17 27 ~~written~~ shipper's request of the shipper in a record to do so.
17 28 ~~In such cases that~~ case, "shipper's weight" or ~~other~~ words of
17 29 ~~like purport~~ similar import are ineffective.

17 30 4. The issuer ~~may~~ of a bill of lading, by inserting
17 31 including in the bill the words "shipper's weight, load, and
17 32 count", or ~~other~~ words of like purport similar import, may
17 33 indicate that the goods were loaded by the shipper; and, if
17 34 ~~such that~~ statement be is true, the issuer ~~shall~~ is not be
17 35 liable for damages caused by the improper loading. ~~But their~~



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18 1 However, omission of such words does not imply liability for
 18 2 such damages caused by improper loading.

18 3 5. ~~The A shipper shall be deemed to have guaranteed~~
 18 4 guarantees to the an issuer the accuracy at the time of
 18 5 shipment of the description, marks, labels, number, kind,
 18 6 quantity, condition, and weight, as furnished by the shipper,
 18 7 and the shipper shall indemnify the issuer against damage
 18 8 caused by inaccuracies in such those particulars. The This
 18 9 right of the issuer to such indemnity shall in no way does not
 18 10 limit the issuer's responsibility and or liability under the
 18 11 contract of carriage to any person other than the shipper.

18 12 Sec. 18. Section 554.7302, Code 2007, is amended to read
 18 13 as follows:

18 14 554.7302 THROUGH BILLS OF LADING AND SIMILAR DOCUMENTS OF
 18 15 TITLE.

18 16 1. The issuer of a through bill of lading, or other
 18 17 document of title embodying an undertaking to be performed in
 18 18 part by persons a person acting as its agents agent or by
 18 19 connecting carriers a performing carrier, is liable to anyone
 18 20 any person entitled to recover on the bill or other document
 18 21 for any breach by such the other persons person or by a
 18 22 connecting the performing carrier of its obligation under the
 18 23 bill or other document but. However, to the extent that the
 18 24 bill or other document covers an undertaking to be performed
 18 25 overseas or in territory not contiguous to the continental
 18 26 United States or an undertaking including matters other than
 18 27 transportation, this liability for breach by the other person
 18 28 or the performing carrier may be varied by agreement of the
 18 29 parties.

18 30 2. ~~where~~ If goods covered by a through bill of lading or
 18 31 other document of title embodying an undertaking to be
 18 32 performed in part by persons a person other than the issuer
 18 33 are received by any such that person, that the person is
 18 34 subject, with respect to that person's its own performance
 18 35 while the goods are in that person's its possession, to the
 19 1 obligation of the issuer. That The person's obligation is
 19 2 discharged by delivery of the goods to another such person
 19 3 pursuant to the bill or other document, and does not include
 19 4 liability for breach by any other such persons person or by
 19 5 the issuer.

19 6 3. The issuer of ~~such~~ a through bill of lading or other
 19 7 document shall be of title described in subsection 1 is
 19 8 entitled to recover from the connecting performing carrier, or
 19 9 such other person in possession of the goods when the breach
 19 10 of the obligation under the bill or other document occurred,
 19 11 the:

19 12 a. the amount it may be required to pay to anyone any
 19 13 person entitled to recover on the bill or other document
 19 14 therefor for the breach, as may be evidenced by any receipt,
 19 15 judgment, or transcript thereof, of judgment; and

19 16 b. the amount of any expense reasonably incurred by it the
 19 17 issuer in defending any action brought commenced by anyone any
 19 18 person entitled to recover on the bill or other document
 19 19 therefor for the breach.

19 20 Sec. 19. Section 554.7303, Code 2007, is amended to read
 19 21 as follows:



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19 22 554.7303 DIVERSION == RECONSIGNMENT == CHANGE OF
19 23 INSTRUCTIONS.
19 24 1. Unless the bill of lading otherwise provides, ~~the a~~
19 25 carrier may deliver the goods to a person or destination other
19 26 than that stated in the bill or may otherwise dispose of the
19 27 goods, without liability for misdelivery, on instructions
19 28 from:
19 29 a. the holder of a negotiable bill; ~~or~~
19 30 b. the consignor on a nonnegotiable bill notwithstanding,
19 31 even if the consignee has given contrary instructions ~~from the~~
~~19 32 consignee; or~~
19 33 c. the consignee on a nonnegotiable bill in the absence of
19 34 contrary instructions from the consignor, if the goods have
19 35 arrived at the billed destination or if the consignee is in



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20 1 possession of the tangible bill or in control of the
20 2 electronic bill; or
20 3 d. the consignee on a nonnegotiable bill if the consignee
20 4 is entitled as against the consignor to dispose of ~~them~~ the
20 5 goods.
20 6 2. Unless ~~such~~ instructions described in subsection 1 are
20 7 ~~noted on~~ included in a negotiable bill of lading, a person to
20 8 ~~whom~~ which the bill is duly negotiated ~~can~~ may hold the bailee
20 9 according to the original terms.
20 10 Sec. 20. Section 554.7304, Code 2007, is amended to read
20 11 as follows:
20 12 554.7304 TANGIBLE BILLS OF LADING IN A SET.
20 13 1. Except ~~where~~ as customary in ~~overseas~~ international
20 14 transportation, a tangible bill of lading ~~must~~ may not be
20 15 issued in a set of parts. The issuer is liable for damages
20 16 caused by violation of this subsection.
20 17 2. ~~Where~~ If a tangible bill of lading is lawfully ~~drawn~~
20 18 issued in a set of parts, each of which ~~is numbered~~ contains
20 19 an identification code and is expressed to be valid only if
20 20 the goods have not been delivered against any other part, the
20 21 whole of the parts ~~constitute~~ constitutes one bill.
20 22 3. ~~Where~~ If a tangible negotiable bill of lading is
20 23 lawfully issued in a set of parts and different parts are
20 24 negotiated to different persons, the title of the holder to
20 25 ~~whom~~ which the first due negotiation is made prevails as to
20 26 both the document of title and the goods even ~~though~~ if any
20 27 later holder may have received the goods from the carrier in
20 28 good faith and discharged the carrier's obligation by
20 29 ~~surrender of the later holder's~~ surrendering its part.
20 30 4. ~~Any~~ A person ~~who~~ that negotiates or transfers a single
20 31 part of a tangible bill of lading ~~drawn~~ issued in a set is
20 32 liable to holders of that part as if it were the whole set.
20 33 5. The bailee ~~is obliged to~~ shall deliver in accordance
20 34 with Part 4 ~~of this Article~~ against the first presented part
20 35 of a tangible bill of lading lawfully drawn issued in a set.



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21 1 ~~Such delivery~~ Delivery in this manner discharges the bailee's
21 2 obligation on the whole bill.

21 3 Sec. 21. Section 554.7305, Code 2007, is amended to read
21 4 as follows:

21 5 554.7305 DESTINATION BILLS.

21 6 1. Instead of issuing a bill of lading to the consignor at
21 7 the place of shipment, a carrier, ~~may~~ at the request of the
21 8 consignor, may procure the bill to be issued at destination or
21 9 at any other place designated in the request.

21 10 2. Upon request of ~~anyone~~ any person entitled as against
21 11 ~~the~~ a carrier to control the goods while in transit and on
21 12 surrender of possession or control of any outstanding bill of
21 13 lading or other receipt covering ~~such~~ the goods, the issuer,
21 14 subject to section 554.7105, may procure a substitute bill to
21 15 be issued at any place designated in the request.

21 16 Sec. 22. Section 554.7307, Code 2007, is amended to read
21 17 as follows:

21 18 554.7307 LIEN OF CARRIER.

21 19 1. A carrier has a lien on the goods covered by a bill of
21 20 lading or on the proceeds thereof in its possession for
21 21 charges ~~subsequent to~~ after the date of ~~its~~ the carrier's
21 22 receipt of the goods for storage or transportation ~~(including,~~
21 23 ~~including~~ demurrage and terminal ~~charges)~~ charges, and for
21 24 expenses necessary for preservation of the goods incident to
21 25 their transportation or reasonably incurred in their sale
21 26 pursuant to law. ~~But~~ However, against a purchaser for value
21 27 of a negotiable bill of lading, a carrier's lien is limited to
21 28 charges stated in the bill or the applicable tariffs, ~~or,~~ if
21 29 no charges are stated, ~~then to~~ a reasonable charge.

21 30 2. A lien for charges and expenses under subsection 1 on
21 31 goods ~~which~~ that the carrier was required by law to receive
21 32 for transportation is effective against the consignor or any
21 33 person entitled to the goods unless the carrier had notice
21 34 that the consignor lacked authority to subject the goods to
21 35 ~~such~~ those charges and expenses. Any other lien under



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22 1 subsection 1 is effective against the consignor and any person
22 2 ~~who~~ that permitted the bailor to have control or possession of
22 3 the goods unless the carrier had notice that the bailor lacked
22 4 ~~such~~ authority.

22 5 3. A carrier loses ~~the carrier's~~ its lien on any goods
22 6 ~~which the carrier that it~~ voluntarily delivers or ~~which the~~
~~22 7 carrier~~ unjustifiably refuses to deliver.

22 8 Sec. 23. Section 554.7308, Code 2007, is amended to read
22 9 as follows:

22 10 554.7308 ENFORCEMENT OF CARRIER'S LIEN.

22 11 1. A carrier's lien on goods may be enforced by public or
22 12 private sale of the goods, in ~~blee~~ bulk or in ~~parcels~~
22 13 packages, at any time or place and on any terms ~~which~~ that are
22 14 commercially reasonable, after notifying all persons known to
22 15 claim an interest in the goods. ~~Such~~ The notification must
22 16 include a statement of the amount due, the nature of the
22 17 proposed sale, and the time and place of any public sale. The
22 18 fact that a better price could have been obtained by a sale at
22 19 a different time or in a ~~different~~ different method different from that
22 20 selected by the carrier is not of itself sufficient to
22 21 establish that the sale was not made in a commercially
22 22 reasonable manner. ~~If~~ The carrier sells goods in a
22 23 commercially reasonable manner if the carrier ~~either~~ sells the
22 24 goods in the usual manner in any recognized market therefor,
22 25 ~~or if the carrier~~ sells at the price current in ~~such~~ that
22 26 market at the time of the ~~carrier's~~ sale, or ~~if the carrier~~
~~22 27 has~~ otherwise ~~sold~~ sells in conformity with commercially
22 28 reasonable practices among dealers in the type of goods sold
22 29 ~~the carrier has sold in a commercially reasonable manner.~~ A
22 30 sale of more goods than apparently necessary to be offered to
22 31 ensure satisfaction of the obligation is not commercially
22 32 reasonable, except in cases covered by the preceding sentence.
22 33 2. Before any sale pursuant to this section, any person
22 34 claiming a right in the goods may pay the amount necessary to
22 35 satisfy the lien and the reasonable expenses incurred ~~under~~ in



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23 1 complying with this section. In that event, the goods ~~must~~
23 2 may not be sold, but must be retained by the carrier, subject
23 3 to the terms of the bill of lading and this Article.

23 4 3. ~~The A~~ carrier may buy at any public sale pursuant to
23 5 this section.

23 6 4. A purchaser in good faith of goods sold to enforce a
23 7 carrier's lien takes the goods free of any rights of persons
23 8 against ~~whom~~ which the lien was valid, despite ~~the carrier's~~
23 9 ~~noncompliance by the carrier with the requirements of~~ with
23 10 this section.

23 11 5. ~~The A~~ carrier may satisfy ~~the carrier's~~ its lien from
23 12 the proceeds of any sale pursuant to this section but ~~must~~
23 13 shall hold the balance, if any, for delivery on demand to any
23 14 person to ~~whom~~ which the carrier would have been bound to
23 15 deliver the goods.

23 16 6. The rights provided by this section ~~shall be~~ are in
23 17 addition to all other rights allowed by law to a creditor
23 18 against ~~the creditor's~~ a debtor.

23 19 7. A carrier's lien may be enforced ~~in accordance with~~
23 20 pursuant to either subsection 1 or the procedure set forth in
23 21 ~~subsection 2 of section 554.7210, subsection 2.~~

23 22 8. ~~The A~~ carrier is liable for damages caused by failure
23 23 to comply with the requirements for sale under this section
23 24 and, in case of willful violation, is liable for conversion.

23 25 Sec. 24. Section 554.7309, Code 2007, is amended to read
23 26 as follows:

23 27 554.7309 DUTY OF CARE == CONTRACTUAL LIMITATION OF
23 28 CARRIER'S LIABILITY.

23 29 1. A carrier ~~who~~ that issues a bill of lading, whether
23 30 negotiable or nonnegotiable ~~must~~, shall exercise the degree of
23 31 care in relation to the goods which a reasonably careful
23 32 person would exercise under ~~like~~ similar circumstances. This
23 33 subsection does not ~~repeal or change~~ affect any law or
23 34 statute, regulation, or rule of law ~~which~~ that imposes
23 35 liability upon a common carrier for damages not caused by its



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24 1 negligence.

24 2 2. Damages may be limited by a ~~provision~~ term in the bill
24 3 of lading or in a transportation agreement that the carrier's
24 4 liability ~~shall~~ may not exceed a value stated in the ~~document~~
24 5 bill or transportation agreement if the carrier's rates are
24 6 dependent upon value and the consignor ~~by the carrier's tariff~~
24 7 is afforded an opportunity to declare a higher value ~~or a~~
24 8 ~~value as lawfully provided in the tariff, or where no tariff~~
24 9 ~~is filed and~~ the consignor is ~~otherwise~~ advised of ~~such the~~
24 10 opportunity; but no. However, such a limitation is not
24 11 effective with respect to the carrier's liability for
24 12 conversion to its own use.

24 13 3. Reasonable provisions as to the time and manner of
24 14 presenting claims and ~~instituting~~ commencing actions based on
24 15 the shipment may be included in a bill of lading or ~~tariff~~ a
24 16 transportation agreement.

24 17 Sec. 25. Section 554.7401, Code 2007, is amended to read
24 18 as follows:

24 19 554.7401 IRREGULARITIES IN ISSUE OF RECEIPT OR BILL OR
24 20 CONDUCT OF ISSUER.

24 21 The obligations imposed by this Article on an issuer apply
24 22 to a document of title ~~regardless of the fact that~~ even if:

24 23 1. the document ~~may~~ does not comply with the requirements
24 24 of this Article or of any other ~~law~~ statute, rule, or
24 25 regulation regarding its ~~issue~~ issuance, form, or content; or

24 26 2. the issuer ~~may have~~ violated laws regulating the
24 27 conduct of ~~the issuer's~~ its business; ~~or~~

24 28 3. the goods covered by the document were owned by the
24 29 bailee ~~at the time when~~ when the document was issued; or

24 30 4. the person issuing the document ~~does not come within~~
24 31 ~~the definition of~~ is not a warehouse operator if it ~~but the~~
24 32 document purports to be a warehouse receipt.

24 33 Sec. 26. Section 554.7402, Code 2007, is amended to read
24 34 as follows:

24 35 554.7402 ~~DUPLICATE RECEIPT OR BILL~~ DOCUMENT OF TITLE ==



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25 1 OVERISSUE.

25 2 ~~Neither a~~ A duplicate ~~nor~~ or any other document of title
25 3 purporting to cover goods already represented by an
25 4 outstanding document of the same issuer ~~confers~~ does not
25 5 confer any right in the goods, except as provided in the case
25 6 of tangible bills of lading in a set of parts, overissue of
25 7 documents for fungible goods, ~~and~~ substitutes for lost,
25 8 stolen, or destroyed documents, or substitute documents issued
25 9 pursuant to section 554.7105. ~~But the~~ The issuer is liable
25 10 for damages caused by ~~the issuer's~~ its overissue or failure to
25 11 identify a duplicate document ~~as such~~ by a conspicuous
25 12 notation ~~on its face~~.

25 13 Sec. 27. Section 554.7403, Code 2007, is amended to read
25 14 as follows:

25 15 554.7403 OBLIGATION OF ~~WAREHOUSE OPERATOR OR CARRIER~~
25 16 BAILEE TO DELIVER == EXCUSE.

25 17 1. ~~The~~ A bailee ~~must~~ shall deliver the goods to a person
25 18 entitled under ~~the~~ a document ~~who~~ of title if the person
25 19 complies with subsections 2 and 3, unless and to the extent
25 20 that the bailee establishes any of the following:

25 21 a. delivery of the goods to a person whose receipt was
25 22 rightful as against the claimant;

25 23 b. damage to or delay, loss, or destruction of the goods
25 24 for which the bailee is not liable, ~~but the burden of~~
25 25 ~~establishing negligence in such cases is on the person~~
25 26 ~~entitled under the document;~~

25 27 c. previous sale or other disposition of the goods in
25 28 lawful enforcement of a lien or on ~~the warehouse operator's a~~
25 29 warehouse's lawful termination of storage;

25 30 d. the exercise by a seller of ~~the seller's~~ its right to
25 31 stop delivery pursuant to ~~the provisions of the Article on~~
25 32 ~~Sales (section 554.2705)~~ section 554.2705 or by a lessor of
25 33 its right to stop delivery pursuant to section 554.13526;

25 34 e. a diversion, reconsignment, or other disposition
25 35 pursuant to ~~the provisions of this Article (section 554.7303)~~



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~~26 1 or tariff regulating such right section 554.7303;~~
26 2 f. release, satisfaction or any other fact affording a
26 3 personal defense against the claimant; or
26 4 g. any other lawful excuse.
26 5 2. A person claiming goods covered by a document of title
26 6 ~~must~~ shall satisfy the bailee's lien ~~where~~ if the bailee so
26 7 requests or ~~where~~ if the bailee is prohibited by law from
26 8 delivering the goods until the charges are paid.
26 9 3. Unless ~~the~~ a person claiming the goods is ~~one~~ a person
26 10 against ~~whom~~ which the document ~~confers no~~ of title does not
26 11 confer a right under section 554.7503, subsection 1, ~~that~~:
26 12 a. the person must claiming under a document shall
26 13 surrender possession or control of any outstanding negotiable
26 14 document covering the goods for cancellation or notation
26 15 indication of partial deliveries any outstanding negotiable
~~26 16 document covering the goods, and the bailee must cancel the~~
~~26 17 document or conspicuously note the partial delivery thereon or~~
~~26 18 be liable to any person to whom the document is duly~~
~~26 19 negotiated.; and~~
26 20 b. the bailee shall cancel the document or conspicuously
26 21 indicate in the document the partial delivery or the bailee is
26 22 liable to any person to which the document is duly negotiated.
26 23 4. ~~"Person entitled under the document" means holder in~~
~~26 24 the case of a negotiable document, or the person to whom~~
~~26 25 delivery is to be made by the terms of or pursuant to written~~
~~26 26 instructions under a nonnegotiable document.~~
26 27 Sec. 28. Section 554.7404, Code 2007, is amended to read
26 28 as follows:
26 29 554.7404 NO LIABILITY FOR GOOD-FAITH GOOD=FAITH DELIVERY
26 30 PURSUANT TO ~~RECEIPT OR BILL~~ DOCUMENT OF TITLE.
26 31 A bailee ~~who~~ that in good faith ~~including observance of~~
~~26 32 reasonable commercial standards~~ has received goods and
26 33 delivered or otherwise disposed of ~~them~~ the goods according to
26 34 the terms of ~~the~~ a document of title or pursuant to this
26 35 Article is not liable ~~therefor~~. ~~This rule applies even though~~



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27 1 for the goods even if:

27 2 1. the person from whom which the bailee received the
 27 3 goods had no did not have authority to procure the document or
 27 4 to dispose of the goods and even though; or

27 5 2. the person to whom which the bailee delivered the goods
 27 6 had no did not have authority to receive them the goods.

27 7 Sec. 29. Section 554.7501, Code 2007, is amended to read
 27 8 as follows:

27 9 554.7501 FORM OF NEGOTIATION AND REQUIREMENTS OF "~~DUE~~
~~27 10 NEGOTIATION~~" DUE NEGOTIATION.

27 11 1. ~~A~~ The following rules apply to a negotiable tangible
 27 12 document of title running:

27 13 a. If the document's original terms run to the order of a
 27 14 named person, the document is negotiated by that the named
 27 15 person's endorsement indorsement and delivery. After that the
 27 16 named person's endorsement indorsement in blank or to bearer,
 27 17 any person can may negotiate it the document by delivery
 27 18 alone.

27 19 ~~2. a. b. A negotiable document of title is also~~
~~27 20 negotiated by delivery alone when by its~~ If the document's
 27 21 original terms it runs run to bearer, it is negotiated by
 27 22 delivery alone.

27 23 ~~b. c. When a document running~~ If the document and its
 27 24 original terms run to the order of a named person is delivered
 27 25 to the named person, the effect is the same as if the document
 27 26 had been negotiated.

27 27 ~~3. d. Negotiation of a negotiable the document of title~~
 27 28 after it has been endorsed indorsed to a specified named
 27 29 person requires endorsement indorsement by the special
~~27 30 endorsee as well as named person and delivery.~~

27 31 ~~4. e. A negotiable document of title is "duly negotiated"~~
~~27 32 when "duly negotiated" if it is negotiated in the manner~~
 27 33 stated in this section subsection to a holder who that
 27 34 purchases it in good faith, without notice of any defense
 27 35 against or claim to it on the part of any person, and for



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28 1 value, unless it is established that the negotiation is not in
 28 2 the regular course of business or financing or involves
 28 3 receiving the document in settlement or payment of a ~~money~~
 28 4 monetary obligation.

28 5 2. The following rules apply to a negotiable electronic
 28 6 document of title:

28 7 a. If the document's original terms run to the order of a
 28 8 named person or to bearer, the document is negotiated by
 28 9 delivery of the document to another person. Indorsement by
 28 10 the named person is not required to negotiate the document.

28 11 b. If the document's original terms run to the order of a
 28 12 named person and the named person has control of the document,
 28 13 the effect is the same as if the document had been negotiated.

28 14 c. A document is duly negotiated if it is negotiated in
 28 15 the manner stated in this subsection to a holder that
 28 16 purchases it in good faith, without notice of any defense
 28 17 against or claim to it on the part of any person, and for
 28 18 value, unless it is established that the negotiation is not in
 28 19 the regular course of business or financing or involves taking
 28 20 delivery of the document in settlement or payment of a
 28 21 monetary obligation.

28 22 ~~5.~~ 3. Endorsement Indorsement of a nonnegotiable document
 28 23 of title neither makes it negotiable nor adds to the
 28 24 transferee's rights.

28 25 ~~6.~~ 4. The naming in a negotiable bill of lading of a
 28 26 person to be notified of the arrival of the goods does not
 28 27 limit the negotiability of the bill ~~nor~~ or constitute notice
 28 28 to a purchaser ~~thereof~~ of the bill of any interest of ~~such~~
 28 29 that person in the goods.

28 30 Sec. 30. Section 554.7502, subsection 1, unnumbered
 28 31 paragraph 1, Code 2007, is amended to read as follows:

28 32 Subject to the following section and to the provisions of
 28 33 ~~section~~ sections 554.7205 on fungible goods and 554.7503, a
 28 34 holder to ~~whom~~ which a negotiable document of title has been
 28 35 duly negotiated acquires thereby:

29 1 Sec. 31. Section 554.7502, subsection 1, paragraph d, Code
 29 2 2007, is amended to read as follows:

29 3 d. the direct obligation of the issuer to hold or deliver
 29 4 the goods according to the terms of the document free of any
 29 5 defense or claim by the issuer except those arising under the
 29 6 terms of the document or under this Article. ~~In,~~ but in the
 29 7 case of a delivery order, the bailee's obligation accrues only
 29 8 upon the bailee's acceptance of the delivery order and the
 29 9 obligation acquired by the holder is that the issuer and any
 29 10 ~~endorser~~ indorser will procure the acceptance of the bailee.

29 11 Sec. 32. Section 554.7502, subsection 2, Code 2007, is
 29 12 amended to read as follows:

29 13 2. Subject to the following section 554.7503, title and
 29 14 rights ~~so~~ acquired by due negotiation are not defeated by any
 29 15 stoppage of the goods represented by the document of title or
 29 16 by surrender of ~~such~~ the goods by the bailee, and are not
 29 17 impaired even ~~though~~ if:

29 18 a. the due negotiation or any prior due negotiation
 29 19 constituted a breach of duty ~~or even though;~~

29 20 b. any person has been deprived of possession of ~~the~~ a
 29 21 negotiable tangible document or control of a negotiable



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29 22 electronic document by misrepresentation, fraud, accident,
29 23 mistake, duress, loss, theft, or conversion; or ~~even though~~
29 24 c. a previous sale or other transfer of the goods or
29 25 document has been made to a third person.
29 26 Sec. 33. Section 554.7503, Code 2007, is amended to read
29 27 as follows:
29 28 554.7503 DOCUMENT OF TITLE TO GOODS DEFEATED IN CERTAIN
29 29 CASES.
29 30 1. A document of title confers no right in goods against a
29 31 person ~~who~~ that before issuance of the document had a legal
29 32 interest or a perfected security interest ~~in them and who~~
~~29 33 neither in the goods and that did not:~~
29 34 a. ~~delivered~~ deliver or ~~entrusted them~~ entrust the goods
29 35 or any document of title covering ~~them~~ the goods to the bailor



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30 1 or the bailor's nominee with:
30 2 (1) actual or apparent authority to ship, store, or sell
30 3 ~~or with;~~
30 4 (2) power to obtain delivery under this Article (section
~~30 5 554.7403) section 554.7403; or with~~
30 6 (3) power of disposition under this chapter (sections
30 7 sections 554.2403 and 554.9320), 554.9320, 554.9321,
30 8 subsection 3, 554.13304, subsection 2, or 554.13305,
~~30 9 subsection 2, or other statute or rule of law; ~~nor~~ or~~
30 10 b. ~~acquiesced~~ acquiesce in the procurement by the bailor
30 11 ~~or the bailor's its~~ nominee of any document ~~of title~~.
30 12 2. Title to goods based upon an unaccepted delivery order
30 13 is subject to the rights of ~~anyone~~ any person to whom which a
30 14 negotiable warehouse receipt or bill of lading covering the
30 15 goods has been duly negotiated. ~~Such a~~ That title may be
30 16 defeated under ~~the next~~ section 554.7504 to the same extent as
30 17 the rights of the issuer or a transferee from the issuer.
30 18 3. Title to goods based upon a bill of lading issued to a
30 19 freight forwarder is subject to the rights of ~~anyone~~ any
~~30 20 person to whom~~ which a bill issued by the freight forwarder is
30 21 ~~duly negotiated; but.~~ However, delivery by the carrier in
30 22 accordance with Part 4 ~~of this Article~~ pursuant to its own
30 23 bill of lading discharges the carrier's obligation to deliver.
30 24 Sec. 34. Section 554.7504, Code 2007, is amended to read
30 25 as follows:
30 26 554.7504 RIGHTS ACQUIRED IN ~~THE~~ ABSENCE OF DUE NEGOTIATION
30 27 == EFFECT OF DIVERSION == ~~SELLER'S~~ STOPPAGE OF DELIVERY.
30 28 1. A transferee of a document of title, whether negotiable
30 29 or nonnegotiable, to ~~whom~~ which the document has been
30 30 delivered but not duly negotiated, acquires the title and
30 31 rights ~~which the transferee's~~ that its transferor had or had
30 32 actual authority to convey.
30 33 2. In the case of a transfer of a nonnegotiable document
30 34 of title, until but not after the bailee receives ~~notification~~
30 35 notice of the transfer, the rights of the transferee may be



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31 1 defeated:

31 2 a. by those creditors of the transferor who could treat
31 3 the ~~sale~~ transfer as void under section 554.2402 or 554.13308;

31 4 ~~or~~

31 5 b. by a buyer from the transferor in ordinary course of
31 6 business if the bailee has delivered the goods to the buyer or
31 7 received notification of the buyer's rights; ~~or~~

31 8 c. by a lessee from the transferor in ordinary course of
31 9 business if the bailee has delivered the goods to the lessee

31 10 or received notification of the lessee's rights; or

31 11 d. as against the bailee, by ~~good-faith~~ good-faith

31 12 dealings of the bailee with the transferor.

31 13 3. A diversion or other change of shipping instructions by
31 14 the consignor in a nonnegotiable bill of lading which causes

31 15 the bailee not to deliver the goods to the consignee defeats

31 16 the consignee's title to the goods if ~~they~~ the goods have been

31 17 delivered to a buyer in ordinary course of business or a

31 18 lessee in ordinary course of business and, in any event,

31 19 defeats the consignee's rights against the bailee.

31 20 4. Delivery of the goods pursuant to a nonnegotiable

31 21 document of title may be stopped by a seller under section

31 22 554.2705, ~~and~~ or a lessor under section 554.13526, subject to

31 23 ~~the requirement~~ requirements of due notification ~~there~~

31 24 ~~provided in those sections.~~ A bailee ~~honoring~~ that honors the

31 25 seller's or lessor's instructions is entitled to be

31 26 indemnified by the seller or lessor against any resulting loss

31 27 or expense.

31 28 Sec. 35. Section 554.7505, Code 2007, is amended to read

31 29 as follows:

31 30 554.7505 ~~ENDORSER~~ INDORSER NOT ~~A~~ GUARANTOR FOR OTHER

31 31 PARTIES.

31 32 The ~~endorsement~~ indorsement of a tangible document of title

31 33 issued by a bailee does not make the ~~endorser~~ indorser liable

31 34 for any default by the bailee or ~~by~~ previous ~~endorsers~~

31 35 indorsers.



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32 1 Sec. 36. Section 554.7506, Code 2007, is amended to read
32 2 as follows:
32 3 554.7506 DELIVERY WITHOUT ~~ENDORSEMENT~~ INDORSEMENT == RIGHT
32 4 TO COMPEL ~~ENDORSEMENT~~ INDORSEMENT.

32 5 The transferee of a negotiable tangible document of title
32 6 has a specifically enforceable right to have ~~the transferee's~~
32 7 its transferor supply any necessary ~~endorsement~~ indorsement,
32 8 but the transfer becomes a negotiation only as of the time the
32 9 ~~endorsement~~ indorsement is supplied.

32 10 Sec. 37. Section 554.7507, Code 2007, is amended to read
32 11 as follows:

32 12 554.7507 WARRANTIES ON NEGOTIATION OR ~~TRANSFER~~ DELIVERY OF
32 13 ~~RECEIPT OR BILL~~ DOCUMENT OF TITLE.

32 14 ~~Where~~ If a person negotiates or ~~transfers~~ delivers a
32 15 document of title for value otherwise than as a mere
32 16 intermediary under ~~the next following~~ section 554.7508, ~~then~~
32 17 unless otherwise agreed that person, the transferor, in
32 18 addition to any warranty made in selling or leasing the goods,
32 19 warrants to that person's its immediate purchaser only in
~~32 20 addition to any warranty made in selling the goods that:~~

32 21 ~~a. 1. that~~ the document is genuine; ~~and~~

32 22 ~~b. 2. that that person has no~~ the transferor does not
32 23 have knowledge of any fact which that would impair its the
32 24 document's validity or worth; and

32 25 ~~e. 3. that that person's~~ the negotiation or transfer
32 26 delivery is rightful and fully effective with respect to the
32 27 title to the document and the goods it represents.

32 28 Sec. 38. Section 554.7508, Code 2007, is amended to read
32 29 as follows:

32 30 554.7508 WARRANTIES OF COLLECTING BANK AS TO DOCUMENTS OF
32 31 TITLE.

32 32 A collecting bank or other intermediary known to be
32 33 entrusted with documents of title on behalf of another or with
32 34 collection of a draft or other claim against delivery of
32 35 documents warrants by ~~such~~ the delivery of the documents only



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33 1 its own good faith and authority. ~~This rule applies even~~
33 2 ~~though if the collecting bank or other intermediary has~~
33 3 ~~purchased or made advances against the claim or draft to be~~
33 4 ~~collected.~~

33 5 Sec. 39. Section 554.7509, Code 2007, is amended to read
33 6 as follows:

33 7 554.7509 ~~RECEIPT OR BILL: WHEN ADEQUATE COMPLIANCE WITH~~
33 8 ~~COMMERCIAL CONTRACT.~~

33 9 ~~The question whether~~ Whether a document of title is
33 10 adequate to fulfill the obligations of a contract for sale, a
33 11 contract for lease, or the conditions of a letter of credit is
33 12 governed determined by the Articles on Sales (Article 2) and
~~33 13 on Letters of Credit (Article 5) Article 2, 5, or 13.~~

33 14 Sec. 40. Section 554.7601, Code 2007, is amended to read
33 15 as follows:

33 16 554.7601 ~~LOST AND MISSING, STOLEN, OR DESTROYED DOCUMENTS~~
33 17 OF TITLE.

33 18 1. If a document ~~has been~~ of title is lost, stolen, or
33 19 destroyed, a court may order delivery of the goods or issuance
33 20 of a substitute document and the bailee may without liability
33 21 to any person comply with ~~such the~~ order. If the document was
33 22 negotiable, a court may not order delivery of the goods or
33 23 issuance of a substitute document without the ~~claimant must~~
~~33 24 post claimant's posting security approved by the court to~~
~~33 25 indemnify unless it finds that any person who that may suffer~~
33 26 loss as a result of nonsurrender of possession or control of
33 27 the document is adequately protected against the loss. If the
33 28 document was not negotiable, ~~such security the court may be~~
~~33 29 required at the discretion of the court require security.~~ The
33 30 court may also ~~in its discretion~~ order payment of the bailee's
33 31 reasonable costs and ~~counsel attorney's~~ fees in any action
33 32 under this subsection.

33 33 2. A bailee ~~who that,~~ without a court order, delivers
33 34 goods to a person claiming under a missing negotiable document
33 35 of title is liable to any person injured thereby, and if. If



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34 1 the delivery is not in good faith ~~becomes,~~ the bailee is
34 2 liable for conversion. Delivery in good faith is not
34 3 conversion if ~~made in accordance with a filed classification~~
~~34 4 or tariff or, where no classification or tariff is filed, if~~
34 5 the claimant posts security with the bailee in an amount at
34 6 least double the value of the goods at the time of posting to
34 7 indemnify any person injured by the delivery ~~who~~ which files a
34 8 notice of claim within one year after the delivery.

~~34 9 3. If a warehouse receipt has been lost or destroyed, the~~
~~34 10 warehouse operator shall issue a duplicate upon receipt of:~~
34 11 a. An affidavit that the warehouse receipt has been lost
~~34 12 or destroyed.~~

34 13 b. A bond in an amount at least double the value of the
~~34 14 goods at the time of posting the bond, to indemnify any person~~
~~34 15 injured by issuance of the duplicate warehouse receipt who~~
~~34 16 files a notice of claim within one year after delivery of the~~
~~34 17 goods.~~

34 18 ~~A duplicate warehouse receipt shall be plainly marked to~~
~~34 19 indicate that it is a duplicate. A receipt plainly marked as~~
~~34 20 a duplicate is a representation and warranty by the warehouse~~
~~34 21 operator that the duplicate receipt is an accurate copy of an~~
~~34 22 original receipt properly issued and uncanceled at the date of~~
~~34 23 the issue of the duplicate, but shall impose upon the~~
~~34 24 warehouse operator no other liability.~~

34 25 ~~A warehouse operator who in good faith delivers goods to~~
~~34 26 the holder of a duplicate receipt issued in accordance with~~
~~34 27 this subsection is liable to any person injured by the~~
~~34 28 delivery, but only to the extent of the security posted in~~
~~34 29 accordance with paragraph "b" of this subsection.~~

34 30 4. ~~If a warehouse receipt has been lost or destroyed, the~~
~~34 31 depositor may either remove the goods from the warehouse or~~
~~34 32 sell the goods to the warehouse operator after executing a~~
~~34 33 lost warehouse receipt release on a form prescribed by the~~
~~34 34 department of agriculture and land stewardship. The form~~
~~34 35 shall include an affidavit stating that the warehouse receipt~~



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~~35 1 has been lost or destroyed, and the depositor's undertaking to
35 2 indemnify the warehouse operator for any loss incurred as a
35 3 result of the loss or destruction of the warehouse receipt.
35 4 The form shall be filed with the department of agriculture and
35 5 land stewardship.~~

35 6 5. If a warehouse receipt has been lost or destroyed by a
~~35 7 warehouse operator after delivery of the goods or purchase of
35 8 the goods by the warehouse operator, the warehouse operator
35 9 shall execute and file with the department of agriculture and
35 10 land stewardship a notarized affidavit stating that the
35 11 warehouse receipt has been lost or destroyed by the warehouse
35 12 operator after delivery or purchase of the goods by the
35 13 warehouse operator. The form of the affidavit shall be
35 14 prescribed by the department of agriculture and land
35 15 stewardship.~~

35 16 Sec. 41. NEW SECTION. 554.7601A LOST, STOLEN, OR
35 17 DESTROYED DOCUMENTS == ADDITIONAL REQUIREMENTS.

35 18 1. a. If a warehouse receipt has been lost, stolen, or
35 19 destroyed, the warehouse shall issue a duplicate upon receipt
35 20 of:

35 21 (1) an affidavit that the warehouse receipt has been lost,
35 22 stolen, or destroyed.

35 23 (2) a bond in an amount at least double the value of the
35 24 goods at the time of posting the bond, to indemnify any person
35 25 injured by issuance of the duplicate warehouse receipt who
35 26 files a notice of claim within one year after delivery of the
35 27 goods.

35 28 b. A duplicate warehouse receipt shall be plainly marked
35 29 to indicate that it is a duplicate. A receipt plainly marked
35 30 as a duplicate is a representation and warranty by the
35 31 warehouse that the duplicate receipt is an accurate copy of an
35 32 original receipt properly issued and uncanceled at the date of
35 33 the issue of the duplicate, but shall not impose upon the
35 34 warehouse other liability.

35 35 c. A warehouse which in good faith delivers goods to the



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36 1 holder of a duplicate receipt issued in accordance with this
36 2 subsection is liable to any person injured by the delivery,
36 3 but only to the extent of the security posted in accordance
36 4 with paragraph "b" of this subsection.

36 5 2. If a warehouse receipt has been lost, stolen, or
36 6 destroyed, the depositor may either remove the goods from the
36 7 warehouse facility or sell the goods to the warehouse after
36 8 executing a lost warehouse receipt release on a form
36 9 prescribed by the department of agriculture and land
36 10 stewardship. The form shall include an affidavit stating that
36 11 the warehouse receipt has been lost or destroyed, and the
36 12 depositor's undertaking to indemnify the warehouse for any
36 13 loss incurred as a result of the loss or destruction of the
36 14 warehouse receipt. The form shall be filed with the
36 15 department of agriculture and land stewardship.

36 16 3. If a warehouse receipt has been lost or destroyed by a
36 17 warehouse after delivery of the goods or purchase of the goods
36 18 by the warehouse, the warehouse shall execute and file with
36 19 the department of agriculture and land stewardship a notarized
36 20 affidavit stating that the warehouse receipt has been lost or
36 21 destroyed by the warehouse after delivery or purchase of the
36 22 goods by the warehouse. The form of the affidavit shall be
36 23 prescribed by the department of agriculture and land
36 24 stewardship.

36 25 Sec. 42. Section 554.7602, Code 2007, is amended to read
36 26 as follows:

36 27 554.7602 ~~ATTACHMENT OF~~ JUDICIAL PROCESS AGAINST GOODS
36 28 COVERED BY A NEGOTIABLE DOCUMENT OF TITLE.

36 29 ~~Except where the~~ Unless a document of title was originally
36 30 issued upon delivery of the goods by a person who had no that
36 31 did not have power to dispose of them, no a lien attaches does
36 32 not attach by virtue of any judicial process to goods in the
36 33 possession of a bailee for which a negotiable document of
36 34 title is outstanding unless possession or control of the
36 35 document be is first surrendered to the bailee or its the



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37 1 document's negotiation is enjoined,~~and the.~~ The bailee shall
37 2 may not be compelled to deliver the goods pursuant to process
37 3 until possession or control of the document is surrendered to
37 4 the bailee or ~~impounded by~~ to the court. ~~One who purchases A~~
37 5 purchaser of the document for value without notice of the
37 6 process or injunction takes free of the lien imposed by
37 7 judicial process.

37 8 Sec. 43. Section 554.7603, Code 2007, is amended to read
37 9 as follows:

37 10 554.7603 CONFLICTING CLAIMS == INTERPLEADER.

37 11 If more than one person claims title to or possession of
37 12 the goods, the bailee is excused from delivery until the
37 13 bailee has ~~had~~ a reasonable time to ascertain the validity of
37 14 the adverse claims or to ~~bring~~ commence an action ~~to compel~~
~~37 15 all claimants to interplead and may compel such interpleader,~~
37 16 for interpleader. The bailee may assert an interpleader
37 17 either in defending an action for nondelivery of the goods, or
37 18 by original action,~~whichever is appropriate.~~

37 19 Sec. 44. Section 554.10104, Code 2007, is repealed.

37 20 Sec. 45. APPLICABILITY. This Act applies to a document of
37 21 title that is issued or a bailment that arises on or after the
37 22 effective date of this Act. This Act does not apply to a
37 23 document of title that is issued or a bailment that arises
37 24 before the effective date of this Act even if the document of
37 25 title or bailment would be subject to this Act if the document
37 26 of title had been issued or bailment had arisen on or after
37 27 the effective date of this Act. This Act does not apply to a
37 28 right of action that has accrued before the effective date of
37 29 this Act.

37 30 Sec. 46. SAVINGS CLAUSE. A document of title issued or a
37 31 bailment that arises before the effective date of this Act and
37 32 the rights, obligations, and interests flowing from that
37 33 document or bailment are governed by any statute or other rule
37 34 amended or repealed by this Act as if amendment or repeal had
37 35 not occurred and may be terminated, completed, consummated, or



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38 1 enforced under that statute or other rule.

38 2 DIVISION II

38 3 COORDINATING AMENDMENTS

38 4 PART A

38 5 ARTICLE 2

38 6 Sec. 47. Section 554.1201, subsections 5, 6, 10, 14, 15,
 38 7 20, 25, 26, 27, 38, and 45, Code 2007, are amended to read as
 38 8 follows:

38 9 5. "Bearer" means ~~the~~ a person in control of a negotiable
 38 10 electronic document of title or a person in possession of an
 38 11 instrument, a negotiable tangible document of title, or a
 38 12 certificated security payable to bearer or endorsed in blank.

38 13 6. "Bill of lading" means a document of title evidencing
 38 14 the receipt of goods for shipment issued by a person engaged
 38 15 in the business of directly or indirectly transporting or
 38 16 forwarding goods, and includes an airbill. "Airbill" means a
 38 17 document serving for air transportation as a bill of lading
 38 18 does for marine or rail transportation, and includes an air
 38 19 consignment note or air waybill. The term does not include a
 38 20 warehouse receipt.

38 21 10. "Conspicuous" ~~:- A,~~ with reference to a term or clause
 38 22 is conspicuous when it is, means so written, displayed, or
 38 23 presented that a reasonable person against whom which it is to
 38 24 operate ought to have noticed it. Whether a term is
 38 25 "conspicuous" or not is a decision for the court. Conspicuous
 38 26 terms include the following:

38 27 a. ~~A printed~~ a heading in capitals (as: "Nonnegotiable
 38 28 Bill of Lading") is conspicuous equal to or greater in size
 38 29 than the surrounding text, or in contrasting type, font, or
 38 30 color to the surrounding text of the same or lesser size; and

38 31 b. ~~Language~~ language in the body of a form is
 38 32 "conspicuous" if it is record or display in larger or other
 38 33 contrasting type than the surrounding text, or in contrasting
 38 34 type, font, or color to the surrounding text of the same size,
 38 35 or set off from surrounding text of the same size by symbols

39 1 or other marks that call attention to the language. But in a
 39 2 telegram any stated term is "conspicuous". Whether a term or
 39 3 clause is "conspicuous" or not is for decision by the court.

39 4 14. "Delivery" with respect to an electronic document of
 39 5 title means voluntary transfer of control and with respect to
 39 6 instruments, tangible documents of title, chattel paper, or
 39 7 certificated securities means voluntary transfer of
 39 8 possession.

39 9 15. "Document of title" ~~includes bill of lading, dock~~
 39 10 ~~warrant, dock receipt, warehouse receipt or order for the~~
 39 11 ~~delivery of goods, and also any other document which means a~~
 39 12 record that

39 13 a. in the regular course of business or financing is
 39 14 treated as adequately evidencing that the person in possession
 39 15 or control of it the record is entitled to receive, control,
 39 16 hold, and dispose of the document record and the goods it the
 39 17 record covers and

39 18 b. that purports to be issued by or addressed to a bailee
 39 19 and to cover goods in the bailee's possession which are either
 39 20 identified or are fungible portions of an identified mass.

39 21 The term includes a bill of lading, transport document, dock



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39 22 warrant, dock receipt, warehouse receipt, and order for
39 23 delivery of goods.
39 24 ~~To be a~~ An electronic document of title means a document of
39 25 title evidenced by a record consisting of information stored
39 26 in an electronic medium. A tangible document of title means a
39 27 document must purport to be issued by or addressed to of title
39 28 evidenced by a bailee and purport to cover goods in the
39 29 bailee's possession which are either identified or are
39 30 fungible portions of an identified mass record consisting of
39 31 information that is inscribed on a tangible medium.
39 32 20. "Holder", with respect to a negotiable instrument,
39 33 means:
39 34 a. the person in possession ~~if the~~ of a negotiable
39 35 instrument that is payable either to bearer or, in the case of



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~~40 1 an instrument payable to an identified person, if the~~
~~40 2 identified that is the person is in possession.;~~
40 3 b. "Holder" with respect to the person in possession of a
40 4 negotiable tangible document of title means the person in
~~40 5 possession if the goods are deliverable either to bearer or to~~
40 6 the order of the person in possession; or
40 7 c. the person in control of a negotiable electronic
40 8 document of title.
40 9 25. A Subject to subsection 27, a person has "notice" of a
40 10 fact when if the person
40 11 a. ~~the person~~ has actual knowledge of it; ~~or~~
40 12 b. ~~the person~~ has received a notice or notification of it;
40 13 or
40 14 c. from all the facts and circumstances known to the
40 15 person at the time in question, ~~the person~~ has reason to know
40 16 that it exists.
40 17 PARAGRAPH DIVIDED. A person "knows" or has "knowledge" of
40 18 a fact when ~~that~~ the person has actual knowledge of it.
40 19 "Discover" or "learn" or a word or phrase of similar import
40 20 refers to knowledge rather than to reason to know. The time
40 21 and circumstances under which a notice or notification may
40 22 cease to be effective are not determined by this chapter.
40 23 26. A person "notifies" or "gives" a notice or
40 24 notification to another person by taking such steps as may be
40 25 reasonably required to inform the other person in ordinary
40 26 course, whether or not ~~such~~ the other person actually comes to
40 27 know of it. A Subject to subsection 27, a person "receives" a
40 28 notice or notification when
40 29 a. it comes to that person's attention; or
40 30 b. it is duly delivered in a form reasonable under the
40 31 circumstances at the place of business through which the
40 32 contract was made or at any other place another location held
40 33 out by that person as the place for receipt of such
40 34 communications.
40 35 27. Notice, knowledge, or a notice or notification



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41 1 received by an organization is effective for a particular
41 2 transaction from the time when it is brought to the attention
41 3 of the individual conducting that transaction, and in any
41 4 event, from the time when it would have been brought to ~~that~~
41 5 the individual's attention if the organization had exercised
41 6 due diligence. An organization exercises due diligence if it
41 7 maintains reasonable routines for communicating significant
41 8 information to the person conducting the transaction and there
41 9 is reasonable compliance with the routines. Due diligence
41 10 does not require an individual acting for the organization to
41 11 communicate information unless such communication is part of
41 12 ~~that~~ the individual's regular duties or ~~unless~~ the individual
41 13 has reason to know of the transaction and that the transaction
41 14 would be materially affected by the information.

41 15 38. "Send" in connection with any writing, record, or
41 16 notice means:

41 17 a. to deposit in the mail or deliver for transmission by
41 18 any other usual means of communication with postage or cost of
41 19 transmission provided for and properly addressed and, in the
41 20 case of an instrument, to an address specified thereon or
41 21 otherwise agreed, or if there be none to any address
41 22 reasonable under the circumstances; ~~or~~

41 23 b. ~~The receipt of~~ in any writing other way to cause to be
41 24 received any record or notice within the time at which it
41 25 would have arrived if properly sent ~~has the effect of a proper~~
41 26 ~~sending.~~

41 27 45. "Warehouse receipt" means a ~~receipt~~ document of title
41 28 issued by a person engaged in the business of storing goods
41 29 for hire.

41 30 Sec. 48. Section 554.2103, subsection 3, Code 2007, is
41 31 amended to read as follows:

41 32 3. The "Control" as provided in section 554.7106 and the
41 33 following definitions in other Articles apply to this Article:

41 34 "Check" Section 554.3104
41 35 "Consignee" Section 554.7102



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42 1 "Consignor" Section 554.7102
42 2 "Consumer goods" Section 554.9102
42 3 "Dishonor" Section 554.3502
42 4 "Draft" Section 554.3104
42 5 Sec. 49. Section 554.2104, subsection 2, Code 2007, is
42 6 amended to read as follows:
42 7 2. "Financing agency" means a bank, finance company or
42 8 other person who in the ordinary course of business makes
42 9 advances against goods or documents of title or who by
42 10 arrangement with either the seller or the buyer intervenes in
42 11 ordinary course to make or collect payment due or claimed
42 12 under the contract for sale, as by purchasing or paying the
42 13 seller's draft or making advances against it or by merely
42 14 taking it for collection whether or not documents of title
42 15 accompany or are associated with the draft. "Financing
42 16 agency" includes also a bank or other person who similarly
42 17 intervenes between persons who are in the position of seller
42 18 and buyer in respect to the goods (section 554.2707).
42 19 Sec. 50. Section 554.2310, Code 2007, is amended to read
42 20 as follows:
42 21 554.2310 OPEN TIME FOR PAYMENT OR RUNNING OF CREDIT ==
42 22 AUTHORITY TO SHIP UNDER RESERVATION.
42 23 Unless otherwise agreed
42 24 a. payment is due at the time and place at which the buyer
42 25 is to receive the goods even though the place of shipment is
42 26 the place of delivery; and
42 27 b. if the seller is authorized to send the goods the
42 28 seller may ship them under reservation, and may tender the
42 29 documents of title, but the buyer may inspect the goods after
42 30 their arrival before payment is due unless such inspection is
42 31 inconsistent with the terms of the contract (section
42 32 554.2513); and
42 33 c. if delivery is authorized and made by way of documents
42 34 of title otherwise than by subsection "b" then payment is due
42 35 regardless of where the goods are to be received (i) at the



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43 1 time and place at which the buyer is to receive delivery of
43 2 the tangible documents ~~regardless of where the goods are or~~
43 3 (ii) at the time the buyer is to ~~be received~~ receive delivery
43 4 of the electronic documents and at the seller's place of
43 5 business or if none, the seller's residence; and

43 6 d. where the seller is required or authorized to ship the
43 7 goods on credit the credit period runs from the time of
43 8 shipment but ~~postdating~~ post-dating the invoice or delaying
43 9 its dispatch will correspondingly delay the starting of the
43 10 credit period.

43 11 Sec. 51. Section 554.2323, subsection 2, unnumbered
43 12 paragraph 1, Code 2007, is amended to read as follows:

43 13 Where in a case within subsection 1 a tangible bill of
43 14 lading has been issued in a set of parts, unless otherwise
43 15 agreed if the documents are not to be sent from abroad the
43 16 buyer may demand tender of the full set; otherwise only one
43 17 part of the bill of lading need be tendered. Even if the
43 18 agreement expressly requires a full set

43 19 Sec. 52. Section 554.2401, subsection 3, paragraphs a and
43 20 b, Code 2007, are amended to read as follows:

43 21 a. if the seller is to deliver a tangible document of
43 22 title, title passes at the time when and the place where the
43 23 seller delivers such documents and if the seller is to deliver
43 24 an electronic document of title, title passes when the seller
43 25 delivers the document; or

43 26 b. if the goods are at the time of contracting already
43 27 identified and no documents of title are to be delivered,
43 28 title passes at the time and place of contracting.

43 29 Sec. 53. Section 554.2503, subsection 4, paragraph b, Code
43 30 2007, is amended to read as follows:

43 31 b. tender to the buyer of a nonnegotiable document of
43 32 title or of a ~~written direction to~~ record directing the bailee
43 33 to deliver is sufficient tender unless the buyer seasonably
43 34 objects, and except as otherwise provided in Article 9 receipt
43 35 by the bailee of notification of the buyer's rights fixes



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44 1 those rights as against the bailee and all third persons; but
44 2 risk of loss of the goods and of any failure by the bailee to
44 3 honor the nonnegotiable document of title or to obey the
44 4 direction remains on the seller until the buyer has had a
44 5 reasonable time to present the document or direction, and a
44 6 refusal by the bailee to honor the document or to obey the
44 7 direction defeats the tender.

44 8 Sec. 54. Section 554.2503, subsection 5, paragraph b, Code
44 9 2007, is amended to read as follows:

44 10 b. tender through customary banking channels is sufficient
44 11 and dishonor of a draft accompanying or associated with the
44 12 documents constitutes nonacceptance or rejection.

44 13 Sec. 55. Section 554.2505, subsection 1, paragraph b, Code
44 14 2007, is amended to read as follows:

44 15 b. a nonnegotiable bill of lading to the seller or the
44 16 seller's nominee reserves possession of the goods as security
44 17 but except in a case of conditional delivery (subsection 2 of
44 18 section 554.2507) a nonnegotiable bill of lading naming the
44 19 buyer as consignee reserves no security interest even though
44 20 the seller retains possession or control of the bill of
44 21 lading.

44 22 Sec. 56. Section 554.2505, subsection 2, Code 2007, is
44 23 amended to read as follows:

44 24 2. When shipment by the seller with reservation of a
44 25 security interest is in violation of the contract for sale it
44 26 constitutes an improper contract for transportation within the
44 27 preceding section but impairs neither the rights given to the
44 28 buyer by shipment and identification of the goods to the
44 29 contract nor the seller's powers as a holder of a negotiable
44 30 document of title.

44 31 Sec. 57. Section 554.2506, subsection 2, Code 2007, is
44 32 amended to read as follows:

44 33 2. The right to reimbursement of a financing agency which
44 34 has in good faith honored or purchased the draft under
44 35 commitment to or authority from the buyer is not impaired by



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45 1 subsequent discovery of defects with reference to any relevant
45 2 document which was apparently regular ~~on its face~~.

45 3 Sec. 58. Section 554.2509, subsection 2, paragraphs a and
45 4 c, Code 2007, are amended to read as follows:

45 5 a. on the buyer's receipt of possession or control of a
45 6 negotiable document of title covering the goods; or
45 7 c. after the buyer's receipt of possession or control of a
45 8 nonnegotiable document of title or other ~~written~~ direction to
45 9 deliver in a record, as provided in ~~subsection 4 "b" of~~
45 10 section 554.2503, subsection 4, paragraph "b".

45 11 Sec. 59. Section 554.2605, subsection 2, Code 2007, is
45 12 amended to read as follows:

45 13 2. Payment against documents made without reservation of
45 14 rights precludes recovery of the payment for defects apparent
45 15 ~~on the face of~~ in the documents.

45 16 Sec. 60. Section 554.2705, subsection 2, paragraph c, Code
45 17 2007, is amended to read as follows:

45 18 c. such acknowledgment to the buyer by a carrier by
45 19 reshipment or as a warehouse ~~operator~~; or

45 20 Sec. 61. Section 554.2705, subsection 3, paragraph c, Code
45 21 2007, is amended to read as follows:

45 22 c. If a negotiable document of title has been issued for
45 23 goods the bailee is not obliged to obey a notification to stop
45 24 until surrender of possession or control of the document.

PART B

ARTICLE 4

45 27 Sec. 62. Section 554.4104, subsection 3, Code 2007, is
45 28 amended to read as follows:

45 29 3. ~~The~~ "Control" as provided in section 554.7106 and the
45 30 following definitions in other Articles apply to this Article:

45 31	"Acceptance"	Section 554.3409
45 32	"Alteration"	Section 554.3407
45 33	"Cashier's check"	Section 554.3104
45 34	"Certificate of deposit"	Section 554.3104
45 35	"Certified check"	Section 554.3409



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46	1	"Check"	Section 554.3104
46	2	"Good faith"	Section 554.3103
46	3	"Holder in due course"	Section 554.3302
46	4	"Instrument"	Section 554.3104
46	5	"Notice of dishonor"	Section 554.3503
46	6	"Order"	Section 554.3103
46	7	"Ordinary care"	Section 554.3103
46	8	"Person entitled	
46	9	to enforce"	Section 554.3301
46	10	"Presentment"	Section 554.3501
46	11	"Promise"	Section 554.3103
46	12	"Prove"	Section 554.3103
46	13	"Teller's check"	Section 554.3104
46	14	"Unauthorized signature"	Section 554.3403

46 15 Sec. 63. Section 554.4210, subsection 3, unnumbered
46 16 paragraph 1, Code 2007, is amended to read as follows:
46 17 Receipt by a collecting bank of a final settlement for an
46 18 item is a realization on its security interest in the item,
46 19 accompanying documents, and proceeds. So long as the bank
46 20 does not receive final settlement for the item or give up
46 21 possession of the item or possession or control of the
46 22 accompanying documents for purposes other than collection, the
46 23 security interest continues to that extent and is subject to
46 24 Article 9, but:

PART C
ARTICLE 8

46 27 Sec. 64. Section 554.8103, Code 2007, is amended by adding
46 28 the following new subsection:
46 29 NEW SUBSECTION. 7. A document of title is not a financial
46 30 asset unless section 554.8102, subsection 1, paragraph "i",
46 31 subparagraph (3) applies.

PART D
ARTICLE 9

46 34 Sec. 65. Section 554.9102, subsection 2, Code 2007, is
46 35 amended to read as follows:



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47 1 2. DEFINITIONS IN OTHER ARTICLES. ~~The~~ "Control" as
47 2 provided in section 554.7106 and the following definitions in
47 3 other Articles apply to this Article:
47 4 "Applicant" Section 554.5102
47 5 "Beneficiary" Section 554.5102
47 6 "Broker" Section 554.8102
47 7 "Certificated security" Section 554.8102
47 8 "Check" Section 554.3104
47 9 "Clearing corporation" Section 554.8102
47 10 "Contract for sale" Section 554.2106
47 11 "Customer" Section 554.4104
47 12 "Entitlement holder" Section 554.8102
47 13 "Financial asset" Section 554.8102
47 14 "Holder in due course" Section 554.3302
47 15 "Issuer" (with respect
47 16 to a letter of credit or
47 17 letter=of=credit right) Section 554.5102
47 18 "Issuer" (with respect
47 19 to a security) Section 554.8201
47 20 "Issuer" (with respect
47 21 to documents of title) Section 554.7102
47 22 "Lease" Section 554.13103
47 23 "Lease agreement" Section 554.13103
47 24 "Lease contract" Section 554.13103
47 25 "Leasehold interest" Section 554.13103
47 26 "Lessee" Section 554.13103
47 27 "Lessee in ordinary
47 28 course of business" Section 554.13103
47 29 "Lessor" Section 554.13103
47 30 "Lessor's residual
47 31 interest" Section 554.13103
47 32 "Letter of credit" Section 554.5102
47 33 "Merchant" Section 554.2104
47 34 "Negotiable instrument" Section 554.3104
47 35 "Nominated person" Section 554.5102



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48 1 "Note" Section 554.3104
48 2 "Proceeds of a letter
48 3 of credit" Section 554.5114
48 4 "Prove" Section 554.3103
48 5 "Sale" Section 554.2106
48 6 "Securities account" Section 554.8501
48 7 "Securities intermediary" Section 554.8102
48 8 "Security" Section 554.8102
48 9 "Security certificate" Section 554.8102
48 10 "Security entitlement" Section 554.8102
48 11 "Uncertificated security" Section 554.8102
48 12 Sec. 66. Section 554.9203, subsection 2, paragraph c,
48 13 subparagraph (4), Code 2007, is amended to read as follows:
48 14 (4) the collateral is deposit accounts, electronic chattel
48 15 paper, investment property, ~~or~~ letter-of-credit rights, or
48 16 electronic documents, and the secured party has control under
48 17 section 554.7106, 554.9104, 554.9105, 554.9106, or 554.9107
48 18 pursuant to the debtor's security agreement.
48 19 Sec. 67. Section 554.9207, subsection 3, unnumbered
48 20 paragraph 1, Code 2007, is amended to read as follows:
48 21 Except as otherwise provided in subsection 4, a secured
48 22 party having possession of collateral or control of collateral
48 23 under section 554.7106, 554.9104, 554.9105, 554.9106, or
48 24 554.9107:
48 25 Sec. 68. Section 554.9208, subsection 2, paragraphs d and
48 26 e, Code 2007, are amended to read as follows:
48 27 d. a secured party having control of investment property
48 28 under section 554.8106, subsection 4, paragraph "b", or
48 29 section 554.9106, subsection 2, shall send to the securities
48 30 intermediary or commodity intermediary with which the security
48 31 entitlement or commodity contract is maintained an
48 32 authenticated record that releases the securities intermediary
48 33 or commodity intermediary from any further obligation to
48 34 comply with entitlement orders or directions originated by the
48 35 secured party; ~~and~~
49 1 e. a secured party having control of a letter-of-credit
49 2 right under section 554.9107 shall send to each person having
49 3 an unfulfilled obligation to pay or deliver proceeds of the
49 4 letter of credit to the secured party an authenticated release
49 5 from any further obligation to pay or deliver proceeds of the
49 6 letter of credit to the secured party; ~~and~~
49 7 f. a secured party having control of an electronic
49 8 document shall:
49 9 (1) give control of the electronic document to the debtor
49 10 or its designated custodian;
49 11 (2) if the debtor designates a custodian that is the
49 12 designated custodian with which the authoritative copy of the
49 13 electronic document is maintained for the secured party,
49 14 communicate to the custodian an authenticated record releasing
49 15 the designated custodian from any further obligation to comply
49 16 with instructions originated by the secured party and
49 17 instructing the custodian to comply with instructions
49 18 originated by the debtor; and
49 19 (3) take appropriate action to enable the debtor or its
49 20 designated custodian to make copies of or revisions to the
49 21 authoritative copy which add or change an identified assignee



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49 22 of the authoritative copy without the consent of the secured
49 23 party.

49 24 Sec. 69. Section 554.9301, subsection 3, unnumbered
49 25 paragraph 1, Code 2007, is amended to read as follows:

49 26 Except as otherwise provided in subsection 4, while
49 27 tangible negotiable documents, goods, instruments, money, or
49 28 tangible chattel paper is located in a jurisdiction, the local
49 29 law of that jurisdiction governs:

49 30 Sec. 70. Section 554.9310, subsection 2, paragraphs e and
49 31 h, Code 2007, are amended to read as follows:

49 32 e. in certificated securities, documents, goods, or
49 33 instruments which is perfected without filing, control, or
49 34 possession under section 554.9312, subsection 5, 6, or 7;

49 35 h. in deposit accounts, electronic chattel paper,



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50 1 electronic documents, investment property, or letter-of-credit
50 2 rights which is perfected by control under section 554.9314;
50 3 Sec. 71. Section 554.9312, subsection 5, Code 2007, is
50 4 amended to read as follows:

50 5 5. TEMPORARY PERFECTION == NEW VALUE. A security interest
50 6 in certificated securities, negotiable documents, or
50 7 instruments is perfected without filing or the taking of
50 8 possession or control for a period of twenty days from the
50 9 time it attaches to the extent that it arises for new value
50 10 given under an authenticated security agreement.

50 11 Sec. 72. Section 554.9313, subsection 1, Code 2007, is
50 12 amended to read as follows:

50 13 1. PERFECTION BY POSSESSION OR DELIVERY. Except as
50 14 otherwise provided in subsection 2, a secured party may
50 15 perfect a security interest in tangible negotiable documents,
50 16 goods, instruments, money, or tangible chattel paper by taking
50 17 possession of the collateral. A secured party may perfect a
50 18 security interest in certificated securities by taking
50 19 delivery of the certificated securities under section
50 20 554.8301.

50 21 Sec. 73. Section 554.9314, subsections 1 and 2, Code 2007,
50 22 are amended to read as follows:

50 23 1. PERFECTION BY CONTROL. A security interest in
50 24 investment property, deposit accounts, letter-of-credit
50 25 rights, ~~or~~ electronic chattel paper, or electronic documents
50 26 may be perfected by control of the collateral under section
50 27 554.7106, 554.9104, 554.9105, 554.9106, or 554.9107.

50 28 2. SPECIFIED COLLATERAL == TIME OF PERFECTION BY CONTROL
50 29 == CONTINUATION OF PERFECTION. A security interest in deposit
50 30 accounts, electronic chattel paper, ~~or~~ letter-of-credit
50 31 rights, or electronic documents is perfected by control under
50 32 section 554.7106, 554.9104, 554.9105, or 554.9107 when the
50 33 secured party obtains control and remains perfected by control
50 34 only while the secured party retains control.

50 35 Sec. 74. Section 554.9317, subsections 2 and 4, Code 2007,



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51 1 are amended to read as follows:

51 2 2. BUYERS THAT RECEIVE DELIVERY. Except as otherwise
51 3 provided in subsection 5, a buyer, other than a secured party,
51 4 of tangible chattel paper, tangible documents, goods,
51 5 instruments, or a security certificate takes free of a
51 6 security interest or agricultural lien if the buyer gives
51 7 value and receives delivery of the collateral without
51 8 knowledge of the security interest or agricultural lien and
51 9 before it is perfected.

51 10 4. LICENSEES AND BUYERS OF CERTAIN COLLATERAL. A licensee
51 11 of a general intangible or a buyer, other than a secured
51 12 party, of accounts, electronic chattel paper, electronic
51 13 documents, general intangibles, or investment property other
51 14 than a certificated security takes free of a security interest
51 15 if the licensee or buyer gives value without knowledge of the
51 16 security interest and before it is perfected.

51 17 Sec. 75. Section 554.9338, subsection 2, Code 2007, is
51 18 amended to read as follows:

51 19 2. a purchaser, other than a secured party, of the
51 20 collateral takes free of the security interest or agricultural
51 21 lien to the extent that, in reasonable reliance upon the
51 22 incorrect information, the purchaser gives value and, in the
51 23 case of tangible chattel paper, tangible documents, goods,
51 24 instruments, or a security certificate, receives delivery of
51 25 the collateral.

51 26 Sec. 76. Section 554.9601, subsection 2, Code 2007, is
51 27 amended to read as follows:

51 28 2. RIGHTS AND DUTIES OF SECURED PARTY IN POSSESSION OR
51 29 CONTROL. A secured party in possession of collateral or
51 30 control of collateral under section 554.7106, 554.9104,
51 31 554.9105, 554.9106, or 554.9107 has the rights and duties
51 32 provided in section 554.9207.

51 33 PART E

51 34 ARTICLE 13

51 35 Sec. 77. Section 554.13103, subsection 1, paragraphs a and



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52 1 o, Code 2007, are amended to read as follows:

52 2 a. "Buyer in ordinary course of business" means a person
52 3 who in good faith and without knowledge that the sale to the
52 4 person is in violation of the ownership rights or security
52 5 interest or leasehold interest of a third party in the goods,
52 6 buys in ordinary course from a person in the business of
52 7 selling goods of that kind but does not include a pawnbroker.
52 8 "Buying" may be for cash or by exchange of other property or
52 9 on secured or unsecured credit and includes ~~receiving~~
52 10 acquiring goods or documents of title under a preexisting
52 11 contract for sale but does not include a transfer in bulk or
52 12 as security for or in total or partial satisfaction of a money
52 13 debt.

52 14 o. "Lessee in ordinary course of business" means a person
52 15 who in good faith and without knowledge that the lease to the
52 16 person is in violation of the ownership rights or security
52 17 interest or leasehold interest of a third party in the goods
52 18 leases in ordinary course from a person in the business of
52 19 selling or leasing goods of that kind but does not include a
52 20 pawnbroker. "Leasing" may be for cash or by exchange of other
52 21 property or on secured or unsecured credit and includes
52 22 ~~receiving~~ acquiring goods or documents of title under a
52 23 preexisting lease contract but does not include a transfer in
52 24 bulk or as security for or in total or partial satisfaction of
52 25 a money debt.

52 26 Sec. 78. Section 554.13514, subsection 2, Code 2007, is
52 27 amended to read as follows:

52 28 2. A lessee's failure to reserve rights when paying rent
52 29 or other consideration against documents precludes recovery of
52 30 the payment for defects apparent ~~on the face of~~ in the
52 31 documents.

52 32 Sec. 79. Section 554.13526, subsection 2, paragraph c,
52 33 Code 2007, is amended to read as follows:

52 34 c. such an acknowledgment to the lessee by a carrier via
52 35 reshipment or as ~~warehouse~~ a warehouse.



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53 1 PART F
53 2 MISCELLANEOUS
53 3 Sec. 80. Section 203C.19, Code 2007, is amended to read as
53 4 follows:
53 5 203C.19 RIGHTS AND OBLIGATIONS WITH RESPECT TO WAREHOUSE
53 6 RECEIPTS == LOST RECEIPTS.
53 7 1. Insofar as not inconsistent with the provisions of this
53 8 chapter, original or duplicate receipts issued by licensed
53 9 warehouse operators shall be deemed to have been issued under
53 10 the provisions of uniform commercial code, chapter 554,
53 11 article 7.
53 12 2. Duplicates and releases for lost, destroyed, or stolen
53 13 warehouse receipts may be issued only in accordance with the
53 14 provisions of ~~section~~ sections 554.7601 and 554.7601A.
53 15 EXPLANATION
53 16 BACKGROUND. This bill amends Article 7 of the Uniform
53 17 Commercial Code governing warehouse receipts, bills of lading,
53 18 and other documents of title. The amendments derive from a
53 19 model act with comments as prepared by the national conference
53 20 of commissioners on uniform state laws and the American law
53 21 institute. According to the model act's preface, the
53 22 provisions of the model act are to further develop electronic
53 23 documents of title in light of state, federal and
53 24 international developments. The preface continues by stating
53 25 that each section has been reviewed to determine its
53 26 suitability given modern practice, the need for medium and
53 27 gender neutrality, and modern statutory drafting.
53 28 CONFORMITY WITH THE MODEL ACT. The bill adopts the changes
53 29 made by the model act, with certain limited exceptions
53 30 consistent with the current format and style of Iowa's version
53 31 of the Uniform Commercial Code, which are limited to
53 32 numbering, capitalization, citations, the use of dashes rather
53 33 than semicolons in headnotes, and the use of gender-neutral
53 34 language in conformance with Code section 2.33. Otherwise,
53 35 the bill follows language and punctuation as recommended in



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54 1 the model act, even when contrary to normal drafting practice
54 2 (e.g., retaining the model act's use of the term "may not"
54 3 rather than the preferred "shall not" or "must not" in
54 4 amendments to Code sections 554.7210, 554.7304, 554.7308,
54 5 554.7309, 554.7601, and 554.7602). The bill also retains a
54 6 nonconforming provision, Code section 554.7601, providing for
54 7 lost and missing documents. Subsections 3 and 4, unique to
54 8 Iowa, provide for lost or destroyed warehouse receipts and the
54 9 regulation of warehouse receipts by the department of
54 10 agriculture and land stewardship (see also the department's
54 11 regulation of warehouses under Code chapter 203C). The bill
54 12 organizes these unique subsections into new Code section
54 13 554.7601A to alert the reader that the provisions are not
54 14 based on model legislation.

54 15 STRUCTURE. The bill is divided into two divisions.
54 16 Division I amends provisions in Article 7 and Division II
54 17 provides for conforming changes to provisions outside of
54 18 Article 7. The bill does not alter the structure of Article 7
54 19 which is divided into a number of parts including: Part 1
54 20 which provides general provisions, including definitions, Part
54 21 2 which provides special provisions for warehouse receipts,
54 22 and Part 3 which provides special provisions for bills of
54 23 lading. The remaining parts provide for both warehouse
54 24 receipts and bills of lading. Part 4 provides for general
54 25 obligations, Part 5 provides for negotiation and transfer
54 26 arrangements, and Part 6 provides for miscellaneous
54 27 provisions.

54 28 AMENDMENTS. The bill amends Code section 554.1201 which
54 29 includes definitions for "bearer", "bill of lading",
54 30 "delivery", "document of title", "holder", and "warehouse
54 31 receipt". In Code section 554.7102 the term "warehouse
54 32 operator" is replaced by "warehouse" and the term "warehouse"
54 33 is replaced with the term "warehouse facility". The bill
54 34 provides new definitions for "good faith", "record", "sign"
54 35 and "shipper". The changes to the definitions, in part,



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55 1 authorize the use of electronic records, and allow a person
55 2 (bailee) to issue an electronic document of title in the
55 3 regular course of business or financing, and which may
55 4 evidence that a person who is in control of the record is
55 5 entitled to receive, control, hold, and dispose of the record
55 6 and the goods the record covers.

55 7 The bill divides records into electronic and tangible
55 8 documents of title. The bill includes a new section which
55 9 addresses the "control" of an electronic document of title
55 10 which is closely connected to the "Uniform Electronic
55 11 Transactions Act" (Code chapter 554D). According to the
55 12 comments, "control" of an electronic document of title is the
55 13 equivalent to possession and indorsement of a tangible
55 14 (written) document of title. The bill also provides that
55 15 parties may substitute an electronic document of title for an
55 16 already-issued paper document (Code section 554.7105). In
55 17 general, the rules applicable for electronic documents of
55 18 title are the same or similar to the rules for tangible
55 19 documents of title. Where a difference is meant to apply, the
55 20 provision refers only to one type of document without
55 21 mentioning the other. As with tangible negotiable documents
55 22 of title, electronic negotiable documents of title may be
55 23 negotiated and duly negotiated (Code section 554.7501).

55 24 The bill amends Code sections to include a number of other
55 25 changes, which include:

55 26 1. Eliminating references to tariffs or filed
55 27 classifications which were made according to the comments to
55 28 account for the deregulation of the affected industries (see
55 29 Code sections 554.7103 and 554.7309).

55 30 2. Providing when a document is nonnegotiable (Code
55 31 section 554.7104).

55 32 3. Specifying when the Article's provisions apply only to
55 33 warehouse receipts or only bills of lading.

55 34 4. Eliminating the current provisions in Code section
55 35 554.7105, and replacing it with a new provision providing for



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56 1 the reissuance of a document in an alternative medium.
56 2 5. Providing that particular terms need not be included in
56 3 a document to create a valid warehouse receipt (Code section
56 4 554.7202).
56 5 6. Broadening the ability of a warehouse to provide an
56 6 effective limitation of liability in a warehouse receipt or
56 7 storage agreement in accordance with commercial practice (Code
56 8 section 554.7204).
56 9 7. Allowing a warehouse to obtain a lien on goods covered
56 10 by a storage agreement and providing for rules of priority
56 11 among creditors (Code section 554.7209).
56 12 8. Amending the usage of provisions relating to shipping
56 13 practices (Code sections 554.7301 and 554.7302).
56 14 9. Providing for the extent of a carrier's lien (Code
56 15 section 554.7307).
56 16 10. Adding references to provisions for leasing
56 17 arrangements under Article 2A, codified in Iowa as Article 13
56 18 (Code sections 554.7503, 554.7504, and 554.7509).
56 19 11. Providing that a warranty made by negotiation or
56 20 delivery of a document of title applies only in the case of a
56 21 voluntary transfer of possession or control of the document
56 22 (Code section 554.7507).
56 23 12. Providing when a court may order protection against
56 24 loss involving the delivery of goods or the issuance of a
56 25 substitute document (Code section 554.7601).
56 26 LSB 1073HC 82
56 27 da:rj/je/5



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House Study Bill 141

SENATE/HOUSE FILE
BY (PROPOSED CITIZENS'
AIDE/OMBUDSMAN BILL)

Passed Senate, Date _____
Vote: Ayes _____ Nays _____
Approved

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act creating the Iowa public records privacy commission and
- 2 providing for a repeal.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1280DP 82
- 5 eg/gg/14



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PAG LIN

1 1 Section 1. NEW SECTION. 22.21 IOWA PUBLIC RECORDS
1 2 PRIVACY COMMISSION.
1 3 1. An Iowa public records privacy commission is created in
1 4 the department of cultural affairs for the purpose of
1 5 reviewing existing procedures used by governmental bodies for
1 6 the retention and destruction of records that contain personal
1 7 information or are confidential records as defined by law,
1 8 including procedures to prevent unauthorized access, use, or
1 9 disclosure when recycling, discarding, or destroying such
1 10 records.
1 11 2. The commission shall identify retention and destruction
1 12 procedures that are or would be most effective in safeguarding
1 13 confidential and personal information within public records.
1 14 The commission shall consider the practicability of mandating
1 15 retention and destruction procedures that governmental bodies
1 16 would use for records which contain personal information or
1 17 which are defined as confidential records.
1 18 3. On or before October 31, 2008, the commission shall
1 19 report its findings and recommendations for retention and
1 20 destruction procedures for records which contain personal
1 21 information or which are defined as confidential records to
1 22 the governor and the general assembly.
1 23 4. a. The commission shall consist of voting and
1 24 nonvoting members. The following persons or their designees
1 25 shall serve as voting members:
1 26 (1) The governor's legal counsel.
1 27 (2) The director of human services.
1 28 (3) The director of transportation.
1 29 (4) The director of revenue.
1 30 (5) The director of the department of administrative
1 31 services.
1 32 (6) The attorney general.
1 33 (7) The secretary of state.
1 34 (8) The director of public health.
1 35 (9) The director of cultural affairs.



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2 1 (10) One person appointed by each of the following:
2 2 (a) Iowa state association of counties.
2 3 (b) Iowa league of cities.
2 4 (c) Iowa association of school boards.
2 5 b. The following officials shall serve as nonvoting
2 6 members:
2 7 (1) Two state representatives, one appointed by the
2 8 speaker of the house of representatives and one by the
2 9 minority leader of the house, and two state senators, one
2 10 appointed by the majority leader of the senate and one by the
2 11 minority leader of the senate. A legislative member is
2 12 eligible for per diem and expenses as provided in section
2 13 2.10.
2 14 (2) The citizens' aide.
2 15 5. The commission shall elect a chairperson and vice
2 16 chairperson from the voting members of the commission. The
2 17 terms of the commission members are for two years beginning on
2 18 July 1 and ending on June 30, except that the legislative
2 19 members shall serve for terms coinciding with the legislative
2 20 biennium. A vacancy on the commission shall be filled for the
2 21 unexpired term of the vacancy in the same manner as the
2 22 original appointment was made.
2 23 6. As used in this section, "personal information" means a
2 24 person's first name or first initial and last name in
2 25 combination with one or more of the following data elements
2 26 that relate to the person if neither the name nor the data
2 27 elements are encrypted, redacted, or otherwise altered by any
2 28 method or technology in such a manner that the name or data
2 29 elements are unreadable:
2 30 a. Social security number.
2 31 b. Driver's license number or other unique identification
2 32 number created or collected by a governmental body.
2 33 c. Account number, credit card number, or debit card
2 34 number, in combination with any required security code, access
2 35 code, or password that would permit access to a person's



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- 3 1 financial account.
3 2 d. Unique electronic identifier or routing code, in
3 3 combination with any required security code, access code, or
3 4 password.
3 5 e. Unique biometric data, such as a fingerprint, voice
3 6 print, retina or iris image, or other unique physical
3 7 representation.
3 8 7. This section is repealed June 30, 2009.
3 9 Sec. 2. CODE EDITOR DIRECTIVE.
3 10 1. The Code editor shall establish the following
3 11 subchapters in chapter 22:
3 12 a. Subchapter I, entitled "definitions", shall be
3 13 comprised of section 22.1.
3 14 b. Subchapter II, entitled "access to public records",
3 15 shall be comprised of sections 22.2 through 22.20.
3 16 c. Subchapter III, entitled "privacy", shall be comprised
3 17 of sections 22.21 through 22.30.
3 18 2. The Code editor shall make corresponding changes to
3 19 update references to "this chapter" in section 22.3A,
3 20 subsection 2; section 22.8, subsection 3; and section 22.10.

3 21 EXPLANATION

3 22 This bill creates the Iowa public records privacy
3 23 commission in the department of cultural affairs to review
3 24 record retention and destruction procedures used by various
3 25 governmental bodies, including the state, counties, cities,
3 26 townships, school corporations, and other boards, commissions,
3 27 and councils that are subject to the Open Records Law in Code
3 28 chapter 22. The bill designates voting and nonvoting persons
3 29 to serve on the commission.
3 30 The commission is directed to consider the practicability
3 31 of mandating retention and destruction procedures that
3 32 governmental bodies would use for records containing personal
3 33 information or for those records defined by law as
3 34 confidential records. On or before October 31, 2008, the
3 35 commission is required to report its findings and



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4 1 recommendations to the governor and general assembly.
4 2 The bill defines "personal information" as a person's first
4 3 name or initial and last name in combination with any one or
4 4 more specific data elements, including a social security
4 5 number, driver's license number, financial account number with
4 6 password, and unique biometric data, that relate to the
4 7 person, if neither the name nor the data elements are
4 8 encrypted, redacted, or otherwise made unreadable.
4 9 The Code section creating the commission is repealed on
4 10 June 30, 2009.
4 11 The bill includes a Code editor directive to create
4 12 subchapters in Code chapter 22 and to make revisions in Code
4 13 chapter 22 as a consequence of creating such subchapters.
4 14 LSB 1280DP 82
4 15 eg:nh/gg/14.2



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House Study Bill 142

SENATE/HOUSE FILE
BY (PROPOSED DEPARTMENT OF
HUMAN SERVICES BILL)

Passed Senate, Date _____
Vote: Ayes _____ Nays _____
Approved

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to the expenditures allowable from medical
- 2 assistance income trusts.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1238DP 82
- 5 pf/sh/8



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1 1 Section 1. Section 633C.3, subsection 1, Code 2007, is
1 2 amended to read as follows:

1 3 1. Regardless of the terms of a medical assistance income
1 4 trust, if the beneficiary's total monthly income is less than
1 5 the average statewide charge for nursing facility services to
1 6 a private pay resident of a nursing facility, then, during the
1 7 life of the beneficiary, any property received or held by the
1 8 trust shall be expended only as follows, as applicable, and in
1 9 the following order of priority:

1 10 a. A reasonable amount may be paid or set aside each month
1 11 for necessary expenses of the trust, not to exceed ten dollars
1 12 per month without court approval.

1 13 b. From the remaining principal or income of the trust, ~~an~~
~~1 14 amount sufficient to bring the beneficiary's available income~~
~~1 15 up to three hundred percent of the benefit for an individual~~
~~1 16 under the federal supplemental security income program shall~~
~~1 17 be paid to or otherwise made available to the beneficiary on a~~
~~1 18 monthly basis, to be counted as income or a resource in~~
~~1 19 determining eligibility for medical assistance under chapter~~
~~1 20 249A amounts may be paid for expenses that qualify as required~~
1 21 deductions from income pursuant to 42 C.F.R. } 435.725(c) or
1 22 435.726(c) for purposes of determining the amount by which
1 23 medical assistance payments under chapter 249A for
1 24 institutional services or for home and community-based
1 25 services provided under a federal waiver will be reduced based
1 26 on the beneficiary's income.

1 27 c. If the beneficiary is an institutionalized individual
1 28 or receiving home and community-based services provided under
1 29 a federal waiver, the remaining principal or income of the
1 30 trust shall be paid directly to the provider of institutional
1 31 care or home and community-based services, on a monthly basis,
1 32 for any cost not paid ~~by the beneficiary from the~~
~~1 33 beneficiary's available income under paragraph "b"~~, to reduce
1 34 any amount paid as medical assistance under chapter 249A.

1 35 d. Any remaining principal or income of the trust may, at



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2 1 the trustee's discretion or as directed by the terms of the
2 2 trust, be paid directly to providers of other medical care or
2 3 services that would otherwise be covered by medical
2 4 assistance, paid to the state as reimbursement for medical
2 5 assistance paid on behalf of the beneficiary, or retained by
2 6 the trust.

2 7 EXPLANATION

2 8 This bill relates to the allowable expenditures from
2 9 medical assistance income trusts. The bill eliminates the
2 10 limit on the amount of income that is available to individuals
2 11 under medical assistance income trusts and special needs
2 12 trusts while retaining their eligibility for medical
2 13 assistance, if the individual's total monthly income is less
2 14 than the average statewide charge for the type of care the
2 15 individual requires. The levels of care to which the bill
2 16 applies, including home and community-based services, are
2 17 nursing facility care including specialized services, care
2 18 provided through an intermediate care facility for persons
2 19 with mental retardation, care provided through a psychiatric
2 20 medical institution for children, and care provided in a state
2 21 mental health institute.

2 22 Current law limits the disbursement to the individual as
2 23 income to an amount sufficient to bring the individual's
2 24 available income up to three hundred percent of the benefit
2 25 for an individual under the federal supplemental security
2 26 income program. Under the bill, the individual would have
2 27 access to all of the individual's income for the purpose of
2 28 allowable expenses, which are expenses that are allowed as
2 29 deductions in determining client participation such as the
2 30 personal needs allowance, spousal and dependent allowances,
2 31 and unmet medical expenses. Any excess income above the
2 32 allowable expenses would then be applied toward payment of
2 33 providers of facility or home and community-based services,
2 34 toward payment of other providers of medical care or services
2 35 that would otherwise be covered by medical assistance, toward



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3 1 payment to the state for reimbursement for medical assistance
3 2 paid on behalf of the individual, or would be retained by the
3 3 trust.
3 4 LSB 1238DP 82
3 5 pf:nh/sh/8



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SENATE/HOUSE FILE
 BY (PROPOSED DEPARTMENT OF
 HUMAN SERVICES BILL)

Passed Senate, Date _____
 Vote: Ayes _____ Nays _____
 Approved

Passed House, Date _____
 Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act replacing the interstate compact on the placement of
 2 children with the interstate compact for the placement of
 3 children, making a penalty applicable, and providing a
 4 contingent effective date.
 5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
 6 TLSB 1244DP 82
 7 jp/je/5



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2 1 involving Indian children as is or may be permitted by federal
2 2 law.

2 3 ARTICLE II == DEFINITIONS

2 4 As used in this compact:

2 5 1. "Approved placement" means the receiving state has
2 6 determined after an assessment that the placement is both safe
2 7 and suitable for the child and is in compliance with the
2 8 applicable laws of the receiving state governing the placement
2 9 of children in that state.

2 10 2. "Assessment" means an evaluation of a prospective
2 11 placement to determine whether the placement meets the
2 12 individualized needs of the child, including but not limited
2 13 to the child's safety and stability, health and well-being,
2 14 and mental, emotional, and physical development.

2 15 3. "Child" means an individual who has not attained the
2 16 age of eighteen.

2 17 4. "Default" means the failure of a member state to
2 18 perform the obligations or responsibilities imposed upon it by
2 19 this compact, or the bylaws or rules of the interstate
2 20 commission.

2 21 5. "Indian tribe" means any Indian tribe, band, nation, or
2 22 other organized group or community of Indians recognized as
2 23 eligible for services provided to Indians by the secretary of
2 24 the interior because of their status as Indians, including any
2 25 Alaskan native village as defined in section 3, subsection
2 26 (c), of the federal Alaska Native Claims Settlement Act in 43
2 27 U.S.C. } 1602(c).

2 28 6. "Interstate commission for the placement of children"
2 29 means the commission that is created under article VIII of
2 30 this compact and which is generally referred to as the
2 31 interstate commission.

2 32 7. "Jurisdiction" means the power and authority of a court
2 33 to hear and decide matters.

2 34 8. "Member state" means a state that has enacted this
2 35 compact.



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3 1 9. "Noncustodial parent" means a person who, at the time
3 2 of the commencement of court proceedings in the sending state,
3 3 does not have sole legal custody of the child or has joint
3 4 legal custody of the child, and who is not the subject of
3 5 allegations or findings of child abuse or neglect.

3 6 10. "Nonmember state" means a state that has not enacted
3 7 this compact.

3 8 11. "Notice of residential placement" means information
3 9 regarding a placement into a residential facility provided to
3 10 the receiving state including but not limited to the name,
3 11 date, and place of birth of the child, the identity and
3 12 address of the parent or legal guardian, evidence of authority
3 13 to make the placement, and the name and address of the
3 14 facility in which the child will be placed. "Notice of
3 15 residential placement" shall also include information
3 16 regarding a discharge and any unauthorized absence from the
3 17 facility.

3 18 12. "Placement" means the act by a public or private
3 19 child=placing agency intended to arrange for the care or
3 20 custody of a child in another state.

3 21 13. "Private child=placing agency" means any private
3 22 corporation, agency, foundation, institution, or charitable
3 23 organization, or any private person or attorney that
3 24 facilitates, causes, or is involved in the placement of a
3 25 child from one state to another and that is not an
3 26 instrumentality of the state or acting under color of state
3 27 law.

3 28 14. "Provisional placement" means that the receiving state
3 29 has determined that the proposed placement is safe and
3 30 suitable, and, to the extent allowable, the receiving state
3 31 has temporarily waived its standards or requirements otherwise
3 32 applicable to prospective foster or adoptive parents so as to
3 33 not delay the placement. Completion of the receiving state
3 34 requirements regarding training for prospective foster or
3 35 adoptive parents shall not delay an otherwise safe and



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4 1 suitable placement.

4 2 15. "Public child=placing agency" means any government
4 3 child welfare agency or child protection agency or a private
4 4 entity under contract with such an agency, regardless of
4 5 whether the agency or entity acts on behalf of a state,
4 6 county, municipality, or other governmental unit and which
4 7 facilitates, causes, or is involved in the placement of a
4 8 child from one state to another.

4 9 16. "Receiving state" means the state to which a child is
4 10 sent, brought, or caused to be sent or brought.

4 11 17. "Relative" means someone who is related to the child
4 12 as a parent, stepparent, sibling by half or whole blood or by
4 13 adoption, grandparent, aunt, uncle, or first cousin or a
4 14 nonrelative with such significant ties to the child that the
4 15 nonrelative may be regarded as relatives as determined by the
4 16 court in the sending state.

4 17 18. "Residential facility" means a facility providing a
4 18 level of care that is sufficient to substitute for parental
4 19 responsibility or foster care, and is beyond what is needed
4 20 for assessment or treatment of an acute condition. For
4 21 purposes of the compact, residential facilities do not include
4 22 institutions primarily educational in character, hospitals, or
4 23 other medical facilities.

4 24 19. "Rule" means a written directive, mandate, standard,
4 25 or principle issued by the interstate commission promulgated
4 26 pursuant to article XI of this compact that is of general
4 27 applicability and that implements, interprets, or prescribes a
4 28 policy or provision of the compact. A "rule" has the force
4 29 and effect of statutory law in a member state, and includes
4 30 the amendment, repeal, or suspension of an existing rule.

4 31 20. "Sending state" means the state from which the
4 32 placement of a child is initiated.

4 33 21. "Service member's permanent duty station" means the
4 34 military installation where an active duty armed services
4 35 member is currently assigned and is physically located under



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5 1 competent orders that do not specify the duty as temporary.

5 2 22. "Service member's state of legal residence" means the
5 3 state in which the active duty armed services member is
5 4 considered a resident for tax and voting purposes.

5 5 23. "State" means a state of the United States, the
5 6 District of Columbia, the Commonwealth of Puerto Rico, the
5 7 U.S. Virgin Islands, Guam, American Samoa, the Northern
5 8 Marianas Islands, and any other territory of the United
5 9 States.

5 10 24. "State court" means a judicial body of a state that is
5 11 vested by law with responsibility for adjudicating cases
5 12 involving abuse, neglect, deprivation, delinquency, or status
5 13 offenses of individuals who have not attained the age of
5 14 eighteen.

5 15 25. "Supervision" means monitoring provided by the
5 16 receiving state once a child has been placed in a receiving
5 17 state pursuant to this compact.

5 18 ARTICLE III == APPLICABILITY

5 19 1. Except as otherwise provided in subsection 2, this
5 20 compact shall apply to:

5 21 a. The interstate placement of a child subject to ongoing
5 22 court jurisdiction in the sending state, due to allegations or
5 23 findings that the child has been abused, neglected, or
5 24 deprived as defined by the laws of the sending state,
5 25 provided, however, that the placement of such a child into a
5 26 residential facility shall only require notice of residential
5 27 placement to the receiving state prior to placement.

5 28 b. The interstate placement of a child adjudicated
5 29 delinquent or unmanageable based on the laws of the sending
5 30 state and subject to ongoing court jurisdiction of the sending
5 31 state if either of the following applies:

5 32 (1) The child is being placed in a residential facility in
5 33 another member state and is not covered under another compact.

5 34 (2) The child is being placed in another member state and
5 35 the determination of safety and suitability of the placement



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6 1 and services required is not provided through another compact.

6 2 c. The interstate placement of any child by a public
6 3 child=placing agency or private child=placing agency as
6 4 defined in this compact as a preliminary step to a possible
6 5 adoption.

6 6 2. The provisions of this compact shall not apply to:

6 7 a. The interstate placement of a child with a nonrelative
6 8 in a receiving state by a parent with the legal authority to
6 9 make such a placement provided, however, that the placement is
6 10 not intended to effectuate an adoption.

6 11 b. The interstate placement of a child by one relative
6 12 with the lawful authority to make such a placement directly
6 13 with a relative in a receiving state.

6 14 c. The placement of a child, not subject to subsection 1,
6 15 into a residential facility by the child's parent.

6 16 d. The placement of a child with a noncustodial parent
6 17 provided that all of the following apply:

6 18 (1) The noncustodial parent proves to the satisfaction of
6 19 a court in the sending state a substantial relationship with
6 20 the child.

6 21 (2) The court in the sending state makes a written finding
6 22 that placement with the noncustodial parent is in the best
6 23 interests of the child.

6 24 (3) The court in the sending state dismisses its
6 25 jurisdiction over the child's case.

6 26 e. A child entering the United States from a foreign
6 27 country for the purpose of adoption or leaving the United
6 28 States to go to a foreign country for the purpose of adoption
6 29 in that country.

6 30 f. Cases in which a United States citizen child living
6 31 overseas with the child's family, at least one of whom is in
6 32 the United States armed services, and who is stationed
6 33 overseas, is removed and placed in a state.

6 34 g. The sending of a child by a public child=placing agency
6 35 or a private child=placing agency for a visit as defined by



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7 1 the rules of the interstate commission.

7 2 3. For purposes of determining the applicability of this
7 3 compact to the placement of a child with a family in the armed
7 4 services, the public child-placing agency or private
7 5 child-placing agency may choose the state of the service
7 6 member's permanent duty station or the service member's
7 7 declared legal residence.

7 8 4. Nothing in this compact shall be construed to prohibit
7 9 the concurrent application of the provisions of this compact
7 10 with other applicable interstate compacts including the
7 11 interstate compact for juveniles and the interstate compact on
7 12 adoption and medical assistance. The interstate commission
7 13 may, in cooperation with other interstate compact commissions
7 14 having responsibility for the interstate movement, placement,
7 15 or transfer of children, promulgate like rules to ensure the
7 16 coordination of services, timely placement of children, and
7 17 the reduction of unnecessary or duplicative administrative or
7 18 procedural requirements.

7 19 ARTICLE IV == JURISDICTION

7 20 1. The sending state shall retain jurisdiction over a
7 21 child with respect to all matters of custody and disposition
7 22 of the child which it would have had if the child had remained
7 23 in the sending state. Such jurisdiction shall also include
7 24 the power to order the return of the child to the sending
7 25 state.

7 26 2. When an issue of child protection or custody is brought
7 27 before a court in the receiving state, such court shall confer
7 28 with the court of the sending state to determine the most
7 29 appropriate forum for adjudication.

7 30 3. In accordance with its own laws, the court in the
7 31 sending state shall have authority to terminate its
7 32 jurisdiction if any of the following applies:

7 33 a. The child is reunified with the parent in the receiving
7 34 state who is the subject of allegations or findings of abuse
7 35 or neglect, only with the concurrence of the public



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- 8 1 child=placing agency in the receiving state.
8 2 b. The child is adopted.
8 3 c. The child reaches the age of majority under the laws of
8 4 the sending state.
8 5 d. The child achieves legal independence pursuant to the
8 6 laws of the sending state.
8 7 e. A guardianship is created by a court in the receiving
8 8 state with the concurrence of the court in the sending state.
8 9 f. An Indian tribe has petitioned for and received
8 10 jurisdiction from the court in the sending state.
8 11 g. The public child=placing agency of the sending state
8 12 requests termination and has obtained the concurrence of the
8 13 public child=placing agency in the receiving the state.
8 14 4. When a sending state court terminates its jurisdiction,
8 15 the receiving state child=placing agency shall be notified.
8 16 5. Nothing in this article shall defeat a claim of
8 17 jurisdiction by a receiving state court sufficient to deal
8 18 with an act of truancy, delinquency, crime, or behavior
8 19 involving a child as defined by the laws of the receiving
8 20 state committed by the child in the receiving state which
8 21 would be a violation of its laws.
8 22 6. Nothing in this article shall limit the receiving
8 23 state's ability to take emergency jurisdiction for the
8 24 protection of the child.

8 25 ARTICLE V == ASSESSMENTS

- 8 26 1. Prior to sending, bringing, or causing a child to be
8 27 sent or brought into a receiving state, the public
8 28 child=placing agency shall provide a written request for
8 29 assessment to the receiving state.
8 30 2. Prior to the sending, bringing, or causing a child to
8 31 be sent or brought into a receiving state, the private
8 32 child=placing agency shall do all of the following:
8 33 a. Provide evidence that the applicable laws of the
8 34 sending state have been complied with.
8 35 b. Certify that the consent or relinquishment is in
9 1 compliance with applicable law of the birth parent's state of
9 2 residence or, where permitted, the laws of the state of where
9 3 the finalization of the adoption will occur.
9 4 c. Request through the public child=placing agency in the
9 5 sending state an assessment to be conducted in the receiving
9 6 state.
9 7 d. Upon completion of the assessment, obtain the approval
9 8 of the public child=placing agency in the receiving state.
9 9 3. The procedures for making and the request for an
9 10 assessment shall contain all information and be in such form
9 11 as provided for in the rules of the interstate commission.
9 12 4. Upon receipt of a request from the public child welfare
9 13 agency of the sending state, the receiving state shall
9 14 initiate an assessment of the proposed placement to determine
9 15 its safety and suitability. If the proposed placement is a
9 16 placement with a relative, the public child=placing agency of
9 17 the sending state may request a determination of whether the
9 18 placement qualifies as a provisional placement.
9 19 5. The public child=placing agency in the receiving state
9 20 may request from the public child=placing agency or the
9 21 private child=placing agency in the sending state, and shall



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9 22 be entitled to receive, supporting or additional information
9 23 necessary to complete the assessment.
9 24 6. The public child-placing agency in the receiving state
9 25 shall complete or arrange for the completion of the assessment
9 26 within the timeframes established by the rules of the
9 27 interstate commission.
9 28 7. The interstate commission may develop uniform standards
9 29 for the assessment of the safety and suitability of interstate
9 30 placements.
9 31 ARTICLE VI == PLACEMENT AUTHORITY
9 32 1. Except as provided in subsection 3, no child subject to
9 33 this compact shall be placed into a receiving state until
9 34 approval for such placement is obtained.
9 35 2. If the public child-placing agency in the receiving



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10 1 state does not approve the proposed placement, then the child
10 2 shall not be placed. The receiving state shall provide
10 3 written documentation of any such determination in accordance
10 4 with the rules promulgated by the interstate commission. Such
10 5 determination is not subject to judicial review in the sending
10 6 state.

10 7 3. If the proposed placement is not approved, any
10 8 interested party shall have standing to seek an administrative
10 9 review of the receiving state's determination.

10 10 a. The administrative review and any further judicial
10 11 review associated with the determination shall be conducted in
10 12 the receiving state pursuant to its applicable administrative
10 13 procedures.

10 14 b. If a determination not to approve the placement of the
10 15 child in the receiving state is overturned upon review, the
10 16 placement shall be deemed approved, provided, however that all
10 17 administrative or judicial remedies have been exhausted or the
10 18 time for such remedies has passed.

10 19 ARTICLE VII == STATE RESPONSIBILITY

10 20 1. For the interstate placement of a child made by a
10 21 public child=placing agency or state court:

10 22 a. The public child=placing agency in the sending state
10 23 shall have financial responsibility for both of the following:

10 24 (1) The ongoing support and maintenance for the child
10 25 during the period of the placement, unless otherwise provided
10 26 for in the receiving state.

10 27 (2) As determined by the public child=placing agency in
10 28 the sending state, services for the child beyond the public
10 29 services for which the child is eligible in the receiving
10 30 state.

10 31 b. The receiving state shall only have financial
10 32 responsibility for both of the following:

10 33 (1) Any assessment conducted by the receiving state.

10 34 (2) Supervision conducted by the receiving state at the
10 35 level necessary to support the placement as agreed upon by the



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11 1 public child=placing agencies of the receiving and sending
11 2 states.
11 3 c. Nothing in this provision shall prohibit public
11 4 child=placing agencies in the sending state from entering into
11 5 agreements with licensed agencies or persons in the receiving
11 6 state to conduct assessments and provide supervision.
11 7 2. For the placement of a child by a private child=placing
11 8 agency preliminary to a possible adoption, the private
11 9 child=placing agency shall be:
11 10 a. Legally responsible for the child during the period of
11 11 placement as provided for in the law of the sending state
11 12 until the finalization of the adoption.
11 13 b. Financially responsible for the child absent a
11 14 contractual agreement to the contrary.
11 15 3. A private child=placing agency shall be responsible for
11 16 any assessment conducted in the receiving state and any
11 17 supervision conducted by the receiving state at the level
11 18 required by the laws of the receiving state or the rules of
11 19 the interstate commission.
11 20 4. The public child=placing agency in the receiving state
11 21 shall provide timely assessments, as provided for in the rules
11 22 of the interstate commission.
11 23 5. The public child=placing agency in the receiving state
11 24 shall provide, or arrange for the provision of, supervision
11 25 and services for the child, including timely reports, during
11 26 the period of the placement.
11 27 6. Nothing in this compact shall be construed as to limit
11 28 the authority of the public child=placing agency in the
11 29 receiving state from contracting with a licensed agency or
11 30 person in the receiving state for an assessment or the
11 31 provision of supervision or services for the child or
11 32 otherwise authorizing the provision of supervision or services
11 33 by a licensed agency during the period of placement.
11 34 7. Each member state shall provide for coordination among
11 35 its branches of government concerning the state's



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12 1 participation in, and compliance with, the compact and
12 2 interstate commission activities through the creation of an
12 3 advisory council or use of an existing body or board.

12 4 8. Each member state shall establish a central state
12 5 compact office, which shall be responsible for state
12 6 compliance with the compact and the rules of the interstate
12 7 commission.

12 8 9. The public child-placing agency in the sending state
12 9 shall oversee compliance with the provisions of the federal
12 10 Indian Child Welfare Act, as codified in 25 U.S.C. } 1901 et
12 11 seq., for placements subject to the provisions of this
12 12 compact, prior to placement.

12 13 10. With the consent of the interstate commission, states
12 14 may enter into limited agreements that facilitate the timely
12 15 assessment and provision of services and supervision of
12 16 placements under this compact.

12 17 ARTICLE VIII == INTERSTATE COMMISSION
12 18 FOR THE PLACEMENT OF CHILDREN

12 19 The member states establish, by way of this compact, a
12 20 commission known as the "Interstate Commission for the
12 21 Placement of Children". The activities of the interstate
12 22 commission are the formation of public policy and are a
12 23 discretionary state function. The interstate commission
12 24 shall:

12 25 1. Be a joint commission of the member states and shall
12 26 have the responsibilities, powers, and duties set forth in
12 27 this article, and such additional powers as may be conferred
12 28 upon it by subsequent concurrent action of the respective
12 29 legislatures of the member states.

12 30 2. Consist of one commissioner from each member state who
12 31 shall be appointed by the executive head of the state human
12 32 services administration with ultimate responsibility for the
12 33 child welfare program. The appointed commissioner shall have
12 34 the legal authority to vote on policy-related matters governed
12 35 by this compact binding the state.



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- 13 1 a. Each member state represented at a meeting of the
13 2 interstate commission is entitled to one vote.
- 13 3 b. A majority of the member states shall constitute a
13 4 quorum for the transaction of business, unless a larger quorum
13 5 is required by the bylaws of the interstate commission.
- 13 6 c. A representative shall not delegate a vote to another
13 7 member state.
- 13 8 d. A representative may delegate voting authority to
13 9 another person from their state for a specified meeting.
- 13 10 3. In addition to the commissioners of each member state,
13 11 the interstate commission shall include persons who are
13 12 members of interested organizations as defined in the bylaws
13 13 or rules of the interstate commission. Such members shall be
13 14 ex officio and shall not be entitled to vote on any matter
13 15 before the interstate commission.
- 13 16 4. Establish an executive committee which shall have the
13 17 authority to administer the day-to-day operations and
13 18 administration of the interstate commission. The executive
13 19 committee shall not have the power to engage in rulemaking.
- 13 20 ARTICLE IX == POWERS AND DUTIES OF THE
13 21 INTERSTATE COMMISSION
- 13 22 The interstate commission shall have the following powers:
- 13 23 1. To promulgate rules and take all necessary actions to
13 24 effect the goals, purposes, and obligations as enumerated in
13 25 this compact.
- 13 26 2. To provide for dispute resolution among member states.
- 13 27 3. To issue, upon request of a member state, advisory
13 28 opinions concerning the meaning or interpretation of the
13 29 interstate compact, its bylaws, rules, or actions.
- 13 30 4. To enforce compliance with this compact or the bylaws
13 31 or rules of the interstate commission pursuant to article XII.
- 13 32 5. Collect standardized data concerning the interstate
13 33 placement of children subject to this compact as directed
13 34 through its rules which shall specify the data to be
13 35 collected, the means of collection, and data exchange and



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- 14 1 reporting requirements.
- 14 2 6. To establish and maintain offices as may be necessary
- 14 3 for the transacting of its business.
- 14 4 7. To purchase and maintain insurance and bonds.
- 14 5 8. To hire or contract for services of personnel or
- 14 6 consultants as necessary to carry out its functions under the
- 14 7 compact, and establish personnel qualification policies and
- 14 8 rates of compensation.
- 14 9 9. To establish and appoint committees and officers
- 14 10 including, but not limited to, an executive committee as
- 14 11 required by article X.
- 14 12 10. To accept any and all donations and grants of money,
- 14 13 equipment, supplies, materials, and services, and to receive,
- 14 14 utilize, and dispose of the donations.
- 14 15 11. To lease, purchase, accept contributions or donations
- 14 16 of, or otherwise to own, hold, improve, or use any property,
- 14 17 real, personal, or mixed.
- 14 18 12. To sell, convey, mortgage, pledge, lease, exchange,
- 14 19 abandon, or otherwise dispose of any property, real, personal,
- 14 20 or mixed.
- 14 21 13. To establish a budget and make expenditures.
- 14 22 14. To adopt a seal and bylaws governing the management
- 14 23 and operation of the interstate commission.
- 14 24 15. To report annually to the legislatures, governors,
- 14 25 judiciary, and state advisory councils of the member states
- 14 26 concerning the activities of the interstate commission during
- 14 27 the preceding year. Such reports shall also include any
- 14 28 recommendations that may have been adopted by the interstate
- 14 29 commission.
- 14 30 16. To coordinate and provide education, training, and
- 14 31 public awareness regarding the interstate movement of children
- 14 32 for officials involved in such activity.
- 14 33 17. To maintain books and records in accordance with the
- 14 34 bylaws of the interstate commission.
- 14 35 18. To perform such functions as may be necessary or



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15 1 appropriate to achieve the purposes of this compact.
15 2 ARTICLE X == ORGANIZATION AND OPERATION
15 3 OF THE INTERSTATE COMMISSION
15 4 1. BYLAWS.
15 5 a. Within twelve months after the first interstate
15 6 commission meeting, the interstate commission shall adopt
15 7 bylaws to govern its conduct as may be necessary or
15 8 appropriate to carry out the purposes of the compact.
15 9 b. The interstate commission's bylaws and rules shall
15 10 establish conditions and procedures under which the interstate
15 11 commission shall make its information and official records
15 12 available to the public for inspection or copying. The
15 13 interstate commission may exempt from disclosure information
15 14 or official records to the extent they would adversely affect
15 15 personal privacy rights or proprietary interests.
15 16 2. MEETINGS.
15 17 a. The interstate commission shall meet at least once each
15 18 calendar year. The chairperson may call additional meetings
15 19 and, upon the request of a simple majority of the member
15 20 states, shall call additional meetings.
15 21 b. Public notice shall be given by the interstate
15 22 commission of all meetings and all meetings shall be open to
15 23 the public, except as set forth in the rules or as otherwise
15 24 provided in the compact. The interstate commission and its
15 25 committees may close a meeting, or portion of a meeting, where
15 26 it determines by two-thirds vote that an open meeting would be
15 27 likely to do any of the following:
15 28 (1) Relate solely to the interstate commission's internal
15 29 personnel practices and procedures.
15 30 (2) Disclose matters specifically exempted from disclosure
15 31 by federal law.
15 32 (3) Disclose financial or commercial information which is
15 33 privileged, proprietary, or confidential in nature.
15 34 (4) Involve accusing a person of a crime, or formally
15 35 censuring a person.



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16 1 (5) Disclose information of a personal nature where
16 2 disclosure would constitute a clearly unwarranted invasion of
16 3 personal privacy or physically endanger one or more persons.
16 4 (6) Disclose investigative records compiled for law
16 5 enforcement purposes.
16 6 (7) Specifically relate to the interstate commission's
16 7 participation in a civil action or other legal proceeding.
16 8 c. For a meeting, or portion of a meeting, closed pursuant
16 9 to this subsection, the interstate commission's legal counsel
16 10 or designee shall certify that the meeting may be closed and
16 11 shall reference each relevant exemption provision. The
16 12 interstate commission shall keep minutes which shall fully and
16 13 clearly describe all matters discussed in a meeting and shall
16 14 provide a full and accurate summary of actions taken, and the
16 15 reasons for the actions, including a description of the views
16 16 expressed and the record of a roll call vote. All documents
16 17 considered in connection with an action shall be identified in
16 18 such minutes. All minutes and documents of a closed meeting
16 19 shall remain under seal, subject to release by a majority vote
16 20 of the interstate commission or by court order.
16 21 d. The bylaws may provide for meetings of the interstate
16 22 commission to be conducted by telecommunication or other
16 23 electronic communication.
16 24 3. OFFICERS AND STAFF.
16 25 a. The interstate commission may, through its executive
16 26 committee, appoint or retain a staff director for such period,
16 27 upon such terms and conditions and for such compensation as
16 28 the interstate commission may deem appropriate. The staff
16 29 director shall serve as secretary to the interstate
16 30 commission, but shall not have a vote. The staff director may
16 31 hire and supervise such other staff as may be authorized by
16 32 the interstate commission.
16 33 b. The interstate commission shall elect, from among its
16 34 members, a chairperson and a vice chairperson of the executive
16 35 committee and other necessary officers, each of whom shall



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17 1 have such authority and duties as may be specified in the
17 2 bylaws.
17 3 4. QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.
17 4 a. The interstate commission's staff director and its
17 5 employees shall be immune from suit and liability, either
17 6 personally or in their official capacity, for a claim for
17 7 damage to or loss of property or personal injury or other
17 8 civil liability caused or arising out of or relating to an
17 9 actual or alleged act, error, or omission that occurred, or
17 10 that such person had a reasonable basis for believing
17 11 occurred, within the scope of interstate commission
17 12 employment, duties, or responsibilities; provided, that such
17 13 person shall not be protected from suit or liability for
17 14 damage, loss, injury, or liability caused by a criminal act or
17 15 the intentional or willful and wanton misconduct of such
17 16 person.
17 17 b. The liability of the interstate commission's staff
17 18 director and employees or interstate commission
17 19 representatives, acting within the scope of such person's
17 20 employment or duties for acts, errors, or omissions occurring
17 21 within such person's state may not exceed the limits of
17 22 liability set forth under the constitution and laws of that
17 23 state for state officials, employees, and agents. The
17 24 interstate commission is considered to be an instrumentality
17 25 of the states for the purposes of any such action. Nothing in
17 26 this paragraph shall be construed to protect such person from
17 27 suit or liability for damage, loss, injury, or liability
17 28 caused by a criminal act or the intentional or willful and
17 29 wanton misconduct of such person.
17 30 c. The interstate commission shall defend the staff
17 31 director and its employees and, subject to the approval of the
17 32 attorney general or other appropriate legal counsel of the
17 33 member state, shall defend the commissioner of a member state
17 34 in a civil action seeking to impose liability arising out of
17 35 an actual or alleged act, error, or omission that occurred



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18 1 within the scope of interstate commission employment, duties,
18 2 or responsibilities, or that the defendant had a reasonable
18 3 basis for believing occurred within the scope of interstate
18 4 commission employment, duties, or responsibilities, provided
18 5 that the actual or alleged act, error, or omission did not
18 6 result from intentional or willful and wanton misconduct on
18 7 the part of such person.

18 8 d. To the extent not covered by the state involved, member
18 9 state, or the interstate commission, the representatives or
18 10 employees of the interstate commission shall be held harmless
18 11 in the amount of a settlement or judgment, including
18 12 attorney's fees and costs, obtained against such persons
18 13 arising out of an actual or alleged act, error, or omission
18 14 that occurred within the scope of interstate commission
18 15 employment, duties, or responsibilities, or that such persons
18 16 had a reasonable basis for believing occurred within the scope
18 17 of interstate commission employment, duties, or
18 18 responsibilities, provided that the actual or alleged act,
18 19 error, or omission did not result from intentional or willful
18 20 and wanton misconduct on the part of such persons.

18 21 ARTICLE XI == RULEMAKING FUNCTIONS OF THE
18 22 INTERSTATE COMMISSION

18 23 1. The interstate commission shall promulgate and publish
18 24 rules in order to effectively and efficiently achieve the
18 25 purposes of the compact.

18 26 2. Rulemaking shall occur pursuant to the criteria set
18 27 forth in this article and the bylaws and rules adopted
18 28 pursuant to the criteria. Such rulemaking shall substantially
18 29 conform to the principles of the "Model State Administrative
18 30 Procedures Act," 1981 Act, uniform laws annotated, vol. 15,
18 31 p.1 (2000), or such other administrative procedure acts as the
18 32 interstate commission deems appropriate consistent with due
18 33 process requirements under the United States Constitution as
18 34 now or hereafter interpreted by the United States supreme
18 35 court. All rules and amendments shall become binding as of
19 1 the date specified, as published with the final version of the
19 2 rule as approved by the interstate commission.

19 3 3. When promulgating a rule, the interstate commission
19 4 shall, at a minimum, do all of the following:

19 5 a. Publish the proposed rule's entire text stating the
19 6 reason(s) for that proposed rule.

19 7 b. Allow and invite any and all persons to submit written
19 8 data, facts, opinions, and arguments, which information shall
19 9 be added to the record, and be made publicly available.

19 10 c. Promulgate a final rule and its effective date, if
19 11 appropriate, based on input from state or local officials, or
19 12 interested parties.

19 13 4. Rules promulgated by the interstate commission shall
19 14 have the force and effect of statutory law and shall supersede
19 15 any state law, rule, or regulation to the extent of any
19 16 conflict.

19 17 5. Not later than sixty days after a rule is promulgated,
19 18 an interested person may file a petition in the United States
19 19 district court for the District of Columbia or in the United
19 20 States district court where the interstate commission's
19 21 principal office is located for judicial review of such rule.



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19 22 If the court finds that the interstate commission's action is
19 23 not supported by substantial evidence in the rulemaking
19 24 record, the court shall hold the rule unlawful and set it
19 25 aside.

19 26 6. If a majority of the legislatures of the member states
19 27 rejects a rule, those states may by enactment of a statute or
19 28 resolution in the same manner used to adopt the compact cause
19 29 that such rule shall have no further force and effect in any
19 30 member state.

19 31 7. The existing rules governing the operation of the
19 32 interstate compact on the placement of children superseded by
19 33 this act shall be null and void no less than twelve, but no
19 34 more than twenty-four, months after the first meeting of the
19 35 interstate commission created pursuant to this compact, as



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20 1 determined by the members during the first meeting.
20 2 8. Within the first twelve months of operation, the
20 3 interstate commission shall promulgate rules addressing the
20 4 following:
20 5 a. Transition rules.
20 6 b. Forms and procedures.
20 7 c. Timelines.
20 8 d. Data collection and reporting.
20 9 e. Rulemaking.
20 10 f. Visitation.
20 11 g. Progress reports and supervision.
20 12 h. Sharing of information and confidentiality.
20 13 i. Financing of the interstate commission.
20 14 j. Mediation, arbitration, and dispute resolution.
20 15 k. Education, training, and technical assistance.
20 16 l. Enforcement.
20 17 m. Coordination with other interstate compacts.
20 18 9. Upon determination by a majority of the members of the
20 19 interstate commission that an emergency exists:
20 20 a. The interstate commission may promulgate an emergency
20 21 rule only if it is required to any of the following:
20 22 (1) Protect the children covered by this compact from an
20 23 imminent threat to the children's health, safety, and
20 24 well-being.
20 25 (2) Prevent loss of federal or state funds.
20 26 (3) Meet a deadline for the promulgation of an
20 27 administrative rule required by federal law.
20 28 b. An emergency rule shall become effective immediately
20 29 upon adoption, provided that the usual rulemaking procedures
20 30 provided in this compact shall be retroactively applied to the
20 31 rule as soon as reasonably possible, but no later than ninety
20 32 days after the effective date of the emergency rule.
20 33 c. An emergency rule shall be promulgated as provided for
20 34 in the rules of the interstate commission.
20 35 ARTICLE XII == OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT



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21 1 1. OVERSIGHT.

21 2 a. The interstate commission shall oversee the
21 3 administration and operation of the compact.

21 4 b. The executive, legislative, and judicial branches of
21 5 state government in each member state shall enforce this
21 6 compact and the rules of the interstate commission and shall
21 7 take all actions necessary and appropriate to effectuate the
21 8 compact's purposes and intent. The compact and its rules
21 9 shall supersede state law, rules, or regulations to the extent
21 10 of any conflict with the state law, rules, or regulations.

21 11 c. All courts shall take judicial notice of the compact
21 12 and the rules in any judicial or administrative proceeding in
21 13 a member state pertaining to the subject matter of this
21 14 compact.

21 15 d. The interstate commission shall be entitled to receive
21 16 service of process in any action in which the validity of a
21 17 compact provision or rule is the issue for which a judicial
21 18 determination has been sought and shall have standing to
21 19 intervene in any proceedings. Failure to provide service of
21 20 process to the interstate commission shall render any
21 21 judgment, order, or other determination, however so captioned
21 22 or classified, void as to the interstate commission, this
21 23 compact, its bylaws, or rules of the interstate commission.

21 24 2. DISPUTE RESOLUTION.

21 25 a. The interstate commission shall attempt, upon the
21 26 request of a member state, to resolve disputes which are
21 27 subject to the compact and which may arise among member states
21 28 and between member and nonmember states.

21 29 b. The interstate commission shall promulgate a rule
21 30 providing for both mediation and binding dispute resolution
21 31 for disputes among compacting states. The costs of such
21 32 mediation or dispute resolution shall be the responsibility of
21 33 the parties to the dispute.

21 34 3. ENFORCEMENT. If the interstate commission determines
21 35 that a member state has defaulted in the performance of its



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22 1 obligations or responsibilities under this compact, or its
22 2 bylaws or rules, the interstate commission may do any of the
22 3 following:
22 4 a. Provide remedial training and specific technical
22 5 assistance.
22 6 b. Provide written notice to the defaulting state and
22 7 other member states of the nature of the default and the means
22 8 of curing the default. The interstate commission shall
22 9 specify the conditions by which the defaulting state must cure
22 10 its default.
22 11 c. By majority vote of the members, initiate against a
22 12 defaulting member state legal action in the United States
22 13 district court for the District of Columbia or, at the
22 14 discretion of the interstate commission, in the United States
22 15 district where the interstate commission has its principal
22 16 office, to enforce compliance with the provisions of the
22 17 compact, its bylaws, or rules. The relief sought may include
22 18 both injunctive relief and damages. In the event judicial
22 19 enforcement is necessary the prevailing party shall be awarded
22 20 all costs of such litigation including reasonable attorney's
22 21 fees.
22 22 d. Avail itself of any other remedies available under
22 23 state law or the regulation of official or professional
22 24 conduct.
22 25 ARTICLE XIII == FINANCING OF THE COMMISSION
22 26 1. The interstate commission shall pay or provide for the
22 27 payment of the reasonable expenses of its establishment,
22 28 organization, and ongoing activities.
22 29 2. The interstate commission may levy on and collect an
22 30 annual assessment from each member state to cover the cost of
22 31 the operations and activities of the interstate commission and
22 32 its staff which must be in a total amount sufficient to cover
22 33 the interstate commission's annual budget as approved by its
22 34 members each year. The aggregate annual assessment amount
22 35 shall be allocated based upon a formula to be determined by



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23 1 the interstate commission which shall promulgate a rule
23 2 binding upon all member states.
23 3 3. The interstate commission shall not incur obligations
23 4 of any kind prior to securing the funds adequate to meet the
23 5 same; nor shall the interstate commission pledge the credit of
23 6 any of the member states, except by and with the authority of
23 7 the member state.

23 8 4. The interstate commission shall keep accurate accounts
23 9 of all receipts and disbursements. The receipts and
23 10 disbursements of the interstate commission shall be subject to
23 11 the audit and accounting procedures established under its
23 12 bylaws. However, all receipts and disbursements of funds
23 13 handled by the interstate commission shall be audited yearly
23 14 by a certified or licensed public accountant and the report of
23 15 the audit shall be included in and become part of the annual
23 16 report of the interstate commission.

23 17 ARTICLE XIV == MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

23 18 1. Any state is eligible to become a member state.

23 19 2. The compact shall become effective and binding upon
23 20 legislative enactment of the compact into law by no less than
23 21 thirty=five states. The effective date shall be the later of
23 22 July 1, 2007, or upon enactment of the compact into law by the
23 23 thirty=fifth state. Thereafter it shall become effective and
23 24 binding as to any other member state upon enactment of the
23 25 compact into law by that state. The executive heads of the
23 26 state human services administration with ultimate
23 27 responsibility for the child welfare program of nonmember
23 28 states or their designees shall be invited to participate in
23 29 the activities of the interstate commission on a nonvoting
23 30 basis prior to adoption of the compact by all states.

23 31 3. The interstate commission may propose amendments to the
23 32 compact for enactment by the member states. No amendment
23 33 shall become effective and binding on the member states unless
23 34 and until it is enacted into law by unanimous consent of the
23 35 member states.



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24 1 ARTICLE XV == WITHDRAWAL AND DISSOLUTION
24 2 1. WITHDRAWAL.
24 3 a. Once effective, the compact shall continue in force and
24 4 remain binding upon each and every member state, provided that
24 5 a member state may withdraw from the compact by specifically
24 6 repealing the statute which enacted the compact into law.
24 7 b. Withdrawal from this compact shall be by the enactment
24 8 of a statute repealing the same. The effective date of
24 9 withdrawal shall be the effective date of the repeal of the
24 10 statute.
24 11 c. The withdrawing state shall immediately notify the
24 12 president of the interstate commission in writing upon the
24 13 introduction of legislation repealing this compact in the
24 14 withdrawing state. The interstate commission shall then
24 15 notify the other member states of the withdrawing state's
24 16 intent to withdraw.
24 17 d. The withdrawing state is responsible for all
24 18 assessments, obligations, and liabilities incurred through the
24 19 effective date of withdrawal.
24 20 e. Reinstatement following withdrawal of a member state
24 21 shall occur upon the withdrawing state reenacting the compact
24 22 or upon such later date as determined by the members of the
24 23 interstate commission.
24 24 2. DISSOLUTION OF COMPACT.
24 25 a. This compact shall dissolve effective upon the date of
24 26 the withdrawal or default of the member state which reduces
24 27 the membership in the compact to one member state.
24 28 b. Upon the dissolution of this compact, the compact
24 29 becomes null and void and shall be of no further force or
24 30 effect, and the business and affairs of the interstate
24 31 commission shall be concluded and surplus funds shall be
24 32 distributed in accordance with the bylaws.
24 33 ARTICLE XVI == SEVERABILITY AND CONSTRUCTION
24 34 1. The provisions of this compact shall be severable, and
24 35 if any phrase, clause, sentence, or provision is deemed



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25 1 unenforceable, the remaining provisions of the compact shall
25 2 be enforceable.

25 3 2. The provisions of this compact shall be liberally
25 4 construed to effectuate its purposes.

25 5 3. Nothing in this compact shall be construed to prohibit
25 6 the concurrent applicability of other interstate compacts to
25 7 which the states are members.

25 8 ARTICLE XVII == BINDING EFFECT OF COMPACT AND OTHER LAWS

25 9 1. OTHER LAWS.

25 10 a. Nothing in this compact prevents the enforcement of any
25 11 other law of a member state that is not inconsistent with this
25 12 compact.

25 13 b. All member states' laws conflicting with this compact
25 14 or its rules are superseded to the extent of the conflict.

25 15 2. BINDING EFFECT OF THE COMPACT.

25 16 a. All lawful actions of the interstate commission,
25 17 including all rules and bylaws promulgated by the interstate
25 18 commission, are binding upon the member states.

25 19 b. All agreements between the interstate commission and
25 20 the member states are binding in accordance with their terms.

25 21 c. In the event any provision of this compact exceeds the
25 22 constitutional limits imposed on the legislature of any member
25 23 state, such provision shall be ineffective to the extent of
25 24 the conflict with the constitutional provision in question in
25 25 that member state.

25 26 ARTICLE XVIII == INDIAN TRIBES

25 27 Notwithstanding any other provision in this compact, the
25 28 interstate commission may promulgate guidelines to permit
25 29 Indian tribes to utilize the compact to achieve any or all of
25 30 the purposes of the compact as specified in article I. The
25 31 interstate commission shall make reasonable efforts to consult
25 32 with Indian tribes in promulgating guidelines to reflect the
25 33 diverse circumstances of the various Indian tribes.

25 34 DIVISION II

25 35 CONFORMING AMENDMENTS



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26 1 Sec. 2. Section 232.158A, subsection 1, unnumbered
26 2 paragraph 1, Code 2007, is amended to read as follows:

26 3 Notwithstanding any provision of the interstate compact ~~on~~
26 4 for the placement of children in section 232.169 to the
26 5 contrary, the department of human services shall permit the
26 6 legal risk placement of a child under the interstate compact
26 7 ~~on~~ for the placement of children if the prospective adoptive
26 8 parent provides a legal risk statement, in writing,
26 9 acknowledging all of the following:

26 10 Sec. 3. Section 232.159, Code 2007, is amended to read as
26 11 follows:

26 12 232.159 FINANCIAL RESPONSIBILITY.

26 13 Financial responsibility for any child placed pursuant to
26 14 the provisions of the interstate compact ~~on~~ for the placement
26 15 of children in section 232.169 shall be determined in
26 16 accordance with the provisions of article ~~V thereof~~ VII of the
26 17 compact in the first instance. However, in the event of
26 18 partial or complete default of performance thereunder under
26 19 the compact, the provisions of chapters 252 and 252A, fixing
26 20 responsibility for the support of children, also may be
26 21 invoked.

26 22 Sec. 4. Section 232.160, Code 2007, is amended to read as
26 23 follows:

26 24 232.160 DEPARTMENT OF HUMAN SERVICES AS PUBLIC ~~AUTHORITY~~
26 25 CHILD-PLACING AGENCY.

26 26 The term ~~"appropriate public authorities"~~ "public
26 27 child-placing agency" as ~~used~~ defined in article ~~III~~ II of the
26 28 interstate compact ~~on~~ for the placement of children in section
26 29 232.169 shall, with reference to this state, mean the state
26 30 department of human services and ~~said~~ the department shall
26 31 ~~receive and act with reference to notices~~ fulfill the duties
26 32 of the public child-placing agency for this state as required
26 33 by said article III the compact.

26 34 Sec. 5. Section 232.162, Code 2007, is amended to read as
26 35 follows:



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27 1 232.162 AUTHORITY TO ENTER AGREEMENTS.
27 2 The officers and agencies of this state and its political
27 3 subdivisions having authority to place children may enter into
27 4 agreements with appropriate officers or agencies of or in
27 5 other party states pursuant to ~~paragraph "b"~~ of article V VII
27 6 of the interstate compact ~~on~~ for the placement of children in
27 7 section 232.169. Any such agreement which contains a
27 8 financial commitment or imposes a financial obligation on this
27 9 state or a political subdivision or agency of this state shall
27 10 not be binding unless it has the approval in writing of the
27 11 administrator of child and family services in the case of the
27 12 state and the county general assistance director in the case
27 13 of a political subdivision of the state.
27 14 Sec. 6. Section 232.163, Code 2007, is amended to read as
27 15 follows:
27 16 232.163 VISITATION, INSPECTION, OR SUPERVISION.
27 17 1. Any requirements for visitation, inspection, or
27 18 supervision of children, homes, institutions, or other
27 19 agencies in another party state which may apply under the
27 20 provisions of this chapter shall be deemed to be met if
27 21 performed pursuant to an agreement entered into by appropriate
27 22 officers or agencies of this state or a political subdivision
27 23 of this state as contemplated by ~~paragraph "b"~~ of article V
27 24 VII of the interstate compact ~~on~~ for the placement of children
27 25 in section 232.169.
27 26 2. If a child is placed outside the residency state of the
27 27 child's parent, the sending child-placing agency shall provide
27 28 for a designee to visit the child at least once every ~~twelve~~
27 29 six months and to submit a written report to the court
27 30 concerning the child and the visit.
27 31 Sec. 7. Section 232.164, Code 2007, is amended to read as
27 32 follows:
27 33 232.164 COURT AUTHORITY TO PLACE CHILD IN ANOTHER STATE.
27 34 Any court having jurisdiction to place delinquent children
27 35 may place such a child in an institution of or in another



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28 1 state pursuant to article ~~VI~~ VII of the interstate compact ~~on~~
 28 2 for the placement of children in section 232.169 and shall
 28 3 retain jurisdiction as provided in article ~~V thereof~~ IV of the
 28 4 compact.

28 5 Sec. 8. Section 232.166, Code 2007, is amended to read as
 28 6 follows:

28 7 232.166 STATUTES NOT AFFECTED.

28 8 Nothing contained in ~~sections 232.158 to 232.165~~ the
 28 9 interstate compact for the placement of children in section
 28 10 232.169 or any other section of this division shall be deemed
 28 11 to affect or modify the other provisions of this chapter or of
 28 12 chapter 600.

28 13 Sec. 9. Section 232.167, Code 2007, is amended to read as
 28 14 follows:

28 15 232.167 PENALTY.

28 16 A person or agency which violates or aids and abets in the
 28 17 violation of any of the provisions of ~~sections 232.158 through~~
 28 18 ~~232.166~~ this division commits a fraudulent practice.

28 19 Sec. 10. Section 232.168, Code 2007, is amended to read as
 28 20 follows:

28 21 232.168 ATTORNEY GENERAL TO ENFORCE.

28 22 The attorney general may, on the attorney general's own
 28 23 initiative, institute any criminal and civil actions and
 28 24 proceedings under the interstate compact for the placement of
 28 25 children in section 232.169 or any other section of this
 28 26 division, at whatever stage of placement necessary, to enforce
 28 27 the interstate compact ~~on the placement of children,~~
 28 28 including, but not limited to, seeking enforcement of the
 28 29 provisions of the compact through the courts of a party state.
 28 30 The department of human services shall cooperate with the
 28 31 attorney general and shall refer any placement or proposed
 28 32 placement to the attorney general which may require
 28 33 enforcement measures.

28 34 Sec. 11. Section 600.8, subsection 10, Code 2007, is
 28 35 amended to read as follows:

29 1 10. The department or an agency or investigator may
 29 2 conduct any investigations required for an interstate or
 29 3 interagency placement. Any interstate investigations or
 29 4 placements shall follow the procedures and regulations under
 29 5 the interstate compact ~~on~~ for the placement of children in
 29 6 section 232.169. Such investigations and placements shall be
 29 7 in compliance with the laws of the states involved.

29 8 Sec. 12. Sections 232.158, 232.161, and 232.165, Code
 29 9 2007, are repealed.

DIVISION III

CONTINGENT EFFECTIVE DATE

29 12 Sec. 13. EFFECTIVE DATE == PREVIOUS COMPACT.

29 13 1. This Act takes effect upon the date specified under the
 29 14 conditions provided in section 232.169, article XIV,
 29 15 subsection 2, as enacted by this Act, and upon the Code
 29 16 editor's receipt of written notice provided by the department
 29 17 of human services that the conditions have been met.

29 18 2. The rights, duties, and obligations under the
 29 19 interstate compact on the interstate placement of children
 29 20 under section 232.158, as repealed by this Act, of any sending
 29 21 agency under the compact with respect to a placement made



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29 22 prior to the effective date of this Act shall remain in effect
29 23 unless expired or otherwise modified in accordance with the
29 24 terms of the rights, duties, and obligations, as provided in
29 25 the compact.

29 26 EXPLANATION

29 27 This bill replaces the interstate compact on the interstate
29 28 placement of children with the interstate compact for the
29 29 interstate placement of children in Code chapter 232. The
29 30 bill is organized into divisions.

29 31 REPLACEMENT COMPACT. An interstate compact is an agreement
29 32 between two or more states that binds the states to the
29 33 compact's provisions, similar to a contract. A compact is
29 34 enacted as law in each state in substantially the same form.
29 35 The terms of the compact are binding, even if the terms are



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30 1 inconsistent with other state laws. Iowa entered into the
30 2 current interstate compact on the interstate placement of
30 3 children in 1967.

30 4 The current compact provides a legal and administrative
30 5 means to permit child placement activities to be pursued
30 6 throughout the nation in much the same way, and with the same
30 7 safeguards and services, as though they were being conducted
30 8 in a single state. The compact requires notice and proof of
30 9 the suitability of a placement before it is made, allocates
30 10 specific legal and administrative responsibilities during the
30 11 continuance of an interstate placement, provides a basis for
30 12 enforcement of rights, and authorizes joint actions in all
30 13 party states to improve operations and services. Iowa's
30 14 current compact on interstate placement of children is
30 15 codified in Code section 232.158.

30 16 The bill replaces the current compact with the interstate
30 17 compact for the placement of children in new Code section
30 18 232.169. The new compact is organized into articles
30 19 addressing the purpose; definitions; applicability; court
30 20 jurisdiction; assessment of the child; placement authority;
30 21 creation of the interstate commission for the placement of
30 22 children to administer the compact; powers and duties of the
30 23 interstate commission; organization and operation of the
30 24 interstate commission; rulemaking functions of the interstate
30 25 commission; oversight, dispute resolution, and enforcement;
30 26 commission financing; member states, effective date, and
30 27 amendment; withdrawal and dissolution; severability and
30 28 construction; binding effect of the compact and other laws;
30 29 and Indian tribes.

30 30 The terms of the compact provide the compact becomes
30 31 initially effective and binding upon enactment of the compact
30 32 into law by at least 35 states. Additional requirements are
30 33 included in the effective date division of the bill.

30 34 CONFORMING AMENDMENTS. This division makes conforming
30 35 amendments to various Code provisions that reference the



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31 1 existing compact. Most of the provisions amended are included
31 2 in Code chapter 232, division IX, which relates to the current
31 3 compact. The conforming amendments apply existing Iowa-only
31 4 requirements of the current compact to the new compact in Code
31 5 section 232.158A, relating to legal risk placements of
31 6 children, Code section 232.159, relating to financial
31 7 responsibility for the cost of a placement, Code section
31 8 232.162, relating to the authority of state and county
31 9 officers to enter into agreements, Code section 232.164,
31 10 relating to court authority to place a child in another state,
31 11 and Code section 232.166, relating to the effect of the
31 12 compact on other statutes.
31 13 Code section 232.160, relating to designation of Iowa's
31 14 department of human services as the public authority under the
31 15 current compact, is amended to define the department as the
31 16 "public child-placing agency" under the new compact.
31 17 Code section 232.163, relating to visitation, inspection,
31 18 or supervision of children or placement providers, is amended
31 19 to apply terminology changes for the new compact and to
31 20 require a visit to a child placed out-of-state at least every
31 21 six months rather than the current 12 months.
31 22 Code section 232.167, which provides a fraudulent practice
31 23 penalty to a person or agency which violates or aids and abets
31 24 in the violation of any of the provisions of Code chapter 232,
31 25 division IX, is also amended to apply to the new compact. The
31 26 fraudulent practice penalties vary according to the monetary
31 27 value of the property or services involved in the crime,
31 28 ranging from a simple misdemeanor when the value is \$200 or
31 29 less to a class "C" felony when the value exceeds \$10,000.
31 30 Code section 232.168, which authorizes the attorney general
31 31 to institute actions to enforce the current compact, is
31 32 amended to instead refer to the new compact.
31 33 Code sections 232.158, 232.161, and 232.165 are repealed.
31 34 Code section 232.158 is the current compact. Code sections
31 35 232.161 and 232.165 relate to terms used in the current



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32 1 compact that would no longer apply under the new compact.
32 2 EFFECTIVE DATE. This division provides that the bill takes
32 3 effect upon the contingent effective date contained in the
32 4 compact, that is, when the compact is enacted by at least 35
32 5 states and the department of human services provides written
32 6 notification to the Code editor.
32 7 The bill also provides that the rights, duties, and
32 8 obligations under the current compact of any sending agency
32 9 under the compact with respect to a placement made prior to
32 10 the effective date of the bill remain in effect unless expired
32 11 or otherwise modified in accordance with the terms of the
32 12 rights, duties, and obligations, as provided in the compact.
32 13 LSB 1244DP 82
32 14 jp:nh/je/5



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House Study Bill 144

SENATE/HOUSE FILE
BY (PROPOSED DEPARTMENT OF
PUBLIC HEALTH BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved

A BILL FOR

- 1 An Act relating to acquired immune deficiency syndrome and the
- 2 human immunodeficiency virus.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1212XD 82
- 5 pf/es/88



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1 1 Section 1. Section 141A.1, subsections 2, 8, and 11, Code
1 2 2007, are amended to read as follows:
1 3 2. "AIDS-related conditions" means ~~the human~~
~~1 4 immunodeficiency virus, or any other~~ condition resulting from
1 5 the human immunodeficiency virus infection that meets the
1 6 definition of AIDS as established by the centers for disease
1 7 control and prevention of the United States department of
1 8 health and human services.
1 9 8. "Health care provider" means a person licensed ~~or~~
~~1 10 certified under chapter 148, 148C, 150, 150A, 152, or 153 to~~
~~1 11 provide professional health care service to a person during~~
~~1 12 the person's medical care, treatment, or confinement to~~
1 13 practice medicine and surgery, osteopathic medicine and
1 14 surgery, osteopathy, chiropractic, podiatry, nursing,
1 15 dentistry, or optometry, or as a physician assistant, dental
1 16 hygienist, or acupuncturist.
1 17 11. "HIV-related test" means a diagnostic test conducted
1 18 by a laboratory approved pursuant to the federal Clinical
1 19 Laboratory ~~Improvements Act~~ Improvement Amendments for
1 20 determining the presence of HIV or antibodies to HIV.
1 21 Sec. 2. Section 141A.1, Code 2007, is amended by adding
1 22 the following new subsection:
1 23 NEW SUBSECTION. 10A. "HIV-related condition" means any
1 24 condition resulting from the human immunodeficiency virus
1 25 infection.
1 26 Sec. 3. Section 141A.2, subsections 1, 4, and 6, Code
1 27 2007, are amended to read as follows:
1 28 1. The department is designated as the lead agency in the
1 29 coordination and implementation of the state Iowa
1 30 comprehensive AIDS-related conditions prevention and
~~1 31 intervention HIV plan.~~
1 32 4. The department, ~~in cooperation with the department of~~
~~1 33 public safety, and persons who represent those who attend dead~~
~~1 34 bodies shall establish for~~ provide consultation services to
1 35 all care providers, including paramedics, ambulance personnel,



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2 1 physicians, nurses, hospital personnel, first responders,
2 2 peace officers, and fire fighters, who provide care services
2 3 to a person, and ~~for~~ to all persons who attend dead bodies,
~~2 4 protocol and procedures for the use of universal precautions~~
2 5 regarding standard precautions to prevent the transmission of
2 6 contagious and infectious diseases.

2 7 6. The department, with the approval of the state board of
2 8 health, may conduct epidemiological blinded and nonblinded
2 9 studies to determine the incidence and prevalence of ~~the~~ HIV
2 10 infection. Initiation of any new epidemiological studies
2 11 shall be contingent upon the receipt of funding sufficient to
2 12 cover all the costs associated with the studies. The informed
2 13 consent, reporting, and counseling requirements of this
2 14 chapter shall not apply to blinded studies.

2 15 Sec. 4. Section 141A.3, Code 2007, is amended to read as
2 16 follows:

2 17 141A.3 DUTIES OF THE DEPARTMENT.

2 18 1. All federal and state moneys appropriated to the
2 19 department for ~~AIDS-related~~ HIV-related activities shall be
2 20 ~~allocated in accordance with a prioritized schedule developed~~
~~2 21 by rule of the department, and grants shall be awarded to the~~
~~2 22 maximum extent feasible to community-based organizations~~
2 23 utilized and distributed in a manner consistent with the
2 24 guidelines established by the United States department of
2 25 health and human services.

2 26 2. The department shall do all of the following:

2 27 a. Provide consultation services to agencies and
2 28 organizations regarding appropriate policies for testing,
2 29 education, confidentiality, and infection control.

2 30 b. ~~Conduct~~ Provide health information ~~programs for~~ to the
2 31 public ~~relating to~~ regarding HIV infection, including
2 32 information about how the infection is transmitted and how
2 33 transmittal can be prevented. The department shall ~~prepare,~~
~~2 34 for free distribution, printed and distribute~~ information
2 35 ~~relating to~~ regarding HIV infection and prevention.



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3 1 c. Provide ~~educational programs~~ consultation services
3 2 concerning HIV infection in the workplace.
3 3 d. ~~Develop and implement~~ Implement HIV education
3 4 risk-reduction programs for specific populations at high risk
3 5 for infection.
3 6 e. Provide an informational brochure for patients who
3 7 provide samples for purposes of performing an HIV test which,
3 8 at a minimum, shall include a summary of the patient's rights
3 9 and responsibilities under the law.
3 10 f. In cooperation with the department of education,
3 11 ~~develop and update a medically correct AIDS recommend~~
3 12 evidence-based, medically accurate HIV prevention curriculum
3 13 curricula for use at the discretion of secondary and middle
3 14 schools.
3 15 ~~3. The department shall, in cooperation with the~~
~~3 16 department of education and other agencies, organizations,~~
~~3 17 coalitions, and local health departments, develop and~~
~~3 18 implement a program of public and professional AIDS-related~~
~~3 19 education.~~
3 20 Sec. 5. Section 141A.4, Code 2007, is amended to read as
3 21 follows:
3 22 141A.4 TESTING AND COUNSELING EDUCATION.
3 23 1. HIV testing and ~~counseling~~ education shall be offered
3 24 to persons who are at risk for HIV infection including all of
3 25 the following:
3 26 a. All persons ~~seeking treatment~~ testing positive for a
3 27 sexually transmitted disease.
3 28 b. All persons ~~seeking treatment for injecting drug abuse~~
~~3 29 or~~ having a history of injecting drug abuse.
3 30 ~~e. All persons who consider themselves at risk for the HIV~~
~~3 31 infection.~~
3 32 ~~d. c.~~ Male and female prostitutes sex workers and those
3 33 who trade sex for drugs, money, or favors.
3 34 d. Sexual partners of HIV-infected persons.
3 35 e. Persons whose sexual partners are identified in



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4 1 paragraphs "a" through "d".

4 2 2. a. ~~Pregnant women shall be provided information All~~

4 3 ~~pregnant women shall be tested for HIV infection as part of~~

4 4 ~~the routine panel of prenatal tests.~~

4 5 b. A pregnant woman shall be notified that HIV screening

4 6 is recommended for all prenatal patients and that the pregnant

4 7 woman will receive an HIV test as part of the routine panel of

4 8 prenatal tests unless the pregnant woman objects to the test.

4 9 c. If a pregnant woman objects to and declines the test,

4 10 the decision shall be documented in the pregnant woman's

4 11 medical record.

4 12 d. Information about HIV prevention, risk reduction, and

4 13 treatment opportunities to reduce the possible transmission of

4 14 HIV to a fetus shall be made available to all pregnant women.

4 15 ~~Pregnant women who report one or more recognized risk factors~~

4 16 ~~for HIV shall be strongly encouraged to undergo HIV-related~~

4 17 ~~testing. A pregnant woman who requests testing shall be~~

4 18 ~~tested regardless of the absence of risk factors.~~

4 19 Sec. 6. Section 141A.5, Code 2007, is amended to read as

4 20 follows:

4 21 141A.5 PARTNER NOTIFICATION PROGRAM == HIV.

4 22 1. The department shall maintain a partner notification

4 23 program for persons known to have tested positive for the HIV

4 24 infection.

4 25 2. ~~The department shall initiate the program at~~

4 26 ~~alternative testing and counseling sites and at sexually~~

4 27 ~~transmitted disease clinics.~~

4 28 ~~3-~~ 2. In administering the program, the department shall

4 29 provide for the following:

4 30 a. A person who tests positive for the HIV infection shall

4 31 receive posttest counseling, during which time the person

4 32 shall be encouraged to refer for counseling and HIV testing

4 33 any person with whom the person has had sexual relations or

4 34 has shared drug injecting equipment.

4 35 b. The physician or other health care provider attending



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5 1 the person may provide to the department any relevant
5 2 information provided by the person regarding any person with
5 3 whom the tested person has had sexual relations or has shared
5 4 drug injecting equipment. ~~The department disease prevention~~
~~5 5 staff shall then conduct partner notification in the same~~
~~5 6 manner as that utilized for sexually transmitted diseases~~
~~5 7 consistent with the provisions of this chapter.~~

5 8 c. Devise a procedure, as a part of the partner
5 9 notification program, to provide for the notification of an
5 10 identifiable third party who is a sexual partner of or who
5 11 shares drug injecting equipment with a person who has tested
5 12 positive for HIV, by the department or a physician, when all
5 13 of the following situations exist:

5 14 (1) A physician for the infected person is of the good
5 15 faith opinion that the nature of the continuing contact poses
5 16 an imminent danger of HIV infection transmission to the third
5 17 party.

5 18 (2) When the physician believes in good faith that the
5 19 infected person, despite strong encouragement, has not and
5 20 will not warn the third party and will not participate in the
5 21 voluntary partner notification program.

5 22 Notwithstanding subsection 4 3, the department or a
5 23 physician may reveal the identity of a person who has tested
5 24 positive for ~~the~~ HIV infection pursuant to this subsection
5 25 only to the extent necessary to protect a third party from the
5 26 direct threat of transmission. This subsection shall not be
5 27 interpreted to create a duty to warn third parties of the
5 28 danger of exposure to HIV through contact with a person who
5 29 tests positive for ~~the~~ HIV infection.

5 30 The department shall adopt rules pursuant to chapter 17A to
5 31 implement this paragraph "c". The rules shall provide a
5 32 detailed procedure by which the department or a physician may
5 33 directly notify an endangered third party.

5 34 ~~4.~~ 3. In making contact the department shall not disclose
5 35 the identity of the person who provided the names of the



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6 1 persons to be contacted and shall protect the confidentiality
6 2 of persons contacted.

6 3 ~~5-~~ 4. The department may delegate its partner notification
6 4 duties under this section to local health authorities unless
6 5 the local authority refuses or neglects to conduct the ~~contact~~
~~6 6 tracing~~ partner notification program in a manner deemed to be
6 7 effective by the department.

6 8 ~~6-~~ 5. In addition to the provisions for partner
6 9 notification provided under this section and notwithstanding
6 10 any provision to the contrary, a county medical examiner or
6 11 deputy medical examiner performing official duties pursuant to
6 12 sections 331.801 through 331.805 or the state medical examiner
6 13 or deputy medical examiner performing official duties pursuant
6 14 to chapter 691, who determines through an investigation that a
6 15 deceased person was infected with HIV, may notify directly, or
6 16 request that the department notify, the immediate family of
6 17 the deceased or any person known to have had a significant
6 18 exposure from the deceased of the finding.

6 19 Sec. 7. Section 141A.6, Code 2007, is amended to read as
6 20 follows:

6 21 141A.6 ~~AIDS-RELATED~~ HIV-RELATED CONDITIONS == SCREENING
6 22 CONSENT, TESTING, AND REPORTING == PENALTY.

6 23 1. ~~Prior to obtaining a sample for the purpose of~~
~~6 24 performing a voluntary HIV-related test, a health care~~
~~6 25 provider shall inform the subject of the test that the test is~~
~~6 26 voluntary.~~ If an individual signs a general consent form for
6 27 the performance of medical tests or procedures, the signing of
6 28 an additional consent form for the specific purpose of
6 29 consenting to an HIV-related test is not required during the
6 30 time in which the general consent form is in effect. If an
6 31 individual has not signed a general consent form for the
6 32 performance of medical tests and procedures or the consent
6 33 form is no longer in effect, a health care provider shall
6 34 obtain oral or written consent prior to performing an
6 35 HIV-related test. If an individual is unable to provide



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7 1 consent, the individual's legal guardian may provide consent.
7 2 If the individual's legal guardian cannot be located or is
7 3 unavailable, a health care provider may authorize the test
7 4 when the test results are necessary for diagnostic purposes to
7 5 provide appropriate urgent medical care.
7 6 2. Within seven days of the receipt of a test result
7 7 indicating HIV infection which has been confirmed as positive
7 8 according to prevailing medical technology or immediately
7 9 after the initial examination or treatment of an individual
7 10 infected with HIV, the physician or other health care provider
7 11 at whose request the test was performed or who performed the
7 12 initial examination or treatment shall make a report to the
7 13 department on a form provided by the department.
7 14 ~~2.~~ 3. Within seven days of diagnosing a person as having
7 15 AIDS or an AIDS-related condition, the diagnosing physician
7 16 shall make a report to the department on a form provided by
7 17 the department.
7 18 ~~3.~~ 4. Within seven days of the death of a person ~~resulting~~
7 19 ~~from an AIDS-related condition~~ with HIV infection, the
7 20 attending physician shall make a report to the department on a
7 21 form provided by the department.
7 22 ~~4.~~ 5. Within seven days of the receipt of a test result
7 23 indicating HIV infection which has been confirmed as positive
7 24 according to prevailing medical technology, the director of a
7 25 blood bank shall make a report to the department on a form
7 26 provided by the department.
7 27 ~~5.~~ 6. Within seven days of the receipt of a test result
7 28 ~~indicating HIV infection which has been confirmed as positive~~
7 29 ~~according to prevailing medical technology~~ that is indicative
7 30 of HIV, the director of a clinical laboratory shall make a
7 31 report to the department on a form provided by the department.
7 32 ~~6.~~ 7. The forms provided by the department shall require
7 33 inclusion of all of the following information:
7 34 a. The name of the patient.
7 35 b. The address of the patient.



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- 8 1 c. The patient's date of birth.
8 2 d. The gender of the patient.
8 3 e. The race and ethnicity of the patient.
8 4 f. The patient's marital status.
8 5 g. The patient's telephone number.
8 6 h. ~~The~~ If an HIV-related test was performed, the name and
8 7 address of the laboratory or blood bank.
8 8 i. ~~The~~ If an HIV-related test was performed, the date the
8 9 test was found to be positive and the collection date.
8 10 j. ~~The~~ If an HIV-related test was performed, the name of
8 11 the physician or health care provider who performed the test.
8 12 k. If the patient is female, whether the patient is
8 13 pregnant.
- 8 14 ~~7.~~ 8. An individual who repeatedly fails to file the
8 15 report required under this section is subject to a report
8 16 being made to the licensing board governing the professional
8 17 activities of the individual. The department shall notify the
8 18 individual each time the department determines that the
8 19 individual has failed to file a required report. The
8 20 department shall inform the individual in the notification
8 21 that the individual may provide information to the department
8 22 to explain or dispute the failure to report.
- 8 23 ~~8.~~ 9. A public, private, or hospital clinical laboratory
8 24 that repeatedly fails to make the report required under this
8 25 section is subject to a civil penalty of not more than one
8 26 thousand dollars per occurrence. The department shall not
8 27 impose the penalty under this subsection without prior written
8 28 notice and opportunity for hearing.
- 8 29 Sec. 8. Section 141A.7, subsections 1 and 2, Code 2007,
8 30 are amended to read as follows:
- 8 31 1. Prior to undergoing an HIV-related test, information
8 32 shall be available to the subject of the test concerning
8 33 testing and any means of obtaining additional information
8 34 regarding HIV infection and risk reduction. At any time that
8 35 the subject of an HIV-related test is informed of confirmed
9 1 positive test results, counseling concerning the emotional and
9 2 physical health effects shall be initiated. Particular
9 3 attention shall be given to explaining the need for the
9 4 precautions necessary to avoid transmitting the virus. The
9 5 subject shall be given information concerning additional
9 6 counseling. If the legal guardian of the subject of the test
9 7 provides consent to the test pursuant to section 141A.6, the
9 8 provisions of this subsection shall apply to the legal
9 9 guardian.
- 9 10 2. Notwithstanding subsection 1, the provisions of this
9 11 section do not apply to any of the following:
- 9 12 a. The performance by a health care provider or health
9 13 facility of an HIV-related test when the health care provider
9 14 or health facility procures, processes, distributes, or uses a
9 15 human body part donated for a purpose specified under the
9 16 uniform anatomical gift Act as provided in chapter 142C, or
9 17 semen provided prior to July 1, 1988, for the purpose of
9 18 artificial insemination, or donations of blood, and such test
9 19 is necessary to ensure medical acceptability of such gift or
9 20 semen for the purposes intended.
- 9 21 b. A person engaged in the business of insurance who is



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9 22 subject to section 505.16.

9 23 c. The performance by a health care provider or health
9 24 facility of an HIV-related test when the subject of the test
9 25 is deceased and a documented significant exposure has
9 26 occurred.

9 27 d. The performance by a health care provider or health
9 28 facility of an HIV-related test when the subject of the test
9 29 is unable to provide consent and the health care provider or
9 30 health care facility provides consent for the patient pursuant
9 31 to section 141A.6.

9 32 Sec. 9. Section 141A.8, Code 2007, is amended to read as
9 33 follows:

9 34 141A.8 CARE PROVIDER NOTIFICATION.

9 35 1. a. Notwithstanding any provision of this chapter to



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10 1 the contrary, if a care provider sustains a significant
10 2 exposure from an individual, the individual to whom the care
10 3 provider was exposed is deemed to consent to a test to
10 4 determine the presence of HIV infection in that individual and
10 5 is deemed to consent to notification of the care provider of
10 6 the HIV test results of the individual, upon submission of a
10 7 significant exposure report by the care provider ~~to the~~
~~10 8 hospital or other person specified in this section to whom the~~
~~10 9 individual is delivered by the care provider as provided by~~
10 10 rule. ~~The significant exposure report form may be~~
~~10 11 incorporated into the Iowa prehospital care report, the Iowa~~
~~10 12 prehospital advanced care report, or a similar report used by~~
~~10 13 an ambulance, rescue, or first response service or law~~
~~10 14 enforcement agency.~~

10 15 b. The hospital or clinic in which the exposure occurred
10 16 or any other person specified in this section to whom the
10 17 individual is delivered shall conduct the test. If the
10 18 individual is delivered by the care provider to an institution
10 19 administered by the Iowa department of corrections, the test
10 20 shall be conducted by the staff physician of the institution.
10 21 If the individual is delivered by the care provider to a jail,
10 22 the test shall be conducted by the attending physician of the
10 23 jail or the county medical examiner. The sample and test
10 24 results shall only be identified by a number ~~and no reports~~
~~10 25 otherwise required by this chapter shall be made which~~
~~10 26 otherwise identify the individual tested.~~

10 27 c. A hospital, institutions administered by the department
10 28 of corrections, and jails shall have written policies and
10 29 procedures for notification of a care provider under this
10 30 section. The policies and procedures shall include
10 31 designation of a representative of the care provider to whom
10 32 notification shall be provided and who shall, in turn, notify
10 33 the care provider. The identity of the designated
10 34 representative of the care provider shall not be revealed to
10 35 the individual tested. The designated representative shall



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11 1 inform the hospital, institution administered by the
11 2 department of corrections, or jail of those parties who
11 3 received the notification, and following receipt of this
11 4 information and upon request of the individual tested, the
11 5 hospital, institution administered by the department of
11 6 corrections, or jail shall inform the individual of the
11 7 parties to whom notification was provided.

11 8 2. a. If the test results are positive, the hospital or
11 9 other person performing the test shall notify the subject of
11 10 the test and ensure the performance of counseling and
11 11 reporting requirements of this chapter in the same manner as
11 12 for an individual from whom actual consent was obtained. The
11 13 report to the department required pursuant to section 141A.6
11 14 shall include the name of the individual tested.

11 15 b. If the HIV test results of the subject of the test are
11 16 positive, the hospital or other person performing the test
11 17 shall notify the care provider or the designated
11 18 representative of the care provider who shall then notify the
11 19 care provider who sustained the exposure.

11 20 c. The notification shall be provided as soon as is
11 21 reasonably possible following determination that the HIV test
11 22 results of the subject of the test are positive. The
11 23 notification shall not include the name of the individual
11 24 tested for HIV infection unless the individual provides a
11 25 specific written release. If the care provider who sustained
11 26 the significant exposure determines the identity of the
11 27 individual tested, the identity of the individual shall be
11 28 confidential information and shall not be disclosed by the
11 29 care provider to any other person unless a specific written
11 30 release is obtained from the individual tested.

11 31 ~~3. This section does not require or permit, unless~~
11 32 ~~otherwise provided, a hospital, health care provider, or other~~
11 33 ~~person to administer a test for the express purpose of~~
11 34 ~~determining the presence of HIV infection, except that testing~~
11 35 ~~may be performed if the individual consents and if the~~



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~~12 1 requirements of this section are satisfied.~~

12 2 ~~4.~~ 3. This section does not preclude a hospital or health
12 3 care provider from providing notification to a care provider
12 4 under circumstances in which the hospital's or health care
12 5 provider's policy provides for notification of the hospital's
12 6 or health care provider's own employees of exposure to HIV
12 7 infection if the notice does not reveal a patient's name,
12 8 unless the patient consents.

12 9 ~~5.~~ 4. A hospital, health care provider, or other person
12 10 participating in good faith in making a report under the
12 11 notification provisions of this section, under procedures
12 12 similar to this section for notification of its own employees
12 13 upon filing of a significant exposure report, or in failing to
12 14 make a report under this section, is immune from any
12 15 liability, civil or criminal, which might otherwise be
12 16 incurred or imposed.

12 17 ~~6.~~ 5. A hospital's or health care provider's duty to
12 18 notify under this section is not continuing but is limited to
12 19 the diagnosis of HIV infection made in the course of
12 20 admission, care, and treatment following the rendering of
12 21 health care services or other services to the individual with
12 22 the infection to which notification under this section
12 23 applies.

12 24 ~~7.~~ 6. Notwithstanding subsection ~~6~~ 5, if, following
12 25 discharge from or completion of care or treatment by a
12 26 hospital, an individual for whom a significant exposure report
12 27 was submitted but which report did not result in notification,
12 28 wishes to provide information regarding the individual's HIV
12 29 infection status to the care provider who submitted the
12 30 report, the hospital shall provide a procedure for notifying
12 31 the care provider.

12 32 ~~8.~~ 7. A hospital, health care provider, or other person
12 33 who is authorized to perform an HIV test under this section,
12 34 who performs the HIV test in compliance with this section or
12 35 who fails to perform an HIV test authorized under this



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13 1 section, is immune from any liability, civil or criminal,
13 2 which might otherwise be incurred or imposed.

13 3 ~~9.~~ 8. A hospital, health care provider, or other person
13 4 who is authorized to perform a test under this section has no
13 5 duty to perform the HIV test authorized.

13 6 ~~10.~~ 9. The employer of a care provider who sustained a
13 7 significant exposure under this section shall pay the costs of
13 8 HIV testing for the individual who is the source of the
13 9 significant exposure and of the testing and counseling of the
13 10 care provider, if the significant exposure was sustained
13 11 during the course of employment. ~~However, the department~~
~~13 12 shall pay the costs of HIV testing for the individual who is~~
~~13 13 the source of the significant exposure and of the testing and~~
~~13 14 counseling of the care provider who renders direct aid without~~
~~13 15 compensation.~~

13 16 Sec. 10. Section 141A.9, Code 2007, is amended to read as
13 17 follows:

13 18 141A.9 CONFIDENTIALITY OF INFORMATION.

13 19 1. Any information, including reports and records,
13 20 obtained, submitted, and maintained pursuant to this chapter
13 21 is strictly confidential medical information. The information
13 22 shall not be released, shared with an agency or institution,
13 23 or made public upon subpoena, search warrant, discovery
13 24 proceedings, or by any other means except as provided in this
13 25 chapter. A person shall not be compelled to disclose the
13 26 identity of any person upon whom an HIV-related test is
13 27 performed, or the results of the test in a manner which
13 28 permits identification of the subject of the test, except to
13 29 persons entitled to that information under this chapter.

13 30 ~~2. Information~~ HIV-related test results shall be made
13 31 available for release to the following individuals or under
13 32 the following circumstances:

13 33 a. To the subject of the test or the subject's legal
13 34 guardian subject to the provisions of section 141A.7,
13 35 subsection 3, when applicable.



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- 14 1 b. To any person who secures a written release of test
14 2 results executed by the subject of the test or the subject's
14 3 legal guardian.
- 14 4 c. To an authorized agent or employee of a health facility
14 5 or health care provider, if the health facility or health care
14 6 provider ordered or participated in the testing or is
14 7 otherwise authorized to obtain the test results, the agent or
14 8 employee provides patient care or handles or processes
14 9 samples, and the agent or employee has a medical need to know
14 10 such information.
- 14 11 d. To a health care provider providing care to the subject
14 12 of the test when knowledge of the test results is necessary to
14 13 provide care or treatment.
- 14 14 e. To the department in accordance with reporting
14 15 requirements for an HIV-related condition.
- 14 16 f. To a health facility or health care provider which
14 17 procures, processes, distributes, or uses a human body part
14 18 from a deceased person with respect to medical information
14 19 regarding that person, or semen provided prior to July 1,
14 20 1988, for the purpose of artificial insemination.
- ~~14 21 g. Release may be made of medical or epidemiological
14 22 information for statistical purposes in a manner such that no
14 23 individual person can be identified.~~
- ~~14 24 h. Release may be made of medical or epidemiological
14 25 information to the extent necessary to enforce the provisions
14 26 of this chapter and related rules concerning the treatment,
14 27 control, and investigation of HIV infection by public health
14 28 officials.~~
- ~~14 29 i. Release may be made of medical or epidemiological
14 30 information to medical personnel to the extent necessary to
14 31 protect the health or life of the named party.~~
- ~~14 32 j. Release may be made of test results concerning a
14 33 patient pursuant to procedures established under section
14 34 141A.5, subsection 3, paragraph "e".~~
- ~~14 35 k. g. To a person allowed access to a record an~~



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15 1 HIV-related test result by a court order which is issued in
15 2 compliance with the following provisions:

15 3 (1) A court has found that the person seeking the test
15 4 results has demonstrated a compelling need for the test
15 5 results which need cannot be accommodated by other means. In
15 6 assessing compelling need, the court shall weigh the need for
15 7 disclosure against the privacy interest of the test subject
15 8 and the public interest which may be disserved by disclosure
15 9 due to its deterrent effect on future testing or due to its
15 10 effect in leading to discrimination.

15 11 (2) Pleadings pertaining to disclosure of test results
15 12 shall substitute a pseudonym for the true name of the subject
15 13 of the test. The disclosure to the parties of the subject's
15 14 true name shall be communicated confidentially in documents
15 15 not filed with the court.

15 16 (3) Before granting an order, the court shall provide the
15 17 person whose test results are in question with notice and a
15 18 reasonable opportunity to participate in the proceedings if
15 19 the person is not already a party.

15 20 (4) Court proceedings as to disclosure of test results
15 21 shall be conducted in camera unless the subject of the test
15 22 agrees to a hearing in open court or unless the court
15 23 determines that a public hearing is necessary to the public
15 24 interest and the proper administration of justice.

15 25 (5) Upon the issuance of an order to disclose test
15 26 results, the court shall impose appropriate safeguards against
15 27 unauthorized disclosure, which shall specify the persons who
15 28 may gain access to the information, the purposes for which the
15 29 information shall be used, and appropriate prohibitions on
15 30 future disclosure.

15 31 ~~h.~~ h. To an employer, if the test is authorized to be
15 32 required under any other provision of law.

15 33 ~~m.~~ i. ~~To Pursuant to section 915.43, to a convicted or~~
15 34 alleged sexual assault offender; the physician or other health
15 35 care provider who orders the test of a convicted or alleged



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16 1 offender; the victim; the parent, guardian, or custodian of
16 2 the victim if the victim is a minor; the physician of the
16 3 victim; the victim counselor or person requested by the victim
16 4 to provide counseling regarding the HIV-related test and
16 5 results; the victim's spouse; persons with whom the victim has
16 6 engaged in vaginal, anal, or oral intercourse subsequent to
16 7 the sexual assault; members of the victim's family within the
16 8 third degree of consanguinity; and the county attorney who may
16 9 use the results as evidence in the prosecution of sexual
16 10 assault under chapter 915, subchapter IV, or prosecution of
16 11 the offense of criminal transmission of HIV under chapter
16 12 709C. For the purposes of this paragraph, "victim" means
16 13 victim as defined in section 915.40.

16 14 ~~n.~~ j. To employees of state correctional institutions
16 15 subject to the jurisdiction of the department of corrections,
16 16 employees of secure facilities for juveniles subject to the
16 17 department of human services, and employees of city and county
16 18 jails, if the employees have direct supervision over inmates
16 19 of those facilities or institutions in the exercise of the
16 20 duties prescribed pursuant to section 80.9, subsection 2,
16 21 paragraph "d".

16 22 3. Release may be made of medical or epidemiological
16 23 information for statistical purposes in a manner such that no
16 24 individual person can be identified.

16 25 4. Release may be made of medical or epidemiological
16 26 information to the extent necessary to enforce the provisions
16 27 of this chapter and related rules concerning the treatment,
16 28 control, and investigation of HIV infection by public health
16 29 officials.

16 30 5. Release may be made of medical or epidemiological
16 31 information to medical personnel to the extent necessary to
16 32 protect the health or life of the named party.

16 33 6. Release may be made of test results concerning a
16 34 patient pursuant to procedures established under section
16 35 141A.5, subsection 2, paragraph "c".



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17 1 ~~2-~~ 7. Medical information secured pursuant to subsection 1
17 2 may be shared between employees of the department who shall
17 3 use the information collected only for the purposes of
17 4 carrying out their official duties in preventing the spread of
17 5 the disease or the spread of other reportable diseases as
17 6 defined in section 139A.2.

17 7 Sec. 11. NEW SECTION. 514C.23 HIV=RELATED TESTING
17 8 COVERAGE == PREGNANT WOMEN.

17 9 1. Notwithstanding the uniformity of treatment
17 10 requirements of section 514C.6, a group policy or contract
17 11 providing for third=party payment or prepayment of health or
17 12 medical expenses shall provide coverage benefits for the costs
17 13 associated with HIV=related testing required for pregnant
17 14 women pursuant to section 141A.4.

17 15 2. a. This section applies to the following classes of
17 16 third=party payment provider contracts or policies delivered,
17 17 issued for delivery, continued, or renewed in this state on or
17 18 after July 1, 2007:

17 19 (1) Individual or group accident and sickness insurance
17 20 providing coverage on an expense=incurred basis.

17 21 (2) An individual or group hospital or medical service
17 22 contract issued pursuant to chapter 509, 514, or 514A.

17 23 (3) An individual or group health maintenance organization
17 24 contract regulated under chapter 514B.

17 25 (4) Any other entity engaged in the business of insurance,
17 26 risk transfer, or risk retention, which is subject to the
17 27 jurisdiction of the commissioner.

17 28 (5) A plan established pursuant to chapter 509A for public
17 29 employees.

17 30 (6) An organized delivery system licensed by the director
17 31 of public health.

17 32 b. This section shall not apply to accident=only,
17 33 specified disease, short=term hospital or medical, hospital
17 34 confinement indemnity, credit, dental, vision, Medicare
17 35 supplement, long=term care, basic hospital and



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18 1 medical=surgical expense coverage as defined by the
18 2 commissioner, disability income insurance coverage, coverage
18 3 issued as a supplement to liability insurance, workers'
18 4 compensation or similar insurance, or automobile medical
18 5 payment insurance.
18 6 Sec. 12. Section 915.43, subsection 4, Code 2007, is
18 7 amended to read as follows:
18 8 4. Results of a test performed under this subchapter,
18 9 except as provided in subsection 13, shall be disclosed only
18 10 to the physician or other practitioner who orders the test of
18 11 the convicted or alleged offender, the convicted or alleged
18 12 offender, the victim, the victim counselor or person requested
18 13 by the victim to provide counseling regarding the HIV-related
18 14 test and results, the physician of the victim if requested by
18 15 the victim, the parent, guardian, or custodian of the victim,
18 16 if the victim is a minor, and the county attorney who filed
18 17 the petition for HIV-related testing under this chapter, who
18 18 may use the results to file charges of criminal transmission
18 19 of HIV under chapter 709C. Results of a test performed under
18 20 this subchapter shall not be disclosed to any other person
18 21 without the written informed consent of the convicted or
18 22 alleged offender. A person to whom the results of a test have
18 23 been disclosed under this subchapter is subject to the
18 24 confidentiality provisions of section 141A.9, and shall not
18 25 disclose the results to another person except as authorized by
18 26 section 141A.9, subsection ~~1~~ 2, paragraph ~~"m"~~ "i".

18 27 EXPLANATION

18 28 This bill amends provisions relating to acquired immune
18 29 deficiency syndrome (AIDS) and the human immunodeficiency
18 30 virus(HIV).

18 31 The bill amends definitions, including the definition of
18 32 "health care provider", to be consistent with Code chapter
18 33 139A, "communicable and infectious diseases and poisonings".

18 34 The bill amends provisions relating to the department of
18 35 public health (IDPH) as the lead agency regarding AIDS and
19 1 HIV, and amends provisions relating to the duties of the IDPH
19 2 including those related to the distribution of funds
19 3 appropriated to the department for HIV-related activities and
19 4 the provision of health information and education relating to
19 5 HIV infection.

19 6 The bill amends provisions relating to HIV testing and
19 7 education, including to require that all pregnant women be
19 8 tested for HIV infection, unless the pregnant woman objects.

19 9 The bill amends provisions relating to the partner
19 10 notification program including the location at which the
19 11 program is to be initiated and the manner of conducting the
19 12 program.

19 13 The bill amends provisions relating to HIV-related
19 14 conditions' screening, testing, and reporting. The bill
19 15 provides that if a general written consent for medical tests
19 16 or procedures is obtained from an individual and the consent
19 17 is still effective, a specific consent to an HIV-related test
19 18 is not required. If a general consent has not been obtained,
19 19 oral or written consent to an HIV-related test must be
19 20 obtained prior to performing the test. If an individual is
19 21 unable to provide consent to HIV-related testing, the



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19 22 individual's legal guardian may provide the consent. If the
19 23 legal guardian cannot be located or is unavailable, a health
19 24 care provider may authorize the test when the results are
19 25 necessary for diagnostic purposes to provide appropriate
19 26 urgent medical care. The bill also provides for the reporting
19 27 of the initial examination or treatment of a person infected
19 28 with HIV as is also provided for in Code chapter 139A relating
19 29 to sexually transmitted diseases or infections.

19 30 The bill amends provisions relating to test results. The
19 31 bill provides that if a legal guardian provides consent to
19 32 HIV-related testing, the legal guardian is to receive the
19 33 information and counseling. The bill also provides that if an
19 34 individual is unable to provide consent and a health care
19 35 provider or health care facility consents to the performance



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20 1 of an HIV-related test for the person, the information and
20 2 counseling requirements do not apply to the health care
20 3 provider or health care facility.
20 4 The bill also amends provisions relating to care provider
20 5 notification and confidentiality provisions to eliminate
20 6 references to outdated reports, to eliminate the provision
20 7 relating to not requiring or permitting testing for the
20 8 purpose of determining the presence of HIV infection unless
20 9 the other provisions of the section are satisfied, to
20 10 eliminate the requirement that the department pay the costs of
20 11 HIV testing for an individual who is the source of a
20 12 significant exposure and of the testing and counseling of the
20 13 care provider who renders direct aid without compensation, and
20 14 make other conforming changes.
20 15 The bill also requires that a policy or contract providing
20 16 for third-party payment or prepayment of health or medical
20 17 expenses is to provide coverage for HIV-related testing of
20 18 pregnant women.
20 19 LSB 1212XD 82
20 20 pf:nh/es/88.1



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House Study Bill 145

SENATE/HOUSE FILE
 BY (PROPOSED DEPARTMENT OF
 HUMAN SERVICES BILL)

Passed Senate, Date _____
 Vote: Ayes _____ Nays _____
 Approved

Passed House, Date _____
 Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An act relating to the conference of eligibility on and
- 2 conditions of eligibility for individuals for certain programs
- 3 under the purview of the department of human services.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1234DP 82
- 6 pf/es/88



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1 1 Section 1. Section 249A.3, subsection 2, paragraph a, Code
1 2 2007, is amended to read as follows:

1 3 a. As allowed under 42 U.S.C. } 1396a(a)(10)(A)(ii)(XIII),
1 4 individuals with disabilities, who are less than sixty-five
1 5 years of age, who are members of families whose income is less
1 6 than two hundred fifty percent of the most recently revised
1 7 official poverty guidelines published by the United States
1 8 department of health and human services for the family, who
1 9 have earned income and who are eligible for medical assistance
1 10 or additional medical assistance under this section if
1 11 earnings are disregarded. As allowed by 42 U.S.C. }
1 12 1396a(r)(2), unearned income shall also be disregarded in
1 13 determining whether an individual is eligible for assistance
1 14 under this paragraph. For the purposes of determining the
1 15 amount of an individual's resources under this paragraph and
1 16 as allowed by 42 U.S.C. } 1396a(r)(2), a maximum of ten
1 17 thousand dollars of available resources shall be disregarded,
1 18 and any additional resources held in a retirement account, in
1 19 a medical savings account, or in any other account approved
1 20 under rules adopted by the department shall also be
1 21 disregarded. Individuals eligible for assistance under this
1 22 paragraph, whose individual income exceeds one hundred fifty
1 23 percent of the official poverty guidelines published by the
1 24 United States department of health and human services for an
1 25 individual, shall pay a premium. The amount of the premium
1 26 shall be based on a sliding fee schedule adopted by rule of
1 27 the department and shall be based on a percentage of the
1 28 individual's income. The maximum premium payable by an
1 29 individual whose income exceeds one hundred fifty percent of
1 30 the official poverty guidelines shall be commensurate with the
1 31 cost of state employees' group health insurance in this state.
1 32 The payment to and acceptance by an automated case management
1 33 system or the department of the premium required under this
1 34 paragraph shall not automatically confer initial or continuing
1 35 program eligibility on an individual. A premium paid to and



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2 1 accepted by the department's premium payment process that is
2 2 subsequently determined to be untimely or to have been paid on
2 3 behalf of an individual ineligible for the program shall be
2 4 refunded to the remitter in accordance with rules adopted by
2 5 the department.

2 6 Sec. 2. Section 249A.6, Code 2007, is amended to read as
2 7 follows:

2 8 249A.6 ASSIGNMENT == LIEN.

2 9 1. a. As a condition of eligibility for medical
2 10 assistance, a recipient who has the legal capacity to execute
2 11 an assignment shall do all of the following:

2 12 (1) Assign to the department any rights to payments of
2 13 medical care from any third party.

2 14 (2) Cooperate with the department in obtaining payments
2 15 described in paragraph "a".

2 16 (3) Cooperate with the department in identifying and
2 17 providing information to assist the department in pursuing any
2 18 third party who may be liable to pay for medical care and
2 19 services available under the medical assistance program.

2 20 b. Any amount collected by the department through an
2 21 assignment shall be retained by the department as
2 22 reimbursement for medical assistance payments.

2 23 ~~1.~~ 2. When payment is made by the department for medical
2 24 care or expenses through the medical assistance program on
2 25 behalf of a recipient, the department shall have a lien, to
2 26 the extent of those payments, upon all monetary claims which
2 27 the recipient may have against third parties. A lien under
2 28 this section is not effective unless the department files a
2 29 notice of lien with the clerk of the district court in the
2 30 county where the recipient resides and with the recipient's
2 31 attorney when the recipient's eligibility for medical
2 32 assistance is established. The notice of lien shall be filed
2 33 before the third party has concluded a final settlement with
2 34 the recipient, the recipient's attorney, or other
2 35 representative. The third party shall obtain a written



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3 1 determination from the department concerning the amount of the
3 2 lien before a settlement is deemed final for purposes of this
3 3 section. A compromise, including but not limited to a
3 4 settlement, waiver or release, of a claim under this section
3 5 does not defeat the department's lien except pursuant to the
3 6 written agreement of the director or the director's designee.
3 7 A settlement, award, or judgment structured in any manner not
3 8 to include medical expenses or an action brought by a
3 9 recipient or on behalf of a recipient which fails to state a
3 10 claim for recovery of medical expenses does not defeat the
3 11 department's lien if there is any recovery on the recipient's
3 12 claim.

3 13 ~~2.~~ 3. The department shall be given notice of monetary
3 14 claims against third parties as follows:

3 15 a. Applicants for medical assistance shall notify the
3 16 department of any possible claims against third parties upon
3 17 submitting the application. Recipients of medical assistance
3 18 shall notify the department of any possible claims when those
3 19 claims arise.

3 20 b. A person who provides health care services to a person
3 21 receiving assistance through the medical assistance program
3 22 shall notify the department whenever the person has reason to
3 23 believe that third parties may be liable for payment of the
3 24 costs of those health care services.

3 25 c. An attorney representing an applicant for or recipient
3 26 of assistance on a claim upon which the department has a lien
3 27 under this section shall notify the department of the claim of
3 28 which the attorney has actual knowledge, prior to filing a
3 29 claim, commencing an action or negotiating a settlement offer.
3 30 Actual knowledge under this section shall include the notice
3 31 to the attorney pursuant to subsection ~~1~~ 2.

3 32 The mailing and deposit in a United States post office or
3 33 public mailing box of the notice, addressed to the department
3 34 at its state or district office location, is adequate legal
3 35 notice of the claim.



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4 1 ~~3-~~ 4. The department's lien is valid and binding on an
4 2 attorney, insurer, or other third party only upon notice by
4 3 the department or unless the attorney, insurer, or third party
4 4 has actual notice that the recipient is receiving medical
4 5 assistance from the department and only to the extent to which
4 6 the attorney, insurer, or third party has not made payment to
4 7 the recipient or an assignee of the recipient prior to the
4 8 notice. Payment of benefits by an insurer or third party
4 9 pursuant to the rights of the lienholder in this section
4 10 discharges the attorney, insurer, or third party from
4 11 liability to the recipient or the recipient's assignee to the
4 12 extent of the payment to the department.

4 13 ~~4-~~ 5. If a recipient of assistance through the medical
4 14 assistance program incurs the obligation to pay attorney fees
4 15 and court costs for the purpose of enforcing a monetary claim
4 16 upon which the department has a lien under this section, upon
4 17 the receipt of the judgment or settlement of the total claim,
4 18 of which the lien for medical assistance payments is a part,
4 19 the court costs and reasonable attorney fees shall first be
4 20 deducted from this total judgment or settlement. One-third of
4 21 the remaining balance shall then be deducted and paid to the
4 22 recipient. From the remaining balance, the lien of the
4 23 department shall be paid. Any amount remaining shall be paid
4 24 to the recipient. An attorney acting on behalf of a recipient
4 25 of medical assistance for the purpose of enforcing a claim
4 26 upon which the department has a lien shall not collect from
4 27 the recipient any amount as attorney fees which is in excess
4 28 of the amount which the attorney customarily would collect on
4 29 claims not subject to this section.

4 30 ~~5-~~ 6. For purposes of this section the term "third party"
4 31 includes an attorney, individual, institution, corporation, or
4 32 public or private agency which is or may be liable to pay part
4 33 or all of the medical costs incurred as a result of injury,
4 34 disease, or disability by or on behalf of an applicant for or
4 35 recipient of assistance under the medical assistance program.



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5 1 ~~6~~ 7. The department may enforce its lien by a civil
5 2 action against any liable third party.
5 3 Sec. 3. Section 249J.8, subsection 1, Code 2007, is
5 4 amended to read as follows:
5 5 1. Beginning July 1, 2005, each expansion population
5 6 member whose family income equals or exceeds one hundred
5 7 percent of the federal poverty level as defined by the most
5 8 recently revised poverty income guidelines published by the
5 9 United States department of health and human services shall
5 10 pay a monthly premium not to exceed one-twelfth of five
5 11 percent of the member's annual family income, and each
5 12 expansion population member whose family income is less than
5 13 one hundred percent of the federal poverty level as defined by
5 14 the most recently revised poverty income guidelines published
5 15 by the United States department of health and human services
5 16 shall pay a monthly premium not to exceed one-twelfth of two
5 17 percent of the member's annual family income. All premiums
5 18 shall be paid on the last day of the month of coverage. The
5 19 department shall deduct the amount of any monthly premiums
5 20 paid by an expansion population member for benefits under the
5 21 healthy and well kids in Iowa program when computing the
5 22 amount of monthly premiums owed under this subsection. An
5 23 expansion population member shall pay the monthly premium
5 24 during the entire period of the member's enrollment.
5 25 Regardless of the length of enrollment, the member is subject
5 26 to payment of the premium for a minimum of four consecutive
5 27 months. However, an expansion population member who complies
5 28 with the requirement of payment of the premium for a minimum
5 29 of four consecutive months during a consecutive twelve-month
5 30 period of enrollment shall be deemed to have complied with
5 31 this requirement for the subsequent consecutive twelve-month
5 32 period of enrollment and shall only be subject to payment of
5 33 the monthly premium on a month-by-month basis. Timely payment
5 34 of premiums, including any arrearages accrued from prior
5 35 enrollment, is a condition of receiving any expansion



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6 1 population services. The payment to and acceptance by an
6 2 automated case management system or the department of the
6 3 premium required under this subsection shall not automatically
6 4 confer initial or continuing program eligibility on an
6 5 individual. A premium paid to and accepted by the
6 6 department's premium payment process that is subsequently
6 7 determined to be untimely or to have been paid on behalf of an
6 8 individual ineligible for the program shall be refunded to the
6 9 remitter in accordance with rules adopted by the department.

6 10 Premiums collected under this subsection shall be deposited in
6 11 the premiums subaccount of the account for health care
6 12 transformation created pursuant to section 249J.23. An
6 13 expansion population member shall also pay the same copayments
6 14 required of other adult recipients of medical assistance.

6 15 Sec. 4. Section 514I.10, Code 2007, is amended by adding
6 16 the following new subsection:

6 17 NEW SUBSECTION. 3. The payment to and acceptance by an
6 18 automated case management system or the department of the
6 19 premium required under this section shall not automatically
6 20 confer initial or continuing program eligibility on an
6 21 individual. A premium paid to and accepted through the
6 22 department's premium payment process that is subsequently
6 23 determined to be untimely or to have been paid on behalf of an
6 24 individual ineligible for the program shall be refunded to the
6 25 remitter in accordance with rules adopted by the department.

6 26 EXPLANATION

6 27 This bill provides that the payment of a premium made under
6 28 the Medicaid, IowaCare, or hawk=i program that is accepted by
6 29 an automated case management system or the department does not
6 30 automatically confer initial or continuing program eligibility
6 31 to an individual. If a premium is paid to and accepted
6 32 through the department's premium payment process and is
6 33 subsequently determined to be untimely or to have been paid on
6 34 behalf of an individual ineligible for the program, the bill
6 35 requires the payment to be refunded to the remitter in



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7 1 accordance with rules adopted by the department.
7 2 The bill also provides that as a condition of eligibility,
7 3 a Medicaid recipient who has legal capacity to execute an
7 4 assignment shall assign to the department any rights to
7 5 payments of medical care from any third party, cooperate with
7 6 the department in obtaining such payments, and cooperate with
7 7 the department in identifying and providing information to
7 8 assist the department in pursuing any third party who may be
7 9 liable to pay for medical care and services available under
7 10 Medicaid. Any amount collected by the department through an
7 11 assignment is to be retained by the department as
7 12 reimbursement for Medicaid payments.
7 13 LSB 1234DP 82
7 14 pf:nh/es/88



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House Study Bill 146

HOUSE FILE
 BY (PROPOSED COMMITTEE ON
 ECONOMIC GROWTH BILL BY
 CHAIRPERSON THOMAS)

Passed House, Date _____ Passed Senate, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
 Approved

A BILL FOR

- 1 An Act relating to historic preservation and cultural and
- 2 entertainment district tax credits, making appropriations, and
- 3 providing applicability date provisions.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1209HC 82
- 6 tm/gg/14



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1 1 Section 1. Section 404A.1, subsection 1, Code 2007, is
1 2 amended to read as follows:

1 3 1. A historic preservation and cultural and entertainment
1 4 district tax credit, subject to the availability of the
1 5 credit, is granted against the tax imposed under chapter 422,
1 6 division II, III, or V, or chapter 432, for the rehabilitation
1 7 of eligible property located in this state as provided in this
1 8 chapter. Tax credits in excess of tax liabilities shall be
1 9 refunded or credited as provided in section 404A.4, subsection
1 10 3.

1 11 Sec. 2. Section 404A.4, subsection 3, Code 2007, is
1 12 amended to read as follows:

1 13 3. A person receiving a historic preservation and cultural
1 14 and entertainment district tax credit under this chapter which
1 15 is in excess of the person's tax liability for the tax year is
1 16 entitled to a refund ~~of the excess at a discounted value. The~~
~~1 17 discounted value of the tax credit refund, as calculated by~~
~~1 18 the department of economic development, in consultation with~~
~~1 19 the department of revenue, shall be determined based on the~~
~~1 20 discounted value of the tax credit five years after the tax~~
~~1 21 year of the project completion at an interest rate equivalent~~
~~1 22 to the prime rate plus two percent. The refunded tax credit~~
~~1 23 shall not exceed seventy-five percent of the allowable tax~~
~~1 24 credit. In lieu of claiming a refund, the person may elect to~~
1 25 have the overpayment shown on the person's final, completed
1 26 return credited to the tax liability for succeeding tax years
1 27 until depleted.

1 28 Sec. 3. Section 404A.4, subsection 4, Code 2007, is
1 29 amended to read as follows:

1 30 4. The total amount of tax credits that may be approved
1 31 for a fiscal year under this chapter shall not exceed ~~two~~
1 32 twenty million four hundred thousand dollars less any amount
1 33 appropriated pursuant to section 404A.6. For the fiscal
~~1 34 period beginning July 1, 2005, and ending June 30, 2015, an~~
~~1 35 additional four million dollars of tax credits may be approved~~



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~~House Study Bill 146 continued~~

~~2 1 each fiscal year for purposes of projects located in cultural~~
~~2 2 and entertainment districts certified pursuant to section~~
~~2 3 303.3B. Of the tax credits approved for a fiscal year under~~
~~2 4 this chapter, two million dollars of tax credits shall be~~
~~2 5 allocated for purposes of projects with qualified costs of~~
~~2 6 five hundred thousand dollars or less, and six million dollars~~
~~2 7 of tax credits shall be allocated for purposes of projects~~
~~2 8 located in cultural and entertainment districts certified~~
~~2 9 pursuant to section 303.3B or identified in Iowa great places~~
~~2 10 agreements developed pursuant to section 303.3C. Any of the~~
~~2 11 additional tax credits allocated for projects located in~~
~~2 12 certified cultural and entertainment districts or identified~~
~~2 13 in Iowa great places agreements and for projects with a cost~~
~~2 14 of five hundred thousand dollars or less that are not approved~~
~~2 15 reserved during a fiscal year shall be applied to reserved tax~~
~~2 16 credits issued in accordance with section 404A.3 in order of~~
~~2 17 original reservation. The department of cultural affairs~~
~~2 18 shall establish by rule the procedures for the application,~~
~~2 19 review, selection, and awarding of certifications of~~
~~2 20 completion. The departments of economic development, cultural~~
~~2 21 affairs, and revenue shall each adopt rules to jointly~~
~~2 22 administer this subsection and shall provide by rule for the~~
~~2 23 method to be used to determine for which fiscal year the tax~~
~~2 24 credits are available. With the exception of tax credits~~
~~2 25 issued pursuant to contracts entered into prior to July 1,~~
~~2 26 2005, tax credits shall not be reserved for more than five~~
~~2 27 years.~~
2 28 Sec. 4. NEW SECTION. 404A.6 APPROPRIATION ==
2 29 ADMINISTRATIVE COSTS.
2 30 For the fiscal year beginning July 1, 2007, and each fiscal
2 31 year thereafter, there is appropriated from the general fund
2 32 of the state to the department of cultural affairs one hundred
2 33 fifty thousand dollars, or so much thereof as is necessary,
2 34 for purposes of costs associated with administering this
2 35 chapter.



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3 1 Sec. 5. Section 422.11D, subsection 1, Code 2007, is
3 2 amended to read as follows:

3 3 1. The taxes imposed under this division, less the credits
3 4 allowed under sections 422.12 and 422.12B, shall be reduced by
3 5 a historic preservation and cultural and entertainment
3 6 district tax credit equal to the amount as computed under
3 7 chapter 404A for rehabilitating eligible property. Any credit
3 8 in excess of the tax liability shall be refunded or credited
3 9 to succeeding tax years until depleted, as provided in section
3 10 404A.4, subsection 3.

3 11 Sec. 6. Section 422.33, subsection 10, paragraph a, Code
3 12 2007, is amended to read as follows:

3 13 a. The taxes imposed under this division shall be reduced
3 14 by a historic preservation and cultural and entertainment
3 15 district tax credit equal to the amount as computed under
3 16 chapter 404A for rehabilitating eligible property. Any credit
3 17 in excess of the tax liability shall be refunded or credited
3 18 to succeeding tax years until depleted, as provided in section
3 19 404A.4, subsection 3.

3 20 Sec. 7. Section 422.60, subsection 4, paragraph a, Code
3 21 2007, is amended to read as follows:

3 22 a. The taxes imposed under this division shall be reduced
3 23 by a historic preservation and cultural and entertainment
3 24 district tax credit equal to the amount as computed under
3 25 chapter 404A for rehabilitating eligible property. Any credit
3 26 in excess of the tax liability shall be refunded or credited
3 27 to succeeding tax years until depleted, as provided in section
3 28 404A.4, subsection 3.

3 29 Sec. 8. Section 432.12A, subsection 1, Code 2007, is
3 30 amended to read as follows:

3 31 1. The tax imposed under this chapter shall be reduced by
3 32 a historic preservation and cultural and entertainment
3 33 district tax credit equal to the amount as computed under
3 34 chapter 404A for rehabilitating eligible property. Any credit
3 35 in excess of the tax liability shall be refunded or credited



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4 1 to succeeding tax years until depleted, as provided in section
4 2 404A.4, subsection 3.

4 3 Sec. 9. APPLICABILITY. This Act applies to historic
4 4 preservation and cultural and entertainment district tax
4 5 credits applied for or reserved prior to July 1, 2007.

4 6 EXPLANATION

4 7 This bill relates to historic preservation and cultural and
4 8 entertainment district tax credits.

4 9 Currently, a person receiving a historic preservation and
4 10 cultural and entertainment district tax credit may receive a
4 11 tax credit refund at a discounted value for the amount in
4 12 excess of the taxpayer's tax liability in the year that the
4 13 tax credit is claimed.

4 14 The bill eliminates the discounting of the value of a
4 15 refund and allows the entire value of the tax credit to be
4 16 refunded. In addition, the bill allows a taxpayer, in lieu of
4 17 claiming a refund, to elect to have the overpayment shown on
4 18 the person's final, completed return credited to the tax
4 19 liability for succeeding tax years, until depleted. The bill
4 20 makes conforming amendments.

4 21 Currently, the total amount of historic preservation and
4 22 cultural and entertainment district tax credits that may be
4 23 approved for a fiscal year shall not exceed \$2.4 million. For
4 24 the fiscal period beginning July 1, 2005, and ending June 30,
4 25 2015, an additional \$4 million of tax credits may be approved
4 26 each fiscal year for purposes of projects located in certified
4 27 cultural and entertainment districts.

4 28 The bill increases the amount of tax credits that may be
4 29 approved each fiscal year to \$20 million less the amount
4 30 appropriated for administrative costs. Of that amount, the
4 31 bill provides that \$2 million of tax credits shall be
4 32 allocated for purposes of projects with qualified costs of
4 33 \$500,000 or less, and \$6 million of tax credits shall be
4 34 allocated for purposes of projects located in certified
4 35 cultural and entertainment districts or identified in Iowa



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5 1 great places agreements. The bill provides that any of the
5 2 tax credits allocated for projects located in certified
5 3 cultural and entertainment districts or identified in Iowa
5 4 great places agreements and for projects with a cost of
5 5 \$500,000 or less that are not reserved during a fiscal year
5 6 shall be applied to reserved tax credits in order of original
5 7 reservation.

5 8 The bill appropriates \$150,000 each fiscal year for the
5 9 fiscal year beginning July 1, 2007, and each fiscal year
5 10 thereafter, from the general fund of the state to the
5 11 department of cultural affairs for purposes of costs
5 12 associated with administering Code chapter 404A.

5 13 The bill applies to historic preservation and cultural and
5 14 entertainment district tax credits applied for or reserved
5 15 prior to July 1, 2007.

5 16 LSB 1209HC 82
5 17 tm:sc/gg/14.1



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House Study Bill 147

HOUSE FILE
 BY (PROPOSED COMMITTEE ON
 STATE GOVERNMENT BILL
 BY CHAIRPERSON JOCHUM)

Passed House, Date _____ Passed Senate, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
 Approved

A BILL FOR

1 An Act relating to an agreement among the states to elect the
 2 president by national popular vote and providing an effective
 3 date.
 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
 5 TLSB 1440HC 82
 6 sc/gg/14



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1 1 Section 1. NEW SECTION. 54.10 AGREEMENT AMONG THE STATES
1 2 TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE.

1 3 This section, if effective, is in lieu of the provisions of
1 4 sections 54.1 through 54.3.

1 5 The agreement among the states to elect the president by
1 6 national popular vote may be cited as the "National Popular
1 7 Vote Compact". The national popular vote compact is entered
1 8 into and enacted into law with each other state that has
1 9 enacted the compact in substantially the following form:

1 10 ARTICLE I
1 11 MEMBERSHIP

1 12 Any state of the United States and the District of Columbia
1 13 may become a member of this agreement by enacting this
1 14 agreement.

1 15 ARTICLE II
1 16 RIGHT OF THE PEOPLE IN MEMBER STATES TO VOTE
1 17 FOR PRESIDENT AND VICE PRESIDENT

1 18 Each member state shall conduct a statewide popular
1 19 election for president and vice president of the United
1 20 States.

1 21 ARTICLE III
1 22 MANNER OF APPOINTING PRESIDENTIAL
1 23 ELECTORS IN MEMBER STATES

1 24 Prior to the time set by law for the meeting and voting by
1 25 the presidential electors, the chief election official of each
1 26 member state shall determine the number of votes for each
1 27 presidential slate in each state of the United States and in
1 28 the District of Columbia in which votes have been cast in a
1 29 statewide popular election and shall add such votes together
1 30 to produce a "national popular vote total" for each
1 31 presidential slate.

1 32 The chief election official of each member state shall
1 33 designate the presidential slate with the largest national
1 34 popular vote total as the "national popular vote winner".

1 35 The presidential elector certifying official of each member



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2 1 state shall certify the appointment in that official's own
2 2 state of the elector slate nominated in that state in
2 3 association with the national popular vote winner.
2 4 At least six days before the day fixed by law for the
2 5 meeting and voting by the presidential electors, each member
2 6 state shall make a final determination of the number of
2 7 popular votes cast in the state for each presidential slate
2 8 and shall communicate an official statement of such
2 9 determination within twenty-four hours to the chief election
2 10 official of each other member state.
2 11 The chief election official of each member state shall
2 12 treat as conclusive an official statement containing the
2 13 number of popular votes in a state for each presidential slate
2 14 made by the day established by federal law for making a
2 15 state's final determination conclusive as to the counting of
2 16 electoral votes by Congress.
2 17 In event of a tie for the national popular vote winner, the
2 18 presidential elector certifying official of each member state
2 19 shall certify the appointment of the elector slate nominated
2 20 in association with the presidential slate receiving the
2 21 largest number of popular votes within that official's own
2 22 state.
2 23 If, for any reason, the number of presidential electors
2 24 nominated in a member state in association with the national
2 25 popular vote winner is less than or greater than that state's
2 26 number of electoral votes, the presidential candidate on the
2 27 presidential slate that has been designated as the national
2 28 popular vote winner shall have the power to nominate the
2 29 presidential electors for that state and that state's
2 30 presidential elector certifying official shall certify the
2 31 appointment of such nominees. The chief election official of
2 32 each member state shall immediately release to the public all
2 33 vote counts or statements of votes as they are determined or
2 34 obtained.
2 35 This article shall govern the appointment of presidential



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3 1 electors in each member state in any year in which this
3 2 agreement is, on July 20, in effect in states cumulatively
3 3 possessing a majority of the electoral votes.

3 4 ARTICLE IV

3 5 OTHER PROVISIONS

3 6 This agreement shall take effect when states cumulatively
3 7 possessing a majority of the electoral votes have enacted this
3 8 agreement in substantially the same form and the enactments by
3 9 such states have taken effect in each state.

3 10 Any member state may withdraw from this agreement, except
3 11 that a withdrawal occurring six months or less before the end
3 12 of a president's term shall not become effective until a
3 13 president or vice president shall have been qualified to serve
3 14 the next term.

3 15 The chief executive of each member state shall promptly
3 16 notify the chief executives of all other states of when this
3 17 agreement has been enacted and has taken effect in that
3 18 official's state, when the state has withdrawn from this
3 19 agreement, and when this agreement takes effect generally.

3 20 This agreement shall terminate if the electoral college is
3 21 abolished.

3 22 If any provision of this agreement is held invalid, the
3 23 remaining provisions shall not be affected.

3 24 ARTICLE V

3 25 DEFINITIONS

3 26 For purposes of this agreement:

3 27 (1) "Chief election official" shall mean the state
3 28 official or body that is authorized to certify the total
3 29 number of popular votes for each presidential slate.

3 30 (2) "Chief executive" shall mean the governor of a state
3 31 of the United States or the mayor of the District of Columbia.

3 32 (3) "Elector slate" shall mean a slate of candidates who
3 33 have been nominated in a state for the position of
3 34 presidential elector in association with a presidential slate.

3 35 (4) "Presidential elector" shall mean an elector for



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4 1 president and vice president of the United States.

4 2 (5) "Presidential elector certifying official" shall mean
4 3 the state official or body that is authorized to certify the
4 4 appointment of the state's presidential electors.

4 5 (6) "Presidential slate" shall mean a slate of two
4 6 persons, the first of whom has been nominated as a candidate
4 7 for president of the United States and the second of whom has
4 8 been nominated as a candidate for vice president of the United
4 9 States, or any legal successors to such persons, regardless of
4 10 whether both names appear on the ballot presented to the voter
4 11 in a particular state.

4 12 (7) "State" shall mean a state of the United States and
4 13 the District of Columbia.

4 14 (8) "Statewide popular election" shall mean a general
4 15 election in which votes are cast for presidential slates by
4 16 individual voters and counted on a statewide basis.

4 17 EXPLANATION

4 18 This bill creates a compact for the state of Iowa whereby
4 19 the state agrees to certify its electors for president of the
4 20 United States based on the national popular vote for
4 21 president, rather than on the popular vote for president
4 22 within the state. The agreement is cited in the bill as the
4 23 "National Popular Vote Compact". To take effect, the compact
4 24 must be enacted by any number of states whose electoral votes,
4 25 in the aggregate, constitute a majority of the entire number
4 26 of electoral votes nationally. The compact provides that any
4 27 member state may withdraw from the compact. However, if a
4 28 withdrawal occurs six months or less before the end of a
4 29 president's term, the withdrawal shall not take effect until a
4 30 president has qualified to serve the next term.

4 31 LSB 1440HC 82

4 32 sc:nh/gg/14



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House Study Bill 148

HOUSE FILE
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON JOCHUM)

Passed House, Date _____
Vote: Ayes _____ Nays _____
Approved

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act making changes to the time frames and the duties of the
- 2 legislative services agency concerning the process of
- 3 congressional and legislative redistricting.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1709YC 82
- 6 ec/je/5



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1 1 Section 1. Section 42.2, Code 2007, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 4. Upon each delivery by the legislative
1 4 services agency to the general assembly of a bill embodying a
1 5 plan, pursuant to section 42.3, the legislative services
1 6 agency shall at the earliest feasible time make available to
1 7 the public the following information:
1 8 a. Copies of the bill delivered by the legislative
1 9 services agency to the general assembly.
1 10 b. Maps illustrating the plan.
1 11 c. A summary of the standards prescribed by section 42.4
1 12 for development of the plan.
1 13 d. A statement of the population of each district included
1 14 in the plan, and the relative deviation of each district
1 15 population from the ideal district population.
1 16 Sec. 2. Section 42.3, subsection 1, Code 2007, is amended
1 17 to read as follows:
1 18 1. a. Not later than April 1 of each year ending in one,
1 19 the legislative services agency shall deliver to the secretary
1 20 of the senate and the chief clerk of the house of
1 21 representatives identical bills embodying a plan of
1 22 legislative and congressional districting prepared in
1 23 accordance with section 42.4. It is the intent of this
1 24 chapter that the general assembly shall bring the bill to a
1 25 vote in either the senate or the house of representatives
1 26 expeditiously, but not less than ~~seven~~ three days after the
1 27 report of the commission required by section 42.6 is received
1 28 and made available to the members of the general assembly,
1 29 under a procedure or rule permitting no amendments except
1 30 those of a purely corrective nature. It is further the intent
1 31 of this chapter that if the bill is approved by the first
1 32 house in which it is considered, it shall expeditiously be
1 33 brought to a vote in the second house under a similar
1 34 procedure or rule. If the bill embodying the plan submitted
1 35 by the legislative services agency under this subsection fails



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2 1 to be approved by a constitutional majority in either the
2 2 senate or the house of representatives, the secretary of the
2 3 senate or the chief clerk of the house, as the case may be,
2 4 shall at once, but in no event later than seven days after the
2 5 date the bill failed to be approved, transmit to the
2 6 legislative services agency information which the senate or
2 7 house may direct by resolution regarding reasons why the plan
2 8 was not approved.

2 9 b. However, if the population data for legislative
2 10 districting which the United States census bureau is required
2 11 to provide this state under Pub. L. No. 94-171 and, if used by
2 12 the legislative services agency, the corresponding
2 13 topologically integrated geographic encoding and referencing
2 14 data file for that population data are not available to the
2 15 legislative services agency on or before February 15 of the
2 16 year ending in one, the dates set forth in this subsection
2 17 shall be extended by a number of days equal to the number of
2 18 days after February 15 of the year ending in one that the
2 19 federal census population data and the topologically
2 20 integrated geographic encoding and referencing data file for
2 21 legislative districting become available.

2 22 Sec. 3. Section 42.3, subsection 2, Code 2007, is amended
2 23 to read as follows:

2 24 2. If the bill embodying the plan submitted by the
2 25 legislative services agency under subsection 1 fails to be
~~2 26 approved by a constitutional majority in either the senate or~~
~~2 27 the house of representatives, the secretary of the senate or~~
~~2 28 the chief clerk of the house, as the case may be, shall at~~
~~2 29 once transmit to the legislative services agency information~~
~~2 30 which the senate or house may direct regarding reasons why the~~
~~2 31 plan was not approved. The enacted, the legislative services~~
2 32 agency shall prepare a bill embodying a second plan of
2 33 legislative and congressional districting. The bill shall be
2 34 prepared in accordance with section 42.4, and taking into
~~2 35 account, insofar as it is possible to do so within the~~



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3 1 requirements of section 42.4, with the reasons cited by the
3 2 senate or house of representatives by resolution, or the
3 3 governor by veto message, for its the failure to approve the
3 4 plan insofar as it is possible to do so within the
~~3 5 requirements of section 42.4. If a second plan is required~~
3 6 under this subsection, the bill embodying it shall be
3 7 delivered to the secretary of the senate and the chief clerk
3 8 of the house of representatives not later than May 1 of the
~~3 9 year ending in one, or twenty-one~~ thirty-five days after the
3 10 date of the vote by which the senate or the house of
3 11 representatives fails to approve the bill submitted under
3 12 subsection 1, whichever date is later or the date the governor
3 13 vetoes or fails to approve the bill. It is the intent of this
~~3 14 chapter that, if~~ If it is necessary to submit a bill under
3 15 this subsection, the bill shall be brought to a vote not less
3 16 than seven days after the bill is printed submitted and made
3 17 available to the members of the general assembly, in the same
~~3 18 manner as prescribed for the bill required under subsection 1~~
3 19 under a procedure or rule permitting no amendments except
3 20 those of a purely corrective nature. It is further the intent
3 21 of this chapter that if the bill is approved by the first
3 22 house in which it is considered, it shall expeditiously be
3 23 brought to a vote in the second house under a similar
3 24 procedure or rule. If the bill embodying the plan submitted
3 25 by the legislative services agency under this subsection fails
3 26 to be approved by a constitutional majority in either the
3 27 senate or the house of representatives, the secretary of the
3 28 senate or the chief clerk of the house, as the case may be,
3 29 shall transmit to the legislative services agency information
3 30 which the senate or house may direct by resolution regarding
3 31 reasons why the plan was not approved in the same manner as
3 32 described in subsection 1.

3 33 Sec. 4. Section 42.3, subsection 3, Code 2007, is amended
3 34 to read as follows:

3 35 3. If the bill embodying the plan submitted by the



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4 1 legislative services agency under subsection 2 fails to be
4 2 ~~approved by a constitutional majority in either the senate or~~
~~4 3 the house of representatives enacted~~, the same procedure as
4 4 prescribed by subsection 2 shall be followed. If a third plan
4 5 is required under this subsection, the bill embodying it shall
4 6 be delivered to the secretary of the senate and the chief
4 7 clerk of the house of representatives not later than ~~June 1 of~~
~~4 8 the year ending in one, or twenty-one~~ thirty-five days after
4 9 the date of the vote by which the senate or the house of
4 10 representatives fails to approve the bill submitted under
4 11 subsection 2, ~~whichever date is later. It is the intent of~~
~~4 12 this chapter that, if or the date the governor vetoes or fails~~
4 13 to approve the bill. The legislative services agency shall
4 14 submit a bill under this subsection sufficiently in advance of
4 15 September 1 of the year ending in one to permit the general
4 16 assembly to consider the plan prior to that date. If it is
4 17 necessary to submit a bill under this subsection, the bill
4 18 shall be brought to a vote within the same time period after
4 19 its delivery to the secretary of the senate and the chief
4 20 clerk of the house of representatives as is prescribed for the
4 21 bill submitted under subsection 2, but shall be subject to
4 22 amendment in the same manner as other bills.
4 23 Sec. 5. Section 42.3, subsection 4, Code 2007, is amended
4 24 by striking the subsection.
4 25 Sec. 6. Section 42.4, subsection 4, Code 2007, is amended
4 26 to read as follows:
4 27 4. ~~It is preferable that districts~~ Districts shall be
4 28 reasonably compact in form, but to the extent consistent with
4 29 the standards established by subsections 1, 2, and 3 take
~~4 30 precedence over compactness where a conflict arises between~~
~~4 31 compactness and these standards.~~ In general, reasonably
4 32 compact districts are those which are square, rectangular, or
4 33 hexagonal in shape, and not irregularly shaped, to the extent
4 34 permitted by natural or political boundaries. ~~When~~ If it is
4 35 necessary to compare the relative compactness of two or more



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5 1 districts, or of two or more alternative districting plans,
5 2 the tests prescribed by paragraphs "a" and "b" and "c" of this
~~5 3 subsection shall be used. Should the results of these two~~
~~5 4 tests be contradictory, the standard referred to in paragraph~~
~~5 5 "b" of this subsection shall be given greater weight than the~~
~~5 6 standard referred to in paragraph "c" of this subsection.~~

5 7 a. As used in this subsection:

5 8 (1) ~~"Population data unit" means a civil township,~~
~~5 9 election precinct, census enumeration district, census city~~
~~5 10 block group, or other unit of territory having clearly~~
~~5 11 identified geographic boundaries and for which a total~~
~~5 12 population figure is included in or can be derived directly~~
~~5 13 from certified federal census data.~~

5 14 (2) ~~The "geographic unit center" of a population data unit~~
~~5 15 is that point approximately equidistant from the northern and~~
~~5 16 southern extremities, and also approximately equidistant from~~
~~5 17 the eastern and western extremities, of a population data~~
~~5 18 unit. This point shall be determined by visual observation of~~
~~5 19 a map of the population data unit, unless it is otherwise~~
~~5 20 determined within the context of an appropriate coordinate~~
~~5 21 system developed by the federal government or another~~
~~5 22 qualified and objective source and obtained for use in this~~
~~5 23 state with prior approval of the legislative council.~~

5 24 (3) ~~The "x" co-ordinate of a point in this state refers to~~
~~5 25 the relative location of that point along the east-west axis~~
~~5 26 of the state. Unless otherwise measured within the context of~~
~~5 27 an appropriate co-ordinate system obtained for use as~~
~~5 28 permitted by subparagraph 2 of this paragraph, the "x"~~
~~5 29 co-ordinate shall be measured along a line drawn due east from~~
~~5 30 a due north and south line running through the point which is~~
~~5 31 the northwestern extremity of the state of Iowa, to the point~~
~~5 32 to be located.~~

5 33 (4) ~~The "y" co-ordinate of a point in this state refers to~~
~~5 34 the relative location of that point along the north-south axis~~
~~5 35 of the state. Unless otherwise measured within the context of~~



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~~6 1 an appropriate co-ordinate system obtained for use as~~
~~6 2 permitted by subparagraph (2) of this paragraph, the "y"~~
~~6 3 co-ordinate shall be measured along a line drawn due south~~
~~6 4 from the northern boundary of the state or the eastward~~
~~6 5 extension of that boundary, to the point to be located.~~
6 6 ~~b.~~ a. LENGTH=WIDTH COMPACTNESS. The compactness of a
6 7 district is greatest when the length of the district and the
6 8 width of the district are equal. The measure of a district's
6 9 compactness is the absolute value of the difference between
6 10 the length and the width of the district.
6 11 ~~(1) In measuring the length and the width of a district by~~
~~6 12 means of electronic data processing, the difference between~~
~~6 13 the "x" co-ordinates of the easternmost and the westernmost~~
~~6 14 geographic unit centers included in the district shall be~~
~~6 15 compared to the difference between the "y" co-ordinates of the~~
~~6 16 northernmost and southernmost geographic unit centers included~~
~~6 17 in the district.~~
6 18 ~~(2) To determine the length and width of a district by~~
~~6 19 manual measurement, In general, the length-width compactness~~
6 20 of a district is calculated by measuring the distance from the
6 21 northernmost point or portion of the boundary of a district to
6 22 the southernmost point or portion of the boundary of the same
6 23 district and the distance from the westernmost point or
6 24 portion of the boundary of the district to the easternmost
6 25 point or portion of the boundary of the same district ~~shall~~
~~6 26 each be measured. If the northernmost or southernmost portion~~
~~6 27 of the boundary, or each of these points, is a part of the~~
~~6 28 boundary running due east and west, the line used to make the~~
~~6 29 measurement required by this paragraph shall either be drawn~~
~~6 30 due north and south or as nearly so as the configuration of~~
~~6 31 the district permits. If the easternmost or westernmost~~
~~6 32 portion of the boundary, or each of these points, is a part of~~
~~6 33 the boundary running due north and south, a similar procedure~~
~~6 34 shall be followed. The lines to be measured for the purpose~~
~~6 35 of this paragraph shall each be drawn as required by this~~



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~~7 1 paragraph, even if some part of either or both lines lies~~
~~7 2 outside the boundaries of the district which is being tested~~
~~7 3 for compactness.~~
7 4 (3) The absolute values computed for individual districts
7 5 under this paragraph may be cumulated for all districts in a
7 6 plan in order to compare the overall compactness of two or
7 7 more alternative districting plans for the state, or for a
7 8 portion of the state. ~~However, it is not valid to cumulate or~~
~~7 9 compare absolute values computed under subparagraph (1) with~~
~~7 10 those computed under subparagraph (2) of this paragraph.~~
7 11 e. b. PERIMETER COMPACTNESS. The compactness of a
7 12 district is greatest when the ratio of the dispersion of
~~7 13 population about the population center of the district to the~~
~~7 14 dispersion of population about the geographic center of the~~
~~7 15 district is one to one, the nature of this ratio being such~~
~~7 16 that it is always greater than zero and can never be greater~~
~~7 17 than one to one.~~
7 18 (1) ~~The population dispersion about the population center~~
~~7 19 of a district, and about the geographic center of a district,~~
~~7 20 is computed as the sum of the products of the population of~~
~~7 21 each population data unit included in the district multiplied~~
~~7 22 by the square of the distance from that geographic unit center~~
~~7 23 to the population center or the geographic center of the~~
~~7 24 district, as the case may be. The geographic center of the~~
~~7 25 district is defined by averaging the locations of all~~
~~7 26 geographic unit centers which are included in the district.~~
~~7 27 The population center of the district is defined by computing~~
~~7 28 the population-weighted average of the "x" co-ordinates and~~
~~7 29 "y" co-ordinates of each geographic unit center assigned to~~
~~7 30 the district, it being assumed for the purpose of this~~
~~7 31 calculation that each population data unit possesses uniform~~
~~7 32 density of population.~~
7 33 (2) ~~The ratios computed for individual districts under~~
~~7 34 this paragraph may be averaged for all districts in a plan in~~
~~7 35 order to compare the overall compactness of two or more~~



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~~House Study Bill 148 continued~~

~~8 1 alternative districting plans for the state, or for a portion~~
~~8 2 of the state distance needed to traverse the perimeter~~
~~8 3 boundary of a district is as short as possible. The total~~
~~8 4 perimeter distance computed for individual districts under~~
~~8 5 this paragraph may be cumulated for all districts in a plan in~~
~~8 6 order to compare the overall compactness of two or more~~
~~8 7 alternative districting plans for the state, or for a portion~~
~~8 8 of the state.~~

8 9 Sec. 7. Section 42.4, subsection 8, Code 2007, is amended
8 10 to read as follows:

8 11 8. Each bill embodying a plan drawn under this section
8 12 shall include provisions for election of senators to the
8 13 general assemblies which take office in the years ending in
8 14 three and five, which shall be in conformity with Article III,
8 15 section 6, of the Constitution of the State of Iowa. With
8 16 respect to any plan drawn for consideration in ~~the a year 2001~~
8 17 ending in one, those provisions shall be substantially as
8 18 follows:

8 19 a. Each ~~odd-numbered~~ senatorial district in the plan which
8 20 is not a holdover senatorial district shall elect a senator in
8 21 ~~2002~~ the year ending in two for a four-year term commencing in
8 22 January ~~2003~~ of the year ending in three. If an incumbent
8 23 senator who was elected to a four-year term which commenced in
8 24 January ~~2001~~ of the year ending in one, or was subsequently
8 25 elected to fill a vacancy in such a term, is residing in ~~an~~
~~8 26 odd-numbered~~ a senatorial district in the plan which is not a
8 27 holdover senatorial district on the first Wednesday in
8 28 February 1, 2002 of the year ending in two, that senator's
8 29 term of office shall be terminated on January 1, ~~2003~~ of the
8 30 year ending in three.

8 31 b. Each ~~even-numbered~~ holdover senatorial district in the
8 32 plan shall elect a senator in 2004 the year ending in four for
8 33 a four-year term commencing in January ~~2005~~ of the year ending
8 34 in five.

8 35 (1) If one and only one incumbent state senator is
9 1 residing in ~~an even-numbered~~ a holdover senatorial district in
9 2 the plan on the first Wednesday in February 1, 2002 of the
9 3 year ending in two, and that senator meets all of the
9 4 following requirements, the senator shall represent the
9 5 district in the senate for the ~~Eightieth General Assembly~~
9 6 general assembly commencing in January of the year ending in
9 7 three:

9 8 (a) The senator was elected to a four-year term which
9 9 commenced in January ~~2001~~ of the year ending in one or was
9 10 subsequently elected to fill a vacancy in such a term.

9 11 (b) The senatorial district in the plan which includes the
9 12 place of residence of the state senator on the date of the
9 13 senator's last election to the senate is the same as the
9 14 ~~even-numbered~~ holdover senatorial district in which the
9 15 senator resides on the first Wednesday in February 1, ~~2002~~ of
9 16 the year ending in two, or is contiguous to such ~~even-numbered~~
9 17 holdover senatorial district and the senator's declared
~~9 18 residence as of February 1, 2002, was within the district from~~
~~9 19 which the senator was last elected.~~ Areas which meet only at
9 20 the points of adjoining corners are not contiguous.

9 21 ~~The secretary of state shall prescribe a form to be~~



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~~9 22 completed by all senators to declare their residences as of~~
~~9 23 February 1, 2002. The form shall be filed with the secretary~~
~~9 24 of state no later than five p.m. on February 1, 2002.~~
9 25 (2) Each ~~even-numbered~~ holdover senatorial district to
9 26 which subparagraph (1) ~~of this paragraph~~ is not applicable
9 27 shall elect a senator in ~~2002~~ the year ending in two for a
9 28 two-year term commencing in January ~~2003~~ of the year ending in
9 29 three. However, if more than one incumbent state senator is
9 30 residing in ~~an even-numbered~~ a holdover senatorial district on
9 31 the first Wednesday in February 1, 2002 of the year ending in
9 32 two, and, on or before the first Wednesday in February 15,
~~9 33 2002~~ of the year ending in two, all but one of the incumbent
9 34 senators resigns from office effective no later than January
9 35 1, 2003 of the year ending in three, the remaining incumbent



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10 1 senator shall represent the district in the senate for the
10 2 ~~Eightieth General Assembly~~ general assembly commencing in
10 3 January of the year ending in three. A copy of the
10 4 resignation must be filed in the office of the secretary of
10 5 state no later than five p.m. on the third Wednesday in
10 6 ~~February 15, 2002~~ of the year ending in two.

10 7 c. For purposes of this subsection:

10 8 (1) "Holdover senatorial district" means a senatorial
10 9 district in the plan which is numbered with an even or odd
10 10 number in the same manner as senatorial districts, which were
10 11 required to elect a senator in the year ending in zero, were
10 12 numbered.

10 13 (2) "Incumbent state senator" means a state senator who
10 14 holds the office of state senator on the first Wednesday in
10 15 February of the year ending in two, and whose declared
10 16 residence on that day is within the district from which the
10 17 senator was last elected.

10 18 d. The secretary of state shall prescribe a form to be
10 19 completed by all senators to declare their residences as of
10 20 the first Wednesday in February of the year ending in two.
10 21 The form shall be filed with the secretary of state no later
10 22 than five p.m. on the first Wednesday in February of the year
10 23 ending in two.

10 24 Sec. 8. Section 42.6, subsection 3, Code 2007, is amended
10 25 by striking the subsection.

10 26 Sec. 9. Section 42.6, subsection 4, paragraph b, Code
10 27 2007, is amended to read as follows:

10 28 b. Following the hearings, promptly prepare and submit to
10 29 the secretary of the senate and the chief clerk of the house a
10 30 report summarizing information and testimony received by the
10 31 commission in the course of the hearings. The commission's
10 32 report shall include any comments and conclusions which its
10 33 members deem appropriate on the information and testimony
10 34 received at the hearings, or otherwise presented to the
10 35 commission. The report shall be submitted no later than



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11 1 fourteen days after the date the bill embodying an initial
11 2 plan of congressional and legislative redistricting is
11 3 delivered to the general assembly.

11 4 EXPLANATION

11 5 This bill makes changes to the time frames and the duties
11 6 of the legislative services agency concerning the process of
11 7 congressional and legislative redistricting in Iowa.

11 8 Code section 42.2 is amended to provide that the
11 9 legislative services agency is responsible for making
11 10 available to the public copies of the redistricting bill,
11 11 maps, a summary of redistricting standards, and population
11 12 statistics for the plan. Current Code section 42.6,
11 13 subsection 3, which provides that the temporary redistricting
11 14 advisory commission is responsible for making this information
11 15 available to the public, is stricken.

11 16 Code section 42.3, subsection 1, is amended to provide that
11 17 the senate or house of representatives need only wait three
11 18 days, not seven days, to consider the first proposed plan of
11 19 redistricting following submission to the general assembly of
11 20 the report of the temporary redistricting advisory commission.
11 21 In addition, the bill provides that if reasons for rejection
11 22 of the bill are to be made by the senate or house of
11 23 representatives, they must be made within seven days after
11 24 rejection of the proposed redistricting plan. The language
11 25 detailing the consequences of delays in receiving census
11 26 information is moved to this subsection from Code section
11 27 42.3, subsection 4.

11 28 The language is amended to modify the time requirements for
11 29 submission and consideration of a bill of congressional and
11 30 legislative redistricting. The bill shortens by up to 14 days
11 31 the deadline by which the legislative services agency shall
11 32 submit the first plan of congressional and legislative
11 33 redistricting if the population data needed to complete
11 34 redistricting is made available after February 1 but not after
11 35 February 15 of the year following the census.



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12 1 Code section 42.3, subsections 2 and 3, are amended to
12 2 provide that the legislative services agency shall have, if
12 3 applicable, up to 35 days to submit a second plan, or a third
12 4 plan, following the rejection of the prior submitted plan of
12 5 congressional and legislative redistricting.

12 6 Code section 42.3, subsection 4, is stricken, eliminating
12 7 the option that separate bills of congressional and
12 8 legislative redistricting can be submitted if the population
12 9 data necessary to complete congressional redistricting is made
12 10 available prior to the availability of population data for
12 11 legislative redistricting. The language detailing the
12 12 consequences of delays in receiving census information is
12 13 moved to Code section 42.3, subsection 1.

12 14 Code section 42.4, subsection 4, concerning compactness, is
12 15 modified. The bill provides that districts shall be
12 16 reasonably compact in form to the extent consistent with the
12 17 standards of population equality, respect for political
12 18 subdivisions, and contiguity. In describing compactness, the
12 19 bill provides that districts, to the extent permitted by
12 20 natural and political boundaries, not be irregularly shaped.
12 21 The bill retains the test for compactness that compares the
12 22 length and width of a district, but simplifies statutory
12 23 language by eliminating the current alternative method of
12 24 calculating this standard utilizing "x" and "y" coordinates of
12 25 certain geographic unit centers. This alternative method is
12 26 unnecessary based on current computer technology. The bill
12 27 eliminates the test of compactness based upon population
12 28 dispersion which test, under current law, is always given
12 29 lesser weight than length=width compactness if the two
12 30 standards are contradictory. The bill adds a test for
12 31 compactness that provides that a district is most compact if
12 32 the distance needed to traverse the perimeter of the district
12 33 is as short as possible.

12 34 Code section 42.4, subsection 8, is amended to provide for
12 35 senatorial elections following redistricting. Current law



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13 1 makes provision for these elections following redistricting in
13 2 2001 and the bill makes the procedure used for the 2001
13 3 redistricting plan applicable on an ongoing basis for
13 4 subsequent redistricting years.
13 5 Code section 42.6, subsection 4, is amended to provide that
13 6 the temporary redistricting advisory commission shall submit
13 7 its report to the general assembly within 14 days after the
13 8 delivery of the first proposed redistricting plan to the
13 9 general assembly.
13 10 LSB 1709YC 82
13 11 ec:rj/je/5



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House Study Bill 149

SENATE/HOUSE FILE
 BY (PROPOSED DEPARTMENT OF
 CULTURAL AFFAIRS BILL)

Passed Senate, Date _____
 Vote: Ayes _____ Nays _____
 Approved

Passed House, Date _____
 Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to the designation of Iowa great places and
- 2 financial and technical assistance to projects in Iowa great
- 3 places.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TL5B 1382XD 82
- 6 tm/gg/14



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1 1 Section 1. Section 303.3C, subsection 1, paragraph c, Code
1 2 2007, is amended to read as follows:

1 3 c. Initially, three Iowa great places projects shall be
1 4 identified by the Iowa great places board. The board may
1 5 identify ~~up to six~~ additional Iowa great places for
1 6 participation under the program when places demonstrate
1 7 readiness for participation under the program.

1 8 Sec. 2. Section 303.3C, Code 2007, is amended by adding
1 9 the following new subsection:

1 10 NEW SUBSECTION. 4. Notwithstanding any restriction,
1 11 requirement, or duty to the contrary, in considering an
1 12 application for a grant, loan, or other financial or technical
1 13 assistance from a city or county where an Iowa great places
1 14 project has been identified, a state agency shall give
1 15 additional consideration or additional points in the
1 16 application of rating or evaluation criteria to such
1 17 applications. This subsection applies to applications filed
1 18 within three years of the Iowa great places board's
1 19 identification of the project for participation in the
1 20 program.

1 21 EXPLANATION

1 22 This bill relates to the designation of Iowa great places
1 23 and financial and technical assistance to projects in Iowa
1 24 great places.

1 25 Currently, the Iowa great places board may identify up to
1 26 six additional Iowa great places after the initial three are
1 27 identified. The bill eliminates the limit and allows the
1 28 board to identify any number of additional Iowa great places
1 29 when such places demonstrate a readiness for participation
1 30 under the Iowa great places program.

1 31 The bill provides that, notwithstanding any restriction,
1 32 requirement, or duty to the contrary, in considering an
1 33 application for a grant, loan, or other financial or technical
1 34 assistance from a city or county where an Iowa great places
1 35 project has been identified, a state agency shall give



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2 1 additional consideration or additional points in the
2 2 application of rating or evaluation criteria to such
2 3 applications. The bill provides that the provisions requiring
2 4 additional consideration or additional points shall apply to
2 5 applications filed within three years of the Iowa great places
2 6 board's identification of the project for participation in the
2 7 program.
2 8 LSB 1382XD 82
2 9 tm:rj/gg/14.1



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House Study Bill 150

SENATE/HOUSE FILE
 BY (PROPOSED DEPARTMENT OF
 CULTURAL AFFAIRS BILL)

Passed Senate, Date _____
 Vote: Ayes _____ Nays _____
 Approved

Passed House, Date _____
 Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to historic preservation and cultural and
- 2 entertainment district tax credits, making appropriations, and
- 3 providing applicability date provisions.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TL5B 1209XD 82
- 6 tm/gg/14



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1 1 Section 1. Section 404A.1, subsection 1, Code 2007, is
1 2 amended to read as follows:

1 3 1. A historic preservation and cultural and entertainment
1 4 district tax credit, subject to the availability of the
1 5 credit, is granted against the tax imposed under chapter 422,
1 6 division II, III, or V, or chapter 432, for the rehabilitation
1 7 of eligible property located in this state as provided in this
1 8 chapter. Tax credits in excess of tax liabilities shall be
1 9 refunded or credited as provided in section 404A.4, subsection
1 10 3.

1 11 Sec. 2. Section 404A.4, subsection 3, Code 2007, is
1 12 amended to read as follows:

1 13 3. A person receiving a historic preservation and cultural
1 14 and entertainment district tax credit under this chapter which
1 15 is in excess of the person's tax liability for the tax year is
1 16 entitled to a refund ~~of the excess at a discounted value. The~~
~~1 17 discounted value of the tax credit refund, as calculated by~~
~~1 18 the department of economic development, in consultation with~~
~~1 19 the department of revenue, shall be determined based on the~~
~~1 20 discounted value of the tax credit five years after the tax~~
~~1 21 year of the project completion at an interest rate equivalent~~
~~1 22 to the prime rate plus two percent. The refunded tax credit~~
~~1 23 shall not exceed seventy-five percent of the allowable tax~~
~~1 24 credit. In lieu of claiming a refund, the person may elect to~~
1 25 have the overpayment shown on the person's final, completed
1 26 return credited to the tax liability for succeeding tax years
1 27 until depleted.

1 28 Sec. 3. Section 404A.4, subsection 4, Code 2007, is
1 29 amended to read as follows:

1 30 4. The total amount of tax credits that may be approved
1 31 for a fiscal year under this chapter shall not exceed ~~two~~
1 32 twenty million four hundred thousand dollars less any amount
1 33 appropriated pursuant to section 404A.6. For the fiscal
~~1 34 period beginning July 1, 2005, and ending June 30, 2015, an~~
~~1 35 additional four million dollars of tax credits may be approved~~



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~~2 1 each fiscal year for purposes of projects located in cultural~~
~~2 2 and entertainment districts certified pursuant to section~~
~~2 3 303.3B. Of the tax credits approved for a fiscal year under~~
~~2 4 this chapter, two million dollars of tax credits shall be~~
~~2 5 allocated for purposes of projects with qualified costs of~~
~~2 6 five hundred thousand dollars or less, and six million dollars~~
~~2 7 of tax credits shall be allocated for purposes of projects~~
~~2 8 located in cultural and entertainment districts certified~~
~~2 9 pursuant to section 303.3B or identified in Iowa great places~~
~~2 10 agreements developed pursuant to section 303.3C. Any of the~~
~~2 11 additional tax credits allocated for projects located in~~
~~2 12 certified cultural and entertainment districts or identified~~
~~2 13 in Iowa great places agreements and for projects with a cost~~
~~2 14 of five hundred thousand dollars or less that are not approved~~
~~2 15 reserved during a fiscal year shall be applied to reserved tax~~
~~2 16 credits issued in accordance with section 404A.3 in order of~~
~~2 17 original reservation. The department of cultural affairs~~
~~2 18 shall establish by rule the procedures for the application,~~
~~2 19 review, selection, and awarding of certifications of~~
~~2 20 completion. The departments of economic development, cultural~~
~~2 21 affairs, and revenue shall each adopt rules to jointly~~
~~2 22 administer this subsection and shall provide by rule for the~~
~~2 23 method to be used to determine for which fiscal year the tax~~
~~2 24 credits are available. With the exception of tax credits~~
~~2 25 issued pursuant to contracts entered into prior to July 1,~~
~~2 26 2005, tax credits shall not be reserved for more than five~~
~~2 27 years.~~
2 28 Sec. 4. NEW SECTION. 404A.6 APPROPRIATION ==
2 29 ADMINISTRATIVE COSTS.
2 30 For the fiscal year beginning July 1, 2007, and each fiscal
2 31 year thereafter, there is appropriated from the general fund
2 32 of the state to the department of cultural affairs one hundred
2 33 fifty thousand dollars, or so much thereof as is necessary,
2 34 for purposes of costs associated with administering this
2 35 chapter.



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3 1 Sec. 5. Section 422.11D, subsection 1, Code 2007, is
3 2 amended to read as follows:

3 3 1. The taxes imposed under this division, less the credits
3 4 allowed under sections 422.12 and 422.12B, shall be reduced by
3 5 a historic preservation and cultural and entertainment
3 6 district tax credit equal to the amount as computed under
3 7 chapter 404A for rehabilitating eligible property. Any credit
3 8 in excess of the tax liability shall be refunded or credited
3 9 to succeeding tax years until depleted, as provided in section
3 10 404A.4, subsection 3.

3 11 Sec. 6. Section 422.33, subsection 10, paragraph a, Code
3 12 2007, is amended to read as follows:

3 13 a. The taxes imposed under this division shall be reduced
3 14 by a historic preservation and cultural and entertainment
3 15 district tax credit equal to the amount as computed under
3 16 chapter 404A for rehabilitating eligible property. Any credit
3 17 in excess of the tax liability shall be refunded or credited
3 18 to succeeding tax years until depleted, as provided in section
3 19 404A.4, subsection 3.

3 20 Sec. 7. Section 422.60, subsection 4, paragraph a, Code
3 21 2007, is amended to read as follows:

3 22 a. The taxes imposed under this division shall be reduced
3 23 by a historic preservation and cultural and entertainment
3 24 district tax credit equal to the amount as computed under
3 25 chapter 404A for rehabilitating eligible property. Any credit
3 26 in excess of the tax liability shall be refunded or credited
3 27 to succeeding tax years until depleted, as provided in section
3 28 404A.4, subsection 3.

3 29 Sec. 8. Section 432.12A, subsection 1, Code 2007, is
3 30 amended to read as follows:

3 31 1. The tax imposed under this chapter shall be reduced by
3 32 a historic preservation and cultural and entertainment
3 33 district tax credit equal to the amount as computed under
3 34 chapter 404A for rehabilitating eligible property. Any credit
3 35 in excess of the tax liability shall be refunded or credited



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4 1 to succeeding tax years until depleted, as provided in section
4 2 404A.4, subsection 3.

4 3 Sec. 9. APPLICABILITY. This Act applies to historic
4 4 preservation and cultural and entertainment district tax
4 5 credits applied for or reserved prior to July 1, 2007.

4 6 EXPLANATION

4 7 This bill relates to historic preservation and cultural and
4 8 entertainment district tax credits.

4 9 Currently, a person receiving a historic preservation and
4 10 cultural and entertainment district tax credit may receive a
4 11 tax credit refund at a discounted value for the amount in
4 12 excess of the taxpayer's tax liability in the year that the
4 13 tax credit is claimed.

4 14 The bill eliminates the discounting of the value of a
4 15 refund and allows the entire value of the tax credit to be
4 16 refunded. In addition, the bill allows a taxpayer, in lieu of
4 17 claiming a refund, to elect to have the overpayment shown on
4 18 the person's final, completed return credited to the tax
4 19 liability for succeeding tax years, until depleted. The bill
4 20 makes conforming amendments.

4 21 Currently, the total amount of historic preservation and
4 22 cultural and entertainment district tax credits that may be
4 23 approved for a fiscal year shall not exceed \$2.4 million. For
4 24 the fiscal period beginning July 1, 2005, and ending June 30,
4 25 2015, an additional \$4 million of tax credits may be approved
4 26 each fiscal year for purposes of projects located in certified
4 27 cultural and entertainment districts.

4 28 The bill increases the amount of tax credits that may be
4 29 approved each fiscal year to \$20 million less the amount
4 30 appropriated for administrative costs. Of that amount, the
4 31 bill provides that \$2 million of tax credits shall be
4 32 allocated for purposes of projects with qualified costs of
4 33 \$500,000 or less, and \$6 million of tax credits shall be
4 34 allocated for purposes of projects located in certified
4 35 cultural and entertainment districts or identified in Iowa



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5 1 great places agreements. The bill provides that any of the
5 2 tax credits allocated for projects located in certified
5 3 cultural and entertainment districts or identified in Iowa
5 4 great places agreements and for projects with a cost of
5 5 \$500,000 or less that are not reserved during a fiscal year
5 6 shall be applied to reserved tax credits in order of original
5 7 reservation.

5 8 The bill appropriates \$150,000 each fiscal year for the
5 9 fiscal year beginning July 1, 2007, and each fiscal year
5 10 thereafter, from the general fund of the state to the
5 11 department of cultural affairs for purposes of costs
5 12 associated with administering Code chapter 404A.

5 13 The bill applies to historic preservation and cultural and
5 14 entertainment district tax credits applied for or reserved
5 15 prior to July 1, 2007.

5 16 LSB 1209XD 82
5 17 tm:sc/gg/14.1



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House Study Bill 151

HOUSE FILE
 BY (PROPOSED COMMITTEE ON
 HUMAN RESOURCES BILL BY
 CHAIRPERSON SMITH)

Passed House, Date _____ Passed Senate, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
 Approved

A BILL FOR

- 1 An Act relating to providing an appeal process for medical
- 2 assistance providers.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1837YC 82
- 5 pf/je/5



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1 1 Section 1. NEW SECTION. 249A.36 PROVIDER APPEALS
1 2 PROCESS.
1 3 1. Notwithstanding conflicting provisions of chapter 17A,
1 4 a provider appeal hearing pursuant to subsection 2 shall be
1 5 available to a provider if any of the following conditions,
1 6 which constitutes a contested case, is met:
1 7 a. The provider's license, certification, registration,
1 8 approval, or accreditation has been denied or revoked or has
1 9 not been acted upon in a timely manner.
1 10 b. The provider's claim for payment or request for prior
1 11 authorization of payment has been denied.
1 12 c. The provider's contract as a medical assistance patient
1 13 manager has been terminated.
1 14 d. The provider has been notified that an overpayment has
1 15 been established and repayment is requested.
1 16 e. The provider has been notified that the reconsideration
1 17 process has been exhausted and the provider is not satisfied
1 18 with the result.
1 19 f. The provider's claim for payment was not made according
1 20 to department policy.
1 21 g. The provider's application for a child care quality
1 22 rating has not been acted upon in a timely manner, the
1 23 provider disagrees with the department's quality rating
1 24 decision, or the provider's certificate of quality rating has
1 25 been revoked.
1 26 2. a. A provider appeal hearing shall be conducted by a
1 27 panel which consists of the following members:
1 28 (1) One member, appointed by the president or presiding
1 29 officer of the provider's professional or trade association,
1 30 who is either a member of the association or is a provider who
1 31 provides similar professional services as the provider. For
1 32 the purposes of this subparagraph, "provider's professional or
1 33 trade association" means the entity composed of providers who
1 34 hold the same license, certification, registration, approval,
1 35 or accreditation as the provider or, if not licensed,



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2 1 certified, registered, approved, or accredited, providers who
2 2 provide the same professional services as the provider.

2 3 (2) One member, appointed by the department, who is an
2 4 employee of the department.

2 5 (3) One member, who is an administrative law judge,
2 6 assigned by the division of administrative hearings of the
2 7 department of inspections and appeals in accordance with the
2 8 provisions of section 10A.801.

2 9 b. The administrative law judge member of the panel shall
2 10 be the presiding officer for the hearing.

2 11 c. The decision of the panel shall be determined by a
2 12 majority vote.

2 13 d. The decision of the panel shall be a final decision and
2 14 shall meet the requirements of a final decision pursuant to
2 15 section 17A.16.

2 16 e. A party to the hearing may file a request for rehearing
2 17 pursuant to section 17A.16.

2 18 f. A party who is aggrieved or adversely affected by a
2 19 final decision under this section is entitled to judicial
2 20 review as provided in section 17A.19.

2 21 EXPLANATION

2 22 This bill provides an appeals process for medical
2 23 assistance providers in certain contested case proceedings.
2 24 The bill specifies the circumstances, that constitute a
2 25 contested case, in which the alternative appeals hearing
2 26 process would apply. Under the alternative appeals hearing
2 27 process, in lieu of selection of a presiding officer for a
2 28 contested case proceeding under Code chapter 17A, which would
2 29 allow for an agency or an administrative law judge to preside,
2 30 the bill provides that the contested case would be presided
2 31 over by a panel made up of three members: a member appointed
2 32 by the provider's professional or trade association who is a
2 33 member of the association or a provider who provides similar
2 34 professional services as the provider; a member, appointed by
2 35 the department of human services, who is an employee of the



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3 1 department; and an administrative law judge assigned by the
3 2 division of administrative hearings of the department of
3 3 inspections and appeals. The administrative law judge is to
3 4 be the presiding officer for the hearing and the decision of
3 5 the panel is to be determined by a majority vote. Under the
3 6 bill, the decision of the panel is a final decision, a party
3 7 to the hearing may file a request for rehearing, and a party
3 8 who is aggrieved or adversely affected by a final decision is
3 9 entitled to judicial review.

3 10 LSB 1837YC 82

3 11 pf:nh/je/5



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House Study Bill 152

HOUSE FILE
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL
BY CHAIRPERSON JOCHUM)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved

A BILL FOR

- 1 An Act allowing a county commissioner of elections to appoint
- 2 certain high school students to serve as precinct election
- 3 board members.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1665HC 82
- 6 sc/sh/8



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PAG LIN

1 1 Section 1. Section 49.13, Code 2007, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 5. The commissioner may appoint high
1 4 school students who are not yet qualified to be registered
1 5 voters to serve as precinct election board members.
1 6 a. To qualify to serve as a precinct election board
1 7 member, a high school student shall:
1 8 (1) Be a United States citizen.
1 9 (2) Be a junior or senior in good standing enrolled in a
1 10 public or private secondary school in Iowa.
1 11 (3) Have a cumulative grade point average equivalent to at
1 12 least 2.0 on a 4.0 scale.
1 13 (4) At the time of appointment, have the written approval
1 14 of the principal of the secondary school the student attends.
1 15 (5) Have the written approval of the student's parent or
1 16 legal guardian.
1 17 (6) Have satisfactorily completed the training course for
1 18 election officials.
1 19 (7) Meet all other qualifications for appointment and
1 20 service as an election board member except the requirement of
1 21 being a registered voter.
1 22 b. No more than one student precinct election board member
1 23 may serve on each precinct election board.
1 24 c. Student precinct election board members shall not serve
1 25 as the chairperson of a precinct election board.
1 26 d. Before serving at a partisan election, the student
1 27 election precinct board member must certify in writing to the
1 28 commissioner the political party with which the student is
1 29 affiliated.
1 30 e. Student precinct election board members shall not be
1 31 counted as absent from school on the day they serve as
1 32 election officials.
1 33 f. Student precinct election board members shall not be
1 34 allowed to work more hours than allowed under the applicable
1 35 labor laws.



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2 1 Sec. 2. Section 49.15, Code 2007, is amended by adding the
2 2 following new unnumbered paragraph:
2 3 NEW UNNUMBERED PARAGRAPH. In drawing up precinct election
2 4 board panels, the commissioner may use student precinct
2 5 election board members appointed pursuant to section 49.13,
2 6 subsection 5.

2 7 EXPLANATION

2 8 This bill amends Code sections 49.13 and 49.15 to allow
2 9 high school juniors and seniors who are not yet qualified to
2 10 be registered voters to be appointed as precinct election
2 11 board members, but not board chairpersons, if they meet
2 12 certain statutory requirements.
2 13 LSB 1665HC 82
2 14 sc:nh/sh/8



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House Study Bill 153

HOUSE FILE
 BY (PROPOSED COMMITTEE ON
 STATE GOVERNMENT BILL
 BY CHAIRPERSON JOCHUM)

Passed House, Date _____ Passed Senate, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
 Approved

A BILL FOR

- 1 An Act relating to voter registration and voting systems
- 2 performance standards.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1860YC 82
- 5 sc/gg/14



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PAG LIN

1 1 Section 1. Section 48A.8, subsection 2, unnumbered
1 2 paragraph 1, Code 2007, is amended to read as follows:
1 3 An eligible elector who registers by mail and who has not
1 4 previously voted in an election for federal office in ~~the~~
~~1 5 county of registration~~ this state shall be required to provide
1 6 identification documents when voting for the first time in the
1 7 county of registration, unless the registrant provided on the
1 8 registration form the registrant's Iowa driver's license
1 9 number, ~~or~~ the registrant's Iowa nonoperator's identification
1 10 card number, or the last four numerals of the registrant's
1 11 social security number and the driver's license, nonoperator's
1 12 identification, or partial social security number matches an
1 13 existing state or federal identification record with the same
1 14 number, name, and date of birth. If the registrant under this
1 15 subsection votes in person at the polls, or by absentee ballot
1 16 at the commissioner's office or at a satellite voting station,
1 17 the registrant shall provide a current and valid photo
1 18 identification card, or shall present to the appropriate
1 19 election official one of the following current documents that
1 20 shows the name and address of the registrant:
1 21 Sec. 2. Section 48A.11, subsection 8, Code 2007, is
1 22 amended to read as follows:
1 23 8. A voter registration application lacking the
1 24 registrant's name, sex, date of birth, or residence address or
1 25 description shall ~~not~~ be processed as an incomplete
1 26 registration, and the registrant shall be notified pursuant to
1 27 section 48A.26, subsection 3. A If a voter registration
1 28 application lacking received by mail lacks the registrant's
1 29 Iowa driver's license number, Iowa nonoperator's
1 30 identification card number, or the last four digits of the
1 31 registrant's social security number, it shall not be processed
1 32 as a pending registration. A registrant whose registration is
~~1 33 not processed pursuant to this subsection shall be notified~~
~~1 34 pursuant to section 48A.26, subsection 3. A registrant An~~
1 35 eligible elector who registers in person and who does not have



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2 1 an Iowa driver's license number, an Iowa nonoperator's
2 2 identification number, or a social security number, and who
2 3 notifies the registrar of such, shall be assigned a unique
2 4 identifying number that shall serve to identify the registrant
2 5 for voter registration purposes. The commissioner shall enter
2 6 the registration into the voter registration records as an
2 7 active registration.

2 8 Sec. 3. Section 48A.12, unnumbered paragraph 1, Code 2007,
2 9 is amended to read as follows:

2 10 The mail voter registration form prescribed by the federal
2 11 election assistance commission shall be accepted for voter
2 12 registration in Iowa if all required information is provided,
2 13 if it is signed by the registrant, and if the form is timely
2 14 received.

2 15 Sec. 4. Section 48A.25A, unnumbered paragraphs 1 and 2,
2 16 Code 2007, are amended to read as follows:

2 17 Upon receipt of an application for voter registration ~~by~~
~~2 18 mail, the state registrar of voters~~ commissioner shall compare
2 19 the Iowa driver's license number, the Iowa nonoperator's
2 20 identification card number, or the last four numerals of the
2 21 social security number provided by the registrant with the
2 22 records of the state department of transportation or the
2 23 social security administration. To be verified, the voter
2 24 registration record shall contain the same name, date of
2 25 birth, and Iowa driver's license number, ~~or~~ Iowa nonoperator's
2 26 identification card number, or whole or partial social
2 27 security number as the records of the state department of
2 28 transportation or the social security administration. If the
2 29 information cannot be verified, the application shall be
2 30 rejected and the registrant shall be notified of the reason
2 31 for the rejection. If the information can be verified, a
2 32 record shall be made of the verification and the application
2 33 shall be accepted.

2 34 The voter registration commission shall adopt rules in
2 35 accordance with chapter 17A to provide procedures for



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3 1 processing registration applications if the state department
3 2 of transportation or the social security administration does
3 3 not, before the close of registration for an election for
3 4 which the voter registration would be effective, if verified,
3 5 provide a report that the information on the application has
3 6 matched or not matched the records of the department or
3 7 administration.

3 8 Sec. 5. Section 48A.26, subsection 4, Code 2007, is
3 9 amended to read as follows:

3 10 4. If the registrant applied by mail to register to vote
3 11 and did not answer either "yes" or "no" to the question in
3 12 section 48A.11, subsection 3, paragraph "a", the application
3 13 shall be processed, ~~but the registration shall be designated~~
~~3 14 as valid only for elections that do not include candidates for~~
~~3 15 federal offices on the ballot. The acknowledgment shall~~
~~3 16 advise the applicant that the status of the registration is~~
~~3 17 local and the reason for the registration being assigned local~~
~~3 18 status. The commissioner shall send written notice to the~~
3 19 applicant informing the applicant that the applicant did not
3 20 mark either "yes" or "no" in response to the question about
3 21 the applicant's citizenship. The notice shall advise the
3 22 applicant that the applicant may complete the registration by
3 23 submitting a new registration form before the date of the next
3 24 general election. The commissioner shall enclose with the
3 25 written notice a new registration by mail form for the
3 26 applicant to use. If the original application is received
~~3 27 during the twelve days before the close of registration for an~~
~~3 28 election that includes candidates for federal offices on the~~
~~3 29 ballot, the commissioner shall provide the registrant with an~~
~~3 30 opportunity to complete the form before the close of~~
~~3 31 registration. The commissioner shall enter the registration~~
3 32 into the voter registration records as an active registration.

3 33 Sec. 6. Section 48A.37, subsection 2, Code 2007, is
3 34 amended to read as follows:

3 35 2. Electronic records shall include a status code



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4 1 designating whether the records are active, inactive, ~~local,~~
~~4 2 or pending, incomplete, or cancelled.~~ Inactive records are
4 3 records of registered voters to whom notices have been sent
4 4 pursuant to section 48A.28, subsection 3, and who have not
4 5 returned the card or otherwise responded to the notice, and
4 6 those records have been designated inactive pursuant to
4 7 section 48A.29. ~~Local records are records of applicants who~~
~~4 8 did not answer either "yes" or "no" to the question in section~~
~~4 9 48A.11, subsection 3, paragraph "a".~~ Pending records are
4 10 records of applicants ~~whose applications have not been~~
~~4 11 verified pursuant to section 48A.25A who registered by mail~~
~~4 12 and who did not provide on the application the registrant's~~
~~4 13 Iowa driver's license number, nonoperator's identification~~
~~4 14 card number, or the last four numerals of the registrant's~~
~~4 15 social security number.~~ Incomplete records are records that
4 16 could not be verified pursuant to section 48A.25A or that are
4 17 missing required information. Cancelled records are records
4 18 that have been cancelled pursuant to section 48A.30. All
4 19 other records are active records. An inactive record shall be
4 20 made active when the registered voter votes at an election,
4 21 registers again, or reports a change of name, address,
4 22 telephone number, or political party affiliation. A pending
4 23 record shall be made active ~~upon verification~~ when the voter
4 24 presents identification at the polls and votes. ~~A local~~
~~4 25 record shall be valid for any election for which no candidates~~
~~4 26 for federal office appear on the ballot. A registrant with~~
~~4 27 only a local record shall not vote in a federal election~~
~~4 28 unless the registrant submits a new voter registration~~
~~4 29 application before election day indicating that the applicant~~
~~4 30 is a citizen of the United States.~~
4 31 Sec. 7. Section 52.5, unnumbered paragraph 2, Code 2007,
4 32 is amended to read as follows:
4 33 The state commissioner shall formulate, with the advice and
4 34 assistance of the examiners, and adopt rules governing the
4 35 testing and examination of any voting machine or electronic



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5 1 voting system by the board of examiners. The rules shall
5 2 prescribe the method to be used in determining whether the
5 3 machine or system is suitable for use within the state and
5 4 performance standards for voting equipment in use within the
5 5 state. The rules shall provide that all electronic voting
5 6 systems and voting machines approved for use by the examiners
5 7 after April 9, 2003, shall meet voting systems performance and
5 8 test standards, as adopted by the federal election commission
5 9 on April 30, 2002, and as deemed adopted by Pub. L. No.
5 10 107-252, section 222, or the voluntary voting system
5 11 guidelines as adopted by the federal election assistance
5 12 commission on December 13, 2005. The rules shall include
5 13 standards for determining when recertification is necessary
5 14 following modifications to the equipment or to the programs
5 15 used in tabulating votes, and a procedure for rescinding
5 16 certification if a system or machine is found not to comply
5 17 with performance standards adopted by the state commissioner.

5 18 EXPLANATION

5 19 This bill makes changes relating to voter registration and
5 20 voting systems.

5 21 Current law provides that an eligible elector who registers
5 22 by mail and who has not voted in an election for federal
5 23 office in the county of registration must produce
5 24 identification at the polls unless certain identification
5 25 numbers are provided on the registration application and the
5 26 number provided has been verified. The bill changes "county
5 27 of registration" to "state". This change incorporates
5 28 requirements of the Help America Vote Act which requires
5 29 first-time voters within a state to show identification. The
5 30 provision that required a first-time voter within a county to
5 31 show identification does not apply in states that have
5 32 statewide voter registration systems.

5 33 Code section 48A.11 is amended to provide that a voter
5 34 registration application received by mail that does not have
5 35 one of the required identification numbers shall be processed



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6 1 as a pending registration. Current law provides that such an
6 2 application shall not be processed. A conforming amendment
6 3 redefining pending registration records is made in Code
6 4 section 48A.37. Section 48A.11 is also amended to specify
6 5 that a registrant who applies in person at the commissioner's
6 6 office and who does not have one of the required
6 7 identification numbers shall be assigned a unique
6 8 identification number by the commissioner.

6 9 Code section 48A.12, relating to federal mail voter
6 10 registration forms, is amended to refer to the election
6 11 assistance commission created by the Help America Vote Act,
6 12 rather than to the federal election commission.

6 13 Code section 48A.25A is amended to provide that the county
6 14 commissioner of registration, rather than the state registrar
6 15 of voters, shall verify identification numbers included on
6 16 voter registration applications. The Code section is also
6 17 amended to allow the commissioner to verify social security
6 18 numbers with the social security administration in addition to
6 19 the state department of transportation.

6 20 Code section 48A.26 is amended to provide that a registrant
6 21 who did not answer the question on the voter registration
6 22 application relating to citizenship shall be notified by the
6 23 commissioner of that fact, shall be advised that the
6 24 registrant may complete another application before the date of
6 25 the next general election, and shall be sent a new voter
6 26 registration application. However, the registration based on
6 27 the original application shall be entered in the voter
6 28 registration records as an active registration for all
6 29 purposes. Current law provides that until a new application
6 30 is completed, the registration shall be entered as a local
6 31 registration and the registrant may only vote in elections
6 32 that do not have a federal office on the ballot.

6 33 Code section 48A.37 is amended to delete the reference to
6 34 local registrations. The Code section is also amended to
6 35 provide that a pending registration shall be made an active



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7 1 registration when the voter presents identification at the
7 2 polls and votes. Code section 48A.37 is further amended to
7 3 add incomplete registration records, which are defined as
7 4 registrations in which the required identification number
7 5 could not be verified or registrations which are lacking
7 6 required information, and cancelled registrations, which are
7 7 those registrations cancelled pursuant to Code section 48A.30.
7 8 Code section 52.5 is amended to provide that rules adopted
7 9 by the state commissioner governing the testing and
7 10 examination of voting machines and electronic voting systems
7 11 shall require newly approved voting systems to meet standards
7 12 adopted by the federal election commission or the voluntary
7 13 guidelines adopted by the election assistance commission.
7 14 Currently, the rules are required to be based on the standards
7 15 adopted by the federal election commission.
7 16 LSB 1860YC 82
7 17 sc:nh/gg/14



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House Study Bill 154

HOUSE FILE
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON JOCHUM)

Passed House, Date _____
Vote: Ayes _____ Nays _____
Approved

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act regulating electioneering communications for campaign
- 2 finance and disclosure purposes and making civil remedies
- 3 applicable.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1968HC 82
- 6 jr/je/5



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PAG LIN

1 1 Section 1. Section 68A.102, Code 2007, is amended by
1 2 adding the following new subsections:
1 3 NEW SUBSECTION. 13A. "Electioneering committee" means any
1 4 organization, other than a candidate's committee or a
1 5 political committee, that creates or disseminates an
1 6 electioneering communication.
1 7 NEW SUBSECTION. 13B. "Electioneering communication" means
1 8 any print, radio, televised, or electronic communication in
1 9 any form or content, which is disseminated to the general
1 10 public or a segment thereof, that refers to a clearly
1 11 identified candidate for elected public office, if the
1 12 communication has the effect of encouraging or discouraging a
1 13 vote for the candidate, regardless of whether the
1 14 communication expressly advocates a vote for or against the
1 15 candidate, and is made within a period of thirty days before a
1 16 primary election or sixty days before a general or special
1 17 election for the public office sought by the candidate.
1 18 Sec. 2. NEW SECTION. 68A.401A ELECTIONEERING
1 19 COMMUNICATIONS.
1 20 1. An electioneering committee shall file a statement of
1 21 organization with the board prior to making an electioneering
1 22 communication. The statement of organization shall comply
1 23 with the provisions of section 68A.201.
1 24 2. An electioneering committee shall file a report with
1 25 the board within forty-eight hours of making an electioneering
1 26 communication. Reports filed under this section shall be
1 27 filed using the board's electronic filing system. The report
1 28 shall include all of the following:
1 29 a. The name and mailing address of each person who gave a
1 30 contribution of money, in-kind contribution, or a loan to the
1 31 electioneering committee, for use in this state, if the
1 32 aggregate amount or fair-market value exceeds twenty-five
1 33 dollars in a calendar year. Loans received and loan
1 34 repayments shall be reported on a separate schedule.
1 35 b. The name and mailing address of each person to whom



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2 1 disbursements or loan repayments have been made by the
2 2 electioneering committee in this state and the amount,
2 3 purpose, and date of each disbursement except that
2 4 disbursements of less than five dollars may be shown as
2 5 miscellaneous disbursements as long as the aggregate
2 6 miscellaneous disbursements to any one person during a
2 7 calendar year do not exceed one hundred dollars.
2 8 c. The amount and nature of debts and obligations owed by
2 9 the electioneering committee for electioneering communications
2 10 in this state.
2 11 3. This section shall not apply to any of the following:
2 12 a. A communication appearing in a news story, commentary,
2 13 or editorial distributed through a media organization, unless
2 14 such organization is owned or controlled by a political party,
2 15 political committee, or candidate.
2 16 b. A communication that constitutes a candidate debate or
2 17 forum conducted pursuant to rules adopted by the board, or
2 18 that solely promotes such a debate or forum and is made by or
2 19 on behalf of the person sponsoring the debate or forum.
2 20 c. A communication disseminated to fewer than one hundred
2 21 named individuals.
2 22 d. Activities by a political committee or a candidate's
2 23 committee organized under this chapter.
2 24 e. Express advocacy communications.
2 25 4. The penalty set out in section 68A.701 does not apply
2 26 to a violation of this section.

2 27 EXPLANATION

2 28 This bill regulates electioneering communications, which
2 29 are defined as communications that: (1) refer to a clearly
2 30 identified candidate for elected public office; (2) have the
2 31 effect of encouraging or discouraging a vote for the
2 32 candidate; and (3) are made within 30 days before a primary
2 33 election or 60 days before a general or special election for
2 34 the public office sought by the candidate. The term does not
2 35 include a communication disseminated to fewer than 100



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3 1 persons.

3 2 The bill requires that any organization that disseminates
3 3 electioneering communications must file a statement of
3 4 organization with the ethics and campaign disclosure board
3 5 prior to making any electioneering communication. Disclosure
3 6 reports are required to be made and must include a variety of
3 7 information including the name and mailing address of each
3 8 person who gave a contribution or contributions of money,
3 9 in-kind contributions, or loans to the electioneering
3 10 committee if the aggregate amount or fair-market value exceeds
3 11 \$25 in a calendar year.

3 12 The criminal penalty normally associated with violations of
3 13 Code chapter 68A is made inapplicable to violations of the
3 14 bill. A variety of civil remedies for a violation are
3 15 available in Code section 68B.32D, ranging from a reprimand to
3 16 a civil penalty of not more than \$2,000.

3 17 LSB 1968HC 82

3 18 jr:rj/je/5



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Senate File 92 - Introduced

SENATE FILE
BY WIECK

Passed Senate, Date _____
Vote: Ayes _____ Nays _____
Approved

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to loans made to resident account beneficiaries
- 2 of health savings accounts and providing a penalty.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 2082SS 82
- 5 mg/gg/14



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Senate File 92 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 421.48 PURPOSE == PROGRAM
1 2 ESTABLISHMENT.
1 3 1. The purpose of this section and sections 421.49 through
1 4 421.51 is to assist resident account beneficiaries of health
1 5 savings accounts to be able to fund, as quickly as possible,
1 6 the amount of the annual deductible and maximum out-of-pocket
1 7 amounts under the beneficiary's high deductible health plan.
1 8 2. To fulfill the purpose of this section and sections
1 9 421.49 through 421.51, the department shall establish a health
1 10 savings account loan program.
1 11 Sec. 2. NEW SECTION. 421.49 DEFINITIONS.
1 12 For purposes of sections 421.48 through 421.51, unless the
1 13 context otherwise requires:
1 14 1. "Account beneficiary", "health savings account", and
1 15 "high deductible health plan" mean the same as defined in
1 16 section 223 of the Internal Revenue Code.
1 17 2. "Internal Revenue Code" means the same as defined in
1 18 section 422.3.
1 19 Sec. 3. NEW SECTION. 421.50 HEALTH SAVINGS ACCOUNT LOAN
1 20 FUND.
1 21 1. A health savings account loan fund is created under the
1 22 authority of the department of revenue. The fund shall
1 23 consist of appropriations made to the fund and transfers of
1 24 interest, earnings, and moneys from other funds as provided by
1 25 law. The fund shall be separate from the general fund of the
1 26 state and the balance in the fund shall not be considered part
1 27 of the balance of the general fund of the state. However, the
1 28 fund shall be considered a special account for the purposes of
1 29 section 8.53, relating to generally accepted accounting
1 30 principles.
1 31 2. Notwithstanding section 12C.7, subsection 2, interest
1 32 or earnings on moneys in the fund shall be credited to the
1 33 fund.
1 34 3. The moneys in the health savings account loan fund are
1 35 appropriated to the department for purposes of providing loans



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Senate File 92 - Introduced continued

2 1 to resident account beneficiaries of health savings accounts
2 2 pursuant to section 421.51.
2 3 Sec. 4. NEW SECTION. 421.51 LOANS == PENALTY.
2 4 1. a. A resident of the state who is an account
2 5 beneficiary and whose balance in the health savings account is
2 6 less than the deductible under the account beneficiary's high
2 7 deductible health plan may apply to the department for a loan
2 8 in an amount not to exceed the difference.
2 9 b. An individual seeking a loan under this section shall
2 10 apply for the loan on a form approved by the department and
2 11 provide the following information:
2 12 (1) The amount of the deductible, the balance in the
2 13 health savings account, and the loan sought.
2 14 (2) A list of the major assets and liabilities of the
2 15 individual and the individual's household. The department
2 16 shall establish by rule what constitutes a major asset or
2 17 liability.
2 18 (3) Any other health coverage of the individual and the
2 19 corresponding deductible.
2 20 (4) Other information deemed necessary by the department.
2 21 c. If the department determines that the applicant
2 22 qualifies for a loan and sufficient funds are available, the
2 23 department shall provide the applicant with a loan equal to
2 24 the amount requested by the applicant, not to exceed the limit
2 25 specified in paragraph "a". The loan shall be on terms set by
2 26 rule of the department with interest at the rate established
2 27 under section 421.7. The loan shall be deposited into the
2 28 applicant's health savings account. As part of the loan
2 29 agreement, the applicant shall agree that moneys shall not be
2 30 deposited by the applicant into the applicant's health savings
2 31 account until after the loan has been repaid.
2 32 2. If an applicant or other person knowingly makes a false
2 33 statement for the purpose of enabling the applicant to receive
2 34 a loan under this section, the applicant or other person is
2 35 guilty of a fraudulent practice as described in section 714.8.



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Senate File 92 - Introduced continued

3 1 EXPLANATION
3 2 This bill establishes a health savings account loan
3 3 program. Under the program an Iowa resident who is an account
3 4 beneficiary of a health savings account may apply to the
3 5 department of revenue for a loan in an amount equal to the
3 6 difference between the resident's annual deductible under the
3 7 high deductible health plan and the balance in the resident's
3 8 health savings account. A health savings account is a trust
3 9 account established to assist the account beneficiary, on
3 10 whose behalf the account is established, to pay the annual
3 11 deductible and out-of-pocket expenses of a high deductible
3 12 health plan. Such health plan has a deductible of at least
3 13 \$1,000 for single coverage and at least \$2,000 for family
3 14 coverage.
3 15 LSB 2082SS 82
3 16 mg:nh/gg/14



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Senate File 93

SENATE FILE
BY McCOY

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
Approved

A BILL FOR

1 An Act relating to the physical education requirements for grades
2 nine through twelve under the educational standards for school
3 districts and accredited nonpublic schools.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1697SS 82
6 kh/es/88



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Senate File 93 continued

PAG LIN

1 1 Section 1. Section 256.11, subsection 5, paragraph g,
1 2 unnumbered paragraph 1, Code 2007, is amended to read as
1 3 follows:

1 4 All students physically able shall be required to
1 5 participate in physical education activities during each
1 6 semester they are enrolled in school except as otherwise
1 7 provided in this paragraph. For purposes of this paragraph,
1 8 "physical education activities" includes a minimum of thirty
1 9 minutes per day, three school days per week, of activities
1 10 designed to increase cardiovascular fitness. A minimum of

1 11 ~~one-eighth~~ one-quarter unit each semester is required. A
1 12 twelfth grade student who meets the requirements of this
1 13 paragraph may be excused from the physical education
1 14 requirement by the principal of the school in which the
1 15 student is enrolled if the parent or guardian of the student
1 16 requests in writing that the student be excused from the
1 17 physical education requirement. A student who wishes to be
1 18 excused from the physical education requirement must be
1 19 seeking to be excused in order to enroll in academic courses
1 20 not otherwise available to the student, or be enrolled or
1 21 participating in one of the following:

1 22 Sec. 2. Section 256.11, subsection 5, paragraph g,
1 23 subparagraph (2), Code 2007, is amended to read as follows:

1 24 (2) An organized and supervised athletic program which
1 25 requires at least as much participation per week as ~~one-eighth~~
1 26 one-fourth unit of physical education.

1 27 Sec. 3. Section 256.11, subsection 5, paragraph g,
1 28 unnumbered paragraph 2, Code 2007, is amended to read as
1 29 follows:

1 30 Students in grades nine through eleven may be excused from
1 31 the physical education requirement in order to enroll in
1 32 academic courses not otherwise available to the student if the
1 33 board of directors of the school district in which the school
1 34 is located, or the authorities in charge of the school, if the
1 35 school is a nonpublic school, determine that students from the



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Senate File 93 continued

2 1 school may be permitted to be excused from the physical
2 2 education requirement. A student may be excused by the
2 3 principal of the school in which the student is enrolled, in
2 4 consultation with the student's counselor, for up to one
2 5 semester, trimester, or the equivalent of a semester or
2 6 trimester, per year if the parent or guardian of the student
2 7 requests in writing that the student be excused from the
2 8 physical education requirement. The student seeking to be
2 9 excused from the physical education requirement must, at some
2 10 time during the period for which the excuse is sought, be a
2 11 participant in an organized and supervised athletic program
2 12 which requires at least as much time of participation per week
2 13 as ~~one-eighth~~ one-fourth unit of physical education.

2 14 Sec. 4. STATE MANDATE FUNDING SPECIFIED. In accordance
2 15 with section 25B.2, subsection 3, the state cost of requiring
2 16 compliance with any state mandate included in this Act shall
2 17 be paid by a school district from state school foundation aid
2 18 received by the school district under section 257.16. This
2 19 specification of the payment of the state cost shall be deemed
2 20 to meet all the state funding-related requirements of section
2 21 25B.2, subsection 3, and no additional state funding shall be
2 22 necessary for the full implementation of this Act by and
2 23 enforcement of this Act against all affected school districts.

2 24 EXPLANATION

2 25 This bill increases the physical education unit requirement
2 26 from ~~one-eighth~~ unit per semester to ~~one-quarter~~, or from 50
2 27 minutes per week to 100 minutes per week, for grades nine
2 28 through 12. The bill also provides that "physical education
2 29 activities", which all physically able students who do not
2 30 qualify for an exemption must participate in, includes a
2 31 minimum of 30 minutes per day, three school days per week, of
2 32 activities designed to increase cardiovascular fitness.

2 33 Rules adopted by the state board currently provide that
2 34 physical fitness activities include activities that increase
2 35 cardiovascular endurance, muscular strength and flexibility;



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Senate File 93 continued

3 1 sports and games; tumbling and gymnastics; rhythms and dance;
3 2 water safety; leisure and lifetime activities.
3 3 This bill may include a state mandate as defined in Code
3 4 section 25B.3.
3 5 LSB 1697SS 82
3 6 kh:sc/es/88



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Senate File 94 - Introduced

SENATE FILE
BY RIELLY

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
Approved

A BILL FOR

1 An Act excluding compensation, including retirement benefits,
2 received from the federal government for military services
3 from income tax and including a retroactive applicability date
4 provision.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TL5B 2104XS 82
7 mg/je/5



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Senate File 94 - Introduced continued

PAG LIN

1 1 Section 1. Section 422.7, Code 2007, is amended by adding
1 2 the following new subsection:

1 3 NEW SUBSECTION. 50. Subtract, to the extent included,
1 4 compensation, including retirement benefits, received from the
1 5 federal government for military service performed in the armed
1 6 forces, armed forces military reserves, or national guard.

1 7 Sec. 2. RETROACTIVE APPLICABILITY DATE. This Act applies
1 8 retroactively to January 1, 2007, for tax years beginning on
1 9 or after that date.

1 10 EXPLANATION

1 11 This bill exempts from the individual income tax
1 12 compensation, including retirement benefits, received from the
1 13 federal government for military service in the armed forces,
1 14 armed forces military reserve, or national guard.

1 15 The bill applies retroactively to January 1, 2007, for tax
1 16 years beginning on or after that date.

1 17 LSB 2104XS 82

1 18 mg:rj/je/5



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Senate File 95

SENATE FILE
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO SF 31)

Passed Senate, Date _____

Passed House, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved

A BILL FOR

1 An Act making supplemental appropriations for the home ownership
2 assistance and injured veterans grant programs for Iowa
3 residents who are eligible members or military veterans of the
4 armed forces of the United States and providing an effective
5 date.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

7 TLSB 1694SV 82

8 jp/gg/14



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Senate File 95 continued

PAG LIN

1 1 Section 1. 2006 Iowa Acts, chapter 1184, section 5, is
 1 2 amended by adding the following new subsections:
 1 3 NEW SUBSECTION. 3. HOME OWNERSHIP ASSISTANCE PROGRAM
 1 4 For transfer to the Iowa finance authority to be used for
 1 5 continuation of the home ownership assistance program for
 1 6 persons who are or were eligible members of the armed forces
 1 7 of the United States, implemented pursuant to 2003 Iowa Acts,
 1 8 chapter 179, section 21, subsection 5, as amended by 2005 Iowa
 1 9 Acts, chapter 161, section 1, and chapter 115, section 37, and
 1 10 continued in accordance with 2006 Iowa Acts, chapter 1167,
 1 11 sections 3 and 4, and this subsection:
 1 12 \$ 1,500,000
 1 13 a. The Iowa finance authority shall give priority to
 1 14 processing the applications for assistance received after the
 1 15 original allotment of funding for the program was exhausted.
 1 16 b. The home ownership assistance program shall continue to
 1 17 be directed to persons who are eligible members of the armed
 1 18 forces of the United States. In the event an eligible member
 1 19 is deceased, the surviving spouse of the eligible member shall
 1 20 be eligible for a loan under the program, subject to the
 1 21 surviving spouse meeting the program's eligibility
 1 22 requirements other than the military service requirement. For
 1 23 the purposes of this subsection, "eligible member of the armed
 1 24 forces of the United States" means a resident of this state
 1 25 who is or was a member of the national guard, reserve, or
 1 26 regular component of the armed forces of the United States who
 1 27 has served at least ninety days of active duty service during
 1 28 the period beginning September 11, 2001, and ending June 30,
 1 29 2008.
 1 30 c. Notwithstanding section 8.33, moneys appropriated in
 1 31 this subsection that remain unencumbered or unobligated at the
 1 32 close of the fiscal year shall not revert but shall remain
 1 33 available for expenditure for the purposes designated until
 1 34 the close of the fiscal year beginning July 1, 2008.
 1 35 NEW SUBSECTION. 4. INJURED VETERANS GRANT PROGRAM



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Senate File 95 continued

2 1 For continuation of the injured veterans grant program in
 2 2 accordance with section 35A.14, for providing hardship grants
 2 3 to military veterans seriously injured in a combat zone since
 2 4 September 11, 2001:
 2 5 \$ 2,000,000
 2 6 Notwithstanding section 8.33, moneys appropriated in this
 2 7 subsection that remain unencumbered or unobligated at the
 2 8 close of the fiscal year shall not revert but shall remain
 2 9 available for expenditure for the purposes designated until
 2 10 the close of the succeeding fiscal year.
 2 11 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
 2 12 immediate importance, takes effect upon enactment.
 2 13 EXPLANATION
 2 14 This bill makes two supplemental appropriations to the
 2 15 department of veterans affairs for FY 2006=2007.
 2 16 The first veterans affairs appropriation is required to be
 2 17 transferred to the Iowa finance authority to be used for
 2 18 continuation of the home ownership assistance program for Iowa
 2 19 residents who are or were active members of the armed forces
 2 20 of the United States. Under 2006 Iowa Acts, chapter 1167,
 2 21 section 4, the eligibility requirements for the program
 2 22 provided that an Iowa resident must have had at least 90 days
 2 23 of active duty service during the period beginning September
 2 24 11, 2001, and ending June 30, 2007. The bill extends this
 2 25 period by one year to June 30, 2008. A nonreversion clause
 2 26 provides that any unused funds from the appropriation do not
 2 27 revert until the close of fiscal year 2008=2009.
 2 28 The second veterans affairs appropriation is for
 2 29 continuation of the injured veterans grant program in
 2 30 accordance with Code section 35A.14, for providing hardship
 2 31 grants to military veterans seriously injured in a combat zone
 2 32 since September 11, 2001.
 2 33 The bill takes effect upon enactment.
 2 34 LSB 1694SV 82
 2 35 jp:mg/gg/14



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Senate File 96 - Introduced

SENATE FILE
BY FRAISE

(COMPANION TO LSB 2239HH BY
T. TAYLOR)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays
Approved

A BILL FOR

- 1 An Act prohibiting the department of corrections from entering
- 2 into an agreement with a private sector for-profit entity for
- 3 the purpose of housing inmates.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 2239SS 82
- 6 jm/es/88



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Senate File 96 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 904.119 PRIVATE SECTOR HOUSING
1 2 OF INMATES == PROHIBITION.
1 3 The department shall not enter into any agreement with a
1 4 private sector for-profit entity for the purpose of housing
1 5 inmates committed to the custody of the director.
1 6 EXPLANATION
1 7 This bill prohibits the department of corrections from
1 8 entering into an agreement with a private sector for-profit
1 9 entity for the purpose of housing inmates committed to the
1 10 custody of the director of the department of corrections.
1 11 LSB 2239SS 82
1 12 jm:rj/es/88



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Senate Study Bill 1150

SENATE/HOUSE FILE
BY (PROPOSED CITIZENS'
AIDE/OMBUDSMAN BILL)

Passed Senate, Date _____
Vote: Ayes _____ Nays _____
Approved

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act creating the Iowa public records privacy commission and
- 2 providing for a repeal.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1280DP 82
- 5 eg/gg/14



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Senate Study Bill 1150 continued

PAG LIN

1 1 Section 1. NEW SECTION. 22.21 IOWA PUBLIC RECORDS
1 2 PRIVACY COMMISSION.
1 3 1. An Iowa public records privacy commission is created in
1 4 the department of cultural affairs for the purpose of
1 5 reviewing existing procedures used by governmental bodies for
1 6 the retention and destruction of records that contain personal
1 7 information or are confidential records as defined by law,
1 8 including procedures to prevent unauthorized access, use, or
1 9 disclosure when recycling, discarding, or destroying such
1 10 records.
1 11 2. The commission shall identify retention and destruction
1 12 procedures that are or would be most effective in safeguarding
1 13 confidential and personal information within public records.
1 14 The commission shall consider the practicability of mandating
1 15 retention and destruction procedures that governmental bodies
1 16 would use for records which contain personal information or
1 17 which are defined as confidential records.
1 18 3. On or before October 31, 2008, the commission shall
1 19 report its findings and recommendations for retention and
1 20 destruction procedures for records which contain personal
1 21 information or which are defined as confidential records to
1 22 the governor and the general assembly.
1 23 4. a. The commission shall consist of voting and
1 24 nonvoting members. The following persons or their designees
1 25 shall serve as voting members:
1 26 (1) The governor's legal counsel.
1 27 (2) The director of human services.
1 28 (3) The director of transportation.
1 29 (4) The director of revenue.
1 30 (5) The director of the department of administrative
1 31 services.
1 32 (6) The attorney general.
1 33 (7) The secretary of state.
1 34 (8) The director of public health.
1 35 (9) The director of cultural affairs.



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Senate Study Bill 1150 continued

2 1 (10) One person appointed by each of the following:
2 2 (a) Iowa state association of counties.
2 3 (b) Iowa league of cities.
2 4 (c) Iowa association of school boards.
2 5 b. The following officials shall serve as nonvoting
2 6 members:
2 7 (1) Two state representatives, one appointed by the
2 8 speaker of the house of representatives and one by the
2 9 minority leader of the house, and two state senators, one
2 10 appointed by the majority leader of the senate and one by the
2 11 minority leader of the senate. A legislative member is
2 12 eligible for per diem and expenses as provided in section
2 13 2.10.
2 14 (2) The citizens' aide.
2 15 5. The commission shall elect a chairperson and vice
2 16 chairperson from the voting members of the commission. The
2 17 terms of the commission members are for two years beginning on
2 18 July 1 and ending on June 30, except that the legislative
2 19 members shall serve for terms coinciding with the legislative
2 20 biennium. A vacancy on the commission shall be filled for the
2 21 unexpired term of the vacancy in the same manner as the
2 22 original appointment was made.
2 23 6. As used in this section, "personal information" means a
2 24 person's first name or first initial and last name in
2 25 combination with one or more of the following data elements
2 26 that relate to the person if neither the name nor the data
2 27 elements are encrypted, redacted, or otherwise altered by any
2 28 method or technology in such a manner that the name or data
2 29 elements are unreadable:
2 30 a. Social security number.
2 31 b. Driver's license number or other unique identification
2 32 number created or collected by a governmental body.
2 33 c. Account number, credit card number, or debit card
2 34 number, in combination with any required security code, access
2 35 code, or password that would permit access to a person's



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- 3 1 financial account.
3 2 d. Unique electronic identifier or routing code, in
3 3 combination with any required security code, access code, or
3 4 password.
3 5 e. Unique biometric data, such as a fingerprint, voice
3 6 print, retina or iris image, or other unique physical
3 7 representation.
3 8 7. This section is repealed June 30, 2009.
3 9 Sec. 2. CODE EDITOR DIRECTIVE.
3 10 1. The Code editor shall establish the following
3 11 subchapters in chapter 22:
3 12 a. Subchapter I, entitled "definitions", shall be
3 13 comprised of section 22.1.
3 14 b. Subchapter II, entitled "access to public records",
3 15 shall be comprised of sections 22.2 through 22.20.
3 16 c. Subchapter III, entitled "privacy", shall be comprised
3 17 of sections 22.21 through 22.30.
3 18 2. The Code editor shall make corresponding changes to
3 19 update references to "this chapter" in section 22.3A,
3 20 subsection 2; section 22.8, subsection 3; and section 22.10.

3 21 EXPLANATION

3 22 This bill creates the Iowa public records privacy
3 23 commission in the department of cultural affairs to review
3 24 record retention and destruction procedures used by various
3 25 governmental bodies, including the state, counties, cities,
3 26 townships, school corporations, and other boards, commissions,
3 27 and councils that are subject to the Open Records Law in Code
3 28 chapter 22. The bill designates voting and nonvoting persons
3 29 to serve on the commission.
3 30 The commission is directed to consider the practicability
3 31 of mandating retention and destruction procedures that
3 32 governmental bodies would use for records containing personal
3 33 information or for those records defined by law as
3 34 confidential records. On or before October 31, 2008, the
3 35 commission is required to report its findings and



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Senate Study Bill 1150 continued

4 1 recommendations to the governor and general assembly.
4 2 The bill defines "personal information" as a person's first
4 3 name or initial and last name in combination with any one or
4 4 more specific data elements, including a social security
4 5 number, driver's license number, financial account number with
4 6 password, and unique biometric data, that relate to the
4 7 person, if neither the name nor the data elements are
4 8 encrypted, redacted, or otherwise made unreadable.
4 9 The Code section creating the commission is repealed on
4 10 June 30, 2009.
4 11 The bill includes a Code editor directive to create
4 12 subchapters in Code chapter 22 and to make revisions in Code
4 13 chapter 22 as a consequence of creating such subchapters.
4 14 LSB 1280DP 82
4 15 eg:nh/gg/14.2



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Senate Study Bill 1151

SENATE/HOUSE FILE
BY (PROPOSED DEPARTMENT OF
EDUCATION BILL)

Passed Senate, Date _____
Vote: Ayes _____ Nays _____
Approved

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act providing for incorporation of the education excellence
- 2 program funding into the state school foundation program.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1230XD 82
- 5 ak/je/5



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Senate Study Bill 1151 continued

PAG LIN

1 1 Section 1. Section 256.21, unnumbered paragraph 4, Code
1 2 2007, is amended to read as follows:

1 3 A sabbatical grant to a teacher shall be equal to the costs
1 4 to the school district of the teacher's regular compensation
1 5 ~~as defined in section 294A.2~~ plus the cost to the district of
1 6 the fringe benefits of the teacher. The grant shall be paid
1 7 to the school district, and the district shall continue to pay
1 8 the teacher's regular compensation as well as the cost to the
1 9 district of the substitute teacher. Teachers and boards of
1 10 school districts are encouraged to seek funding from other
1 11 sources to pay the costs of sabbaticals for teachers. Grant
1 12 moneys are miscellaneous income for purposes of chapter 257.

1 13 Sec. 2. Section 257.1, subsection 2, unnumbered paragraph
1 14 2, Code 2007, is amended to read as follows:

1 15 For the budget year commencing July 1, ~~1999~~ 2007, ~~and for~~
~~1 16 each succeeding budget year~~ the regular program foundation
1 17 base per pupil is eighty=seven and five=tenths percent of the
1 18 regular program state cost per pupil plus the amount computed
1 19 in section 257.8, subsection 3A. For the budget year
1 20 commencing July 1, 2008, and for each succeeding budget year,
1 21 the regular program foundation base per pupil is eighty=seven
1 22 and five=tenths percent of the regular program state cost per
1 23 pupil. For the budget year commencing July 1, 1991, and for
1 24 each succeeding budget year the special education support
1 25 services foundation base is seventy=nine percent of the
1 26 special education support services state cost per pupil. The
1 27 combined foundation base is the sum of the regular program
1 28 foundation base and the special education support services
1 29 foundation base.

1 30 Sec. 3. Section 257.8, Code 2007, is amended by adding the
1 31 following new subsection:

1 32 NEW SUBSECTION. 3A. ALTERNATE ALLOWABLE GROWTH ==
1 33 EDUCATIONAL EXCELLENCE PROGRAM. Notwithstanding the
1 34 calculation in subsection 2, the department of management
1 35 shall calculate the regular program allowable growth for the



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Senate Study Bill 1151 continued

2 1 budget year beginning July 1, 2007, by multiplying the state
2 2 percent of growth for the budget year by the regular program
2 3 state cost per pupil for the base year, and adding eighty-one
2 4 dollars to the resulting product.

2 5 Sec. 4. Section 257.14, subsection 3, paragraphs d through
2 6 i, Code 2007, are amended to read as follows:

2 7 d. (1) For the budget year commencing July 1, 2007, the
2 8 greater of the difference between the regular program district
2 9 cost for the budget year and one hundred one percent of the
2 10 regular program district cost for the base year, or sixty
2 11 percent of the amount by which the budget guarantee as
2 12 calculated for the budget year beginning July 1, 2003, exceeds
2 13 the adjusted guarantee amount. For purposes of this
2 14 paragraph, the "adjusted guarantee amount" means the amount
2 15 which would be applicable for the budget year beginning July
2 16 1, 2007, if the budget guarantee were determined for that
2 17 budget year as calculated for the budget year beginning July
2 18 1, 2003.

2 19 (2) For the purposes of the adjusted guarantee amount
2 20 calculation in this paragraph "d", the regular program
2 21 district cost calculated for the budget year beginning July 1,
2 22 2003, shall be increased by an amount equal to eighty-one
2 23 dollars multiplied by the district's budget enrollment for the
2 24 budget year beginning July 1, 2007.

2 25 (3) For the purposes of the one hundred one percent
2 26 calculated in this paragraph "d", the regular program district
2 27 cost per pupil for the budget year beginning July 1, 2007,
2 28 shall be reduced by eighty-one dollars.

2 29 e. For the budget year commencing July 1, 2008, the
2 30 greater of the difference between the regular program district
2 31 cost for the budget year and one hundred one percent of the
2 32 regular program district cost for the base year, or fifty
2 33 percent of the amount by which the budget guarantee as
2 34 calculated for the budget year beginning July 1, 2003, exceeds
2 35 the adjusted guarantee amount. For purposes of this



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Senate Study Bill 1151 continued

3 1 paragraph, the "adjusted guarantee amount" means the amount
3 2 which would be applicable for the budget year beginning July
3 3 1, 2008, if the budget guarantee were determined for that
3 4 budget year as calculated for the budget year beginning July
3 5 1, 2003. For the purposes of the adjusted guarantee amount
3 6 calculation in this paragraph, the regular program district
3 7 cost calculated for the budget year beginning July 1, 2003,
3 8 shall be increased by an amount equal to eighty-one dollars
3 9 multiplied by the district's budget enrollment for the budget
3 10 year beginning July 1, 2008.

3 11 f. For the budget year commencing July 1, 2009, the
3 12 greater of the difference between the regular program district
3 13 cost for the budget year and one hundred one percent of the
3 14 regular program district cost for the base year, or forty
3 15 percent of the amount by which the budget guarantee as
3 16 calculated for the budget year beginning July 1, 2003, exceeds
3 17 the adjusted guarantee amount. For purposes of this
3 18 paragraph, the "adjusted guarantee amount" means the amount
3 19 which would be applicable for the budget year beginning July
3 20 1, 2009, if the budget guarantee were determined for that
3 21 budget year as calculated for the budget year beginning July
3 22 1, 2003. For the purposes of the adjusted guarantee amount
3 23 calculation in this paragraph, the regular program district
3 24 cost calculated for the budget year beginning July 1, 2003,
3 25 shall be increased by an amount equal to eighty-one dollars
3 26 multiplied by the district's budget enrollment for the budget
3 27 year beginning July 1, 2009.

3 28 g. For the budget year commencing July 1, 2010, the
3 29 greater of the difference between the regular program district
3 30 cost for the budget year and one hundred one percent of the
3 31 regular program district cost for the base year, or thirty
3 32 percent of the amount by which the budget guarantee as
3 33 calculated for the budget year beginning July 1, 2003, exceeds
3 34 the adjusted guarantee amount. For purposes of this
3 35 paragraph, the "adjusted guarantee amount" means the amount



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Senate Study Bill 1151 continued

4 1 which would be applicable for the budget year beginning July
4 2 1, 2010, if the budget guarantee were determined for that
4 3 budget year as calculated for the budget year beginning July
4 4 1, 2003. For the purposes of the adjusted guarantee amount
4 5 calculation in this paragraph, the regular program district
4 6 cost calculated for the budget year beginning July 1, 2003,
4 7 shall be increased by an amount equal to eighty-one dollars
4 8 multiplied by the district's budget enrollment for the budget
4 9 year beginning July 1, 2010.

4 10 h. For the budget year commencing July 1, 2011, the
4 11 greater of the difference between the regular program district
4 12 cost for the budget year and one hundred one percent of the
4 13 regular program district cost for the base year, or twenty
4 14 percent of the amount by which the budget guarantee as
4 15 calculated for the budget year beginning July 1, 2003, exceeds
4 16 the adjusted guarantee amount. For purposes of this
4 17 paragraph, the "adjusted guarantee amount" means the amount
4 18 which would be applicable for the budget year beginning July
4 19 1, 2011, if the budget guarantee were determined for that
4 20 budget year as calculated for the budget year beginning July
4 21 1, 2003. For the purposes of the adjusted guarantee amount
4 22 calculation in this paragraph, the regular program district
4 23 cost calculated for the budget year beginning July 1, 2003,
4 24 shall be increased by an amount equal to eighty-one dollars
4 25 multiplied by the district's budget enrollment for the budget
4 26 year beginning July 1, 2011.

4 27 i. For the budget year commencing July 1, 2012, the
4 28 greater of the difference between the regular program district
4 29 cost for the budget year and one hundred one percent of the
4 30 regular program district cost for the base year, or ten
4 31 percent of the amount by which the budget guarantee as
4 32 calculated for the budget year beginning July 1, 2003, exceeds
4 33 the adjusted guarantee amount. For purposes of this
4 34 paragraph, the "adjusted guarantee amount" means the amount
4 35 which would be applicable for the budget year beginning July



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5 1 1, 2012, if the budget guarantee were determined for that
5 2 budget year as calculated for the budget year beginning July
5 3 1, 2003. For the purposes of the adjusted guarantee amount
5 4 calculation in this paragraph, the regular program district
5 5 cost calculated for the budget year beginning July 1, 2003,
5 6 shall be increased by an amount equal to eighty-one dollars
5 7 multiplied by the district's budget enrollment for the budget
5 8 year beginning July 1, 2012.

5 9 Sec. 5. Section 284.11, subsection 2, Code 2007, is
5 10 amended to read as follows:

5 11 2. A school district shall be paid annually, from moneys
5 12 allocated for market factor salaries pursuant to section
5 13 284.13, subsection 1, paragraph "f", an amount of state
5 14 assistance to create market factor incentives for classroom
5 15 teachers in the school district. Market factor incentives may
5 16 include but are not limited to improving salaries due to
5 17 geographic differences, recruitment and retention needs of the
5 18 school district in such areas as hard-to-staff schools,
5 19 subject-area shortages, or improving the racial or ethnic
5 20 diversity on local teaching staffs. The school district shall
5 21 have the sole discretion to award funds received by the school
5 22 district in accordance with section 284.13, subsection 1,
5 23 paragraph "f", to classroom teachers on an annual basis. The
5 24 funds shall supplement, but not supplant, wages and salaries
5 25 paid as a result of a collective bargaining agreement reached
5 26 pursuant to chapter 20 or as a result of funds appropriated
5 27 elsewhere in this chapter, or in chapter 256D, or in chapter
5 28 294A.

5 29 Sec. 6. Section 294A.25, subsection 1, Code 2007, is
5 30 amended by striking the subsection and inserting in lieu
5 31 thereof the following:

5 32 1. To the extent moneys are specifically appropriated by
5 33 the general assembly from the general fund of the state to the
5 34 department of education to be used pursuant to this section,
5 35 the moneys shall be allocated as specified in this section.



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6 1 Sec. 7. Section 294A.25, subsections 2 and 3, Code 2007,
6 2 are amended to read as follows:

6 3 2. The amount of one hundred fifteen thousand five hundred
6 4 dollars to be paid to the department of human services for
6 5 distribution to its licensed classroom teachers at
6 6 institutions under the control of the department of human
6 7 services for payments ~~for phase II~~ based upon the average
6 8 student yearly enrollment at each institution as determined by
6 9 the department of human services.

6 10 3. The amount of ninety-four thousand six hundred dollars
6 11 to be paid to the state board of regents for distribution to
6 12 licensed classroom teachers at the Iowa braille and sight
6 13 saving school and the Iowa school for the deaf for payments of
6 14 minimum salary supplements ~~for phase I~~ and payments ~~for phase~~
6 15 ~~II~~ based upon the average yearly enrollment at each school as
6 16 determined by the state board of regents.

6 17 Sec. 8. Section 294A.25, subsections 5 and 6, Code 2007,
6 18 are amended by striking the subsections.

6 19 Sec. 9. Sections 294A.1 through 294A.6, 294A.8 through
6 20 294A.10, 294A.21, and 294A.22, Code 2007, are repealed.

6 21 EXPLANATION

6 22 This bill incorporates the funding from the phase II
6 23 education excellence program of Code chapter 294A into the
6 24 school foundation formula and strikes phase I funding.

6 25 For the budget year beginning July 1, 2007, the bill
6 26 increases the per pupil foundation base by \$81 per pupil. For
6 27 subsequent years, the \$81 per pupil is incorporated into the
6 28 state cost per pupil and the foundation base.

6 29 For the budget year beginning July 1, 2007, the bill
6 30 requires that the department of management add \$81 per pupil
6 31 to the state per pupil allowable growth amount.

6 32 The regular program district cost for the budget year
6 33 beginning July 1, 2003, is increased by \$81 for the purposes
6 34 of the adjusted budget guarantee amount calculation in Code
6 35 section 257.14 for the budget year beginning July 1, 2007,



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7 1 through the budget year beginning July 1, 2012.

7 2 The regular program district cost per pupil for the budget
7 3 year beginning July 1, 2007, is reduced by \$81 for the
7 4 purposes of the 101 percent budget guarantee amount
7 5 calculation in Code section 257.14.

7 6 The bill strikes references to phase I and phase II
7 7 allocations from Code section 294A.25, but the allocations
7 8 themselves under Code section 294A.25 remain. The bill
7 9 removes the standing limited appropriation in Code section
7 10 294A.25, but if the limited appropriation is still funded, the
7 11 moneys are directed to the same allocations.

7 12 The bill also repeals 11 sections of Code chapter 294A,
7 13 leaving only Code section 294A.25.

7 14 LSB 1230XD 82

7 15 ak:sc/je/5



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Senate Study Bill 1152

SENATE FILE
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON RAGAN)

Passed Senate, Date _____
Vote: Ayes _____ Nays _____
Approved

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to child welfare services by requiring services
- 2 to be provided to families of children removed from the home
- 3 by court order and repealing restrictions on court orders for
- 4 placement of children in group foster care.
- 5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 6 TLSB 2181XC 82
- 7 jp/gg/14



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1 1 Section 1. Section 232.52, subsection 2A, Code 2007, is
1 2 amended by striking the subsection.
1 3 Sec. 2. Section 232.52, subsection 6, unnumbered paragraph
1 4 1, Code 2007, is amended to read as follows:
1 5 When the court orders the transfer of legal custody of a
1 6 child pursuant to subsection 2, paragraph "d", "e", or "f",
1 7 the order shall state that reasonable efforts as defined in
1 8 section 232.57 have been made. If deemed appropriate by the
1 9 court, the order may include a determination that continuation
1 10 of the child in the child's home is contrary to the child's
1 11 welfare. The inclusion of such a determination shall not
1 12 under any circumstances be deemed a prerequisite for entering
1 13 an order pursuant to this section. However, the inclusion of
1 14 such a determination, supported by the record, may be used to
1 15 assist the department in obtaining federal funding for the
1 16 child's placement. If such a determination is included in the
1 17 order, unless the court makes a determination that further
1 18 reasonable efforts are not required, reasonable efforts shall
1 19 be made to prevent permanent removal of a child from the
1 20 child's home and to encourage reunification of the child with
1 21 the child's parents and family. The reasonable efforts may
1 22 include but are not limited to services or other support
1 23 associated with reasonable efforts listed in section 232.102.
1 24 Sec. 3. Section 232.102, subsection 1A, Code 2007, is
1 25 amended by striking the subsection.
1 26 Sec. 4. Section 232.102, subsection 5, paragraph b, Code
1 27 2007, is amended to read as follows:
1 28 b. In order to transfer custody of the child under this
1 29 subsection, the court must make a determination that
1 30 continuation of the child in the child's home would be
1 31 contrary to the welfare of the child, and shall identify the
1 32 reasonable efforts that have been made. The court's
1 33 determination regarding continuation of the child in the
1 34 child's home, and regarding reasonable efforts, including
1 35 those made to prevent removal and those made to finalize any



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2 1 permanency plan in effect, as well as any determination by the
2 2 court that reasonable efforts are not required, must be made
2 3 on a case-by-case basis. The grounds for each determination
2 4 must be explicitly documented and stated in the court order.
2 5 However, preserving the safety of the child is the paramount
2 6 consideration. If imminent danger to the child's life or
2 7 health exists at the time of the court's consideration, the
2 8 determinations otherwise required under this paragraph shall
2 9 not be a prerequisite for an order for removal of the child.
2 10 If the court transfers custody of the child, unless the court
2 11 waives the requirement for making reasonable efforts or
2 12 otherwise makes a determination that reasonable efforts are
2 13 not required, reasonable efforts shall be made to make it
2 14 possible for the child to safely return to the family's home.

2 15 Sec. 5. Section 232.117, subsection 4, Code 2007, is
2 16 amended by striking the subsection.

2 17 Sec. 6. Section 232.127, subsection 8, Code 2007, is
2 18 amended by striking the subsection.

2 19 Sec. 7. Section 234.35, subsection 1, paragraph e, Code
2 20 2007, is amended to read as follows:

2 21 e. When a court has entered an order transferring the
2 22 legal custody of the child to a foster care placement pursuant
2 23 to section 232.52, subsection 2, paragraph "d", or section
2 24 232.102, subsection 1. ~~However, payment for a group foster~~
~~2 25 care placement shall be limited to those placements which~~
~~2 26 conform to a service area group foster care plan established~~
~~2 27 pursuant to section 232.143.~~

2 28 Sec. 8. Section 232.143, Code 2007, is repealed.

2 29 EXPLANATION

2 30 This bill relates to child welfare services by requiring
2 31 services to be provided to families of children removed from
2 32 the home by court order and repealing restrictions in the
2 33 juvenile justice code in Code chapter 232 on court orders for
2 34 placement of children in group foster care.

2 35 The bill amends dispositional provisions in Code section



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3 1 232.52, relating to delinquency dispositions, and Code section
3 2 232.102, relating to child in need of assistance dispositions.
3 3 The affected dispositional provisions involve court orders for
3 4 out-of-home placement of a child in which the court has made a
3 5 determination that continuing the child in the home would be
3 6 contrary to the child's welfare.

3 7 The bill amends Code section 232.52 to provide that unless
3 8 the court has made a determination that further reasonable
3 9 efforts are not required, reasonable efforts must be made to
3 10 prevent permanent removal of a child from the child's home and
3 11 to encourage reunification of the child with the child's
3 12 parents and family. The bill provides that the reasonable
3 13 efforts may include services or other support associated with
3 14 reasonable efforts listed in Code section 232.102.

3 15 Code section 232.102 is similarly amended.

3 16 Under current law in Code section 232.143, the general
3 17 assembly annually establishes, in an appropriation made to the
3 18 department of human services, a statewide expenditure target
3 19 for children in group foster care placements. Representatives
3 20 of the department and juvenile court services then allocate
3 21 the statewide target among the department's service areas
3 22 based upon a formula. Local representatives of the department
3 23 and juvenile court services develop a plan for the service
3 24 area to remain within the expenditure target. State payment
3 25 for group foster care services is limited to those placements
3 26 that comply with the plan, and the juvenile court is
3 27 prohibited from ordering a group foster care placement that
3 28 does not comply with the plan.

3 29 The bill repeals the expenditure target requirements in
3 30 Code section 232.143, strikes the Code subsections limiting
3 31 the juvenile court authority to issue dispositional orders for
3 32 group foster care placements, and makes conforming changes in
3 33 related provisions.

3 34 LSB 2181XC 82

3 35 jp:nh/gg/14



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Senate Study Bill 1153

SENATE/HOUSE FILE
BY (PROPOSED DEPARTMENT OF
HUMAN SERVICES BILL)

Passed Senate, Date _____
Vote: Ayes _____ Nays _____
Approved

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act revising family investment program requirements.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 3 TLSB 1247DP 82
- 4 jp/gg/14



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1 1 DIVISION I

1 2 GENERAL FAMILY INVESTMENT PROGRAM CHANGES

1 3 Section 1. Section 239B.1, subsection 10, Code 2007, is

1 4 amended to read as follows:

1 5 10. "Participant" means a person who is receiving full or

1 6 partial family investment program assistance. For the

1 7 purposes of sections 239B.8 and 239B.9, "participant" also

1 8 includes each individual who does not directly receive

1 9 assistance but who is required to be engaged in work or

1 10 training options specified in the participant's family

1 11 investment agreement entered into under section 239B.8.

1 12 Sec. 2. Section 239B.4, subsection 1, Code 2007, is

1 13 amended to read as follows:

1 14 1. The department is the state entity designated to

1 15 administer federal funds received for purposes of the family

1 16 investment program and the JOBS program under this chapter,

1 17 including, but not limited to, the funding received under the

1 18 federal temporary assistance for needy families block grant as

1 19 authorized under the federal Personal Responsibility and Work

1 20 Opportunity Reconciliation Act of 1996, Pub. L. No. 104=193,

1 21 as reauthorized under the federal Deficit Reduction Act of

1 22 2005, Pub. L. No. 109=171, and as codified in 42 U.S.C. } 601

1 23 et seq., and as such is the lead agency in preparing and

1 24 filing state plans, state plan amendments, and other reports

1 25 required by federal law.

1 26 Sec. 3. Section 239B.7, subsection 1, Code 2007, is

1 27 amended to read as follows:

1 28 1. WORK EXPENSE DEDUCTION. If an individual's earned

1 29 income is considered by the department, the individual shall

1 30 be allowed a work expense deduction equal to twenty percent of

1 31 the earned income. The work expense deduction is intended to

1 32 include all work-related expenses other than child care.

1 33 These expenses shall include but are not limited to all of the

1 34 following: taxes, transportation, meals, uniforms, and other

1 35 work-related expenses. ~~However, the work expense deduction~~



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~~2 1 shall not be allowed for an individual who is subject to a
2 2 sanction for failure to comply with family investment program
2 3 requirements.~~

2 4 Sec. 4. Section 239B.7, subsection 5, Code 2007, is
2 5 amended to read as follows:

2 6 5. INCOME CONSIDERATION. If an individual has timely
2 7 reported an absence of income to the department, consideration
2 8 of the individual's income shall cease beginning in the first
2 9 month the income is absent. ~~However, this provision shall not
2 10 apply to an individual who has quit employment without good
2 11 cause as defined in rules.~~

2 12 Sec. 5. Section 239B.8, subsection 2, Code 2007, is
2 13 amended to read as follows:

2 14 2. AGREEMENT OPTIONS. A family investment agreement shall
2 15 require an individual who is subject to the agreement to
2 16 participate engage in one or more of the work or training
2 17 options enumerated in this subsection. An individual's level
2 18 of participation engagement in one or more of the work or
2 19 training options shall be equivalent to the level of
2 20 commitment required for full-time employment or shall be
2 21 significant so as to move the individual's level of
2 22 participation engagement toward that level. The department
2 23 shall adopt rules ~~for each option~~ defining option requirements
2 24 and establishing assistance provisions for child care,
2 25 transportation, and other support services. A leave from
2 26 engagement in work or training options shall be offered to a
2 27 participant parent to address the birth of a child. If such a
2 28 leave is requested by the parent, the leave shall meet the
2 29 childbirth purpose standard and the combined duration of the
2 30 leave shall not exceed the minimum leave duration, as outlined
2 31 in the federal Family and Medical Leave Act of 1993, } 102(a)
2 32 and (b)(1), as codified in 29 U.S.C. } 2612(a) and (b)(1).
2 33 The terms of the leave shall be incorporated into the family
2 34 investment agreement. The work or training options shall
2 35 include but are not limited to all of the following:



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- 3 1 a. Employment. Full-time or part-time employment.
3 2 b. Employment search. Active job search.
3 3 c. JOBS. Participation in the JOBS program.
3 4 d. Education. Participation in other education or
3 5 training programming.
3 6 e. Family development. Participation in a family
3 7 development and self-sufficiency grant program under section
3 8 217.12 or other family development program.
3 9 f. Work experience. Work experience placement.
3 10 g. Community service. Unpaid community service.
3 11 Community service shall be authorized in any nonprofit
~~3 12 association which has been determined under section 501(c)(3)~~
~~3 13 of the Internal Revenue Code to be exempt from taxation or in~~
~~3 14 any government agency. Upon request, the department shall~~
~~3 15 provide a listing of potential community service placements to~~
~~3 16 an individual. However, an individual shall locate the~~
~~3 17 individual's own placement and perform the number of hours~~
~~3 18 required by the agreement. The individual shall file a~~
~~3 19 monthly report with the department which is signed by the~~
~~3 20 director of the community service placement verifying the~~
~~3 21 community service hours performed by the individual during~~
~~3 22 that month. The department shall develop a form for this~~
~~3 23 purpose.~~
3 24 h. ~~Any other~~ Parenting skills. Participation in an
3 25 arrangement which would strengthen the individual's ability to
3 26 be a better parent, including but not limited to participation
3 27 in a parenting education program. ~~Parental leave from~~
~~3 28 employment shall be authorized for a parent of a child who is~~
~~3 29 less than three months of age. An opportunity to participate~~
~~3 30 in a parental education program shall also be authorized for~~
~~3 31 such a parent. An individual who is not a parent who is~~
~~3 32 nineteen years of age or younger or a parent of a child who is~~
~~3 33 less than three months of age shall simultaneously participate~~
~~3 34 in at least one other option enumerated in this subsection.~~
3 35 i. Family or domestic violence. Participation in a safety



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4 1 plan to address or prevent family or domestic violence. The
4 2 safety plan may include a temporary waiver period from
4 3 required participation in the JOBS program or other
4 4 employment-related activities, as appropriate for the
4 5 situation of the applicant or participant. All applicants and
4 6 participants shall be informed regarding the existence of this
4 7 option. Participation in this option shall be subject to
4 8 review in accordance with administrative rule.

4 9 j. Incremental family investment agreements. If an
4 10 individual participant or the entire family has an
4 11 acknowledged barrier, the ~~individual's or family's~~ plan for
4 12 self-sufficiency may be specified in one or more incremental
4 13 family investment agreements.

4 14 DIVISION II
4 15 FAMILY INVESTMENT PROGRAM WORK INCENTIVE
4 16 DISREGARD

4 17 Sec. 6. Section 239B.7, subsection 2, Code 2007, is
4 18 amended to read as follows:

4 19 2. WORK=AND=EARN INCENTIVE. If an individual's earned
4 20 income is considered by the department, the individual shall
4 21 be allowed a work=and=earn incentive. The incentive shall be
4 22 equal to ~~fifty~~ fifty-eight percent of the amount of earned
4 23 income remaining after all other deductions are applied. The
4 24 department shall disregard the incentive amount when
4 25 considering the earned income available to the individual.
4 26 The incentive shall not have a time limit. The work=and=earn
4 27 incentive shall not be withdrawn as a penalty for failure to
4 28 comply with family investment program requirements.

4 29 EXPLANATION
4 30 This bill revises provisions administered by the department
4 31 of human services (DHS) under Code chapter 239B involving the
4 32 family investment program (FIP).

4 33 GENERAL FAMILY INVESTMENT PROGRAM CHANGES. This division
4 34 relates to general FIP changes. Code section 239B.1,
4 35 providing definitions for FIP, is amended to expand the



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5 1 definition of the term "participant". Current law limits the
5 2 term to persons who receive full or partial FIP assistance.
5 3 The bill provides that for purposes of Code section 239B.8,
5 4 relating to family investment agreements, and Code section
5 5 239B.9, relating to limited benefit plans, the term also
5 6 refers to each individual who does not receive FIP cash
5 7 assistance directly but is required to be engaged in work or
5 8 training options under a family investment agreement.
5 9 Code section 239B.4, relating to the role of DHS regarding
5 10 FIP, is amended to update citations to the federal law
5 11 providing the federal funding for the program. This federal
5 12 law, known as the Temporary Assistance for Needy Families, or
5 13 TANF Block Grant, was reauthorized as part of the federal
5 14 Deficit Reduction Act of 2005.
5 15 Code section 239B.7, relating to income and resource
5 16 exemptions, deductions, and disregards used to determine FIP
5 17 program eligibility, is amended. The bill eliminates a
5 18 prohibition against allowing a work expense deduction for an
5 19 individual who is subject to a certain type of sanction. The
5 20 bill also eliminates an exception in a provision addressing
5 21 when a timely reported loss of income is considered.
5 22 Code section 239B.8, relating to family investment
5 23 agreement requirements, is amended in conformance with the
5 24 definition amendment made in Code section 239B.1. Terminology
5 25 is modified to utilize "engage" and "engagement" in place of
5 26 "participate" and "participation" when referring to required
5 27 involvement with an option.
5 28 Code section 239B.8 is also amended to clarify that
5 29 parental leave in the event of childbirth must conform to the
5 30 childbirth purpose standard and limit the duration of the
5 31 leave to the minimum duration outlined in the federal Family
5 32 and Medical Leave Act of 1993. The federal law requires that
5 33 the purpose of the leave is to care for a newborn son or
5 34 daughter, specifies a minimum period of 12 weeks within the
5 35 12-month period following the birth, and allows the leave



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6 1 period to be taken intermittently within the 12-month period.
6 2 These provisions replace current law which authorizes as part
6 3 of an agreement option parental leave for a parent of a child
6 4 who is less than three months in age in combination with an
6 5 opportunity for parental education.
6 6 Code section 239B.8 is also amended to delete specific
6 7 requirements under the agreement option for performing unpaid
6 8 community service.
6 9 FAMILY INVESTMENT PROGRAM WORK INCENTIVE DISREGARD. This
6 10 division increases the amount of the FIP work=and=earn
6 11 incentive applied under Code section 239B.7 as part of FIP
6 12 eligibility determination from 50 to 58 percent. Under the
6 13 incentive, the indicated percentage of earned income remaining
6 14 after other deductions have been applied is disregarded.
6 15 LSB 1247DP 82
6 16 jp:nh/gg/14.1



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Senate Study Bill 1154

SENATE FILE
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON RAGAN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved

A BILL FOR

- 1 An Act relating to the substitution of antiepileptic drugs and
- 2 establishing an effective date.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 2108XC 82
- 5 jr/je/5



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Senate Study Bill 1154 continued

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1 1 Section 1. Section 155A.32, Code 2007, is amended by
1 2 adding the following new subsection:
1 3 NEW SUBSECTION. 4. The pharmacist shall not exercise the
1 4 drug product selection described in this section for an
1 5 antiepileptic drug or formulation of an antiepileptic drug,
1 6 brand or generic name, prescribed for the treatment of
1 7 seizures, including epilepsy, without prior notification of
1 8 and the signed informed consent of that selection from both
1 9 the authorized prescriber and the patient or the patient's
1 10 representative.

1 11 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
1 12 immediate importance, takes effect upon enactment.

1 13 EXPLANATION

1 14 Current law allows a pharmacist to exercise professional
1 15 judgment by selecting a drug product with the same generic
1 16 name and demonstrated bioavailability as the drug prescribed
1 17 for dispensing and sale to the patient. This bill limits that
1 18 discretion in the case of an antiepileptic drug prescribed by
1 19 brand or generic name. Prior to any substitution the
1 20 pharmacist must obtain signed informed consent of that
1 21 selection from both the authorized prescriber and the patient
1 22 or the patient's representative.

1 23 The board of pharmacy examiners may impose a variety of
1 24 penalties for violation of the bill, as set out in Code
1 25 section 272C.3. In addition, civil penalties not to exceed
1 26 \$25,000 may be imposed.

1 27 The bill is made effective upon enactment.

1 28 LSB 2108XC 82

1 29 jr:nh/je/5



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Senate Study Bill 1155

SENATE/HOUSE FILE
 BY (PROPOSED DEPARTMENT OF
 COMMERCE/INSURANCE
 DIVISION BILL)

Passed Senate, Date _____ Passed House, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved

A BILL FOR

1 An Act relating to various matters under the purview of the
 2 insurance division of the department of commerce including
 3 workers' compensation insurance, premium taxes, the uniform
 4 securities Act, powers and duties of the insurance division,
 5 regulation of insurance sales to military personnel, domestic
 6 insurance companies, examination of insurance companies, life
 7 insurance companies, nonprofit health service corporations,
 8 external review of health care coverage decisions, investment
 9 limitations on insurers other than life insurers, property and
 10 casualty insurers' reserves, motor vehicle service contracts,
 11 county and state mutual associations, reciprocal or
 12 interinsurance contracts, licensing of insurance producers and
 13 public adjusters, and life and fire insurance company boards
 14 of directors, and providing penalties.
 15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
 16 TL5B 1235DP 82
 17 av/gg/14



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1 1 Section 1. Section 87.11, Code 2007, is amended to read as
1 2 follows:

1 3 87.11 RELIEF FROM INSURANCE == PROCEDURES UPON EMPLOYER'S
1 4 INSOLVENCY.

1 5 1. a. When an employer coming under this chapter
1 6 furnishes satisfactory proofs to the insurance commissioner of
1 7 such employer's solvency and financial ability to pay the
1 8 compensation and benefits as by law provided and to make such
1 9 payments to the parties when entitled thereto, or when such
1 10 employer deposits with the insurance commissioner security
1 11 satisfactory to the insurance commissioner as guaranty for the
1 12 payment of such compensation, such employer shall be relieved
1 13 of the provisions of this chapter requiring insurance; but
1 14 such employer shall, from time to time, furnish such
1 15 additional proof of solvency and financial ability to pay as
1 16 may be required by such insurance commissioner. Such security
1 17 shall be held in trust for the sole purpose of paying
1 18 compensation and benefits and is not subject to attachment,
1 19 levy, execution, garnishment, liens, or any other form of
1 20 encumbrance. However, the insurance commissioner shall be
1 21 reimbursed from the security for all costs and fees incurred
1 22 by the insurance commissioner in resolving disputes involving
1 23 the security. A political subdivision, including a city,
1 24 county, community college, or school corporation, that is
1 25 self-insured for workers' compensation is not required to
1 26 submit a plan or program to the insurance commissioner for
1 27 review and approval.

1 28 b. If an approved self-insured employer discontinues its
1 29 self-insured status or enters bankruptcy proceedings, the
1 30 self-insured employer or its successor in interest, may
1 31 petition the commissioner of insurance for release of its
1 32 security. The commissioner shall release the security upon a
1 33 finding of any of the following:

1 34 (1) The employer has not been self-insured pursuant to
1 35 this chapter for at least four years.



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2 1 (2) Ten years have elapsed from the date of the last open
2 2 claim, claim activity, or claim payment involving the
2 3 self-insured employer or its successor in interest, whichever
2 4 is later.
2 5 (3) The self-insured employer presents acceptable
2 6 replacement security.
2 7 2. An employer seeking relief from the insurance
2 8 requirements of this chapter shall pay to the insurance
2 9 division of the department of commerce the following fees:
2 10 ~~1. a.~~ A fee of one hundred dollars, to be submitted
2 11 annually along with an application for relief.
2 12 ~~2. b.~~ A fee of one hundred dollars for issuance of the
2 13 certificate relieving the employer from the insurance
2 14 requirements of this chapter.
2 15 ~~3. c.~~ A fee of fifty dollars, to be submitted with each
2 16 filing required by the commissioner of insurance, including
2 17 but not limited to the annual and quarterly financial
2 18 statements, and material change statements.
2 19 3. a. If an employer becomes insolvent and a debtor under
2 20 11 U.S.C., on or after January 1, 1990, ~~this paragraph~~
~~2 21 applies. The the commissioner of insurance may request of the~~
2 22 workers' compensation commissioner that all future payments of
2 23 workers' compensation weekly benefits, medical expenses, or
2 24 other payments pursuant to chapter 85, 85A, 85B, 86, or 87, be
2 25 commuted to a present lump sum. The workers' compensation
2 26 commissioner shall fix the lump sum of probable future medical
2 27 expenses and weekly compensation benefits, or other benefits
2 28 payable pursuant to chapter 85, 85A, 85B, 86, or 87,
2 29 capitalized at their present value upon the basis of interest
2 30 at the rate provided in section 535.3 for court judgments and
2 31 decrees. The commissioner of insurance shall be discharged
2 32 from all further liability for the commuted workers'
2 33 compensation claim upon payment of the present lump sum to
2 34 either the claimant, or a licensed insurer for purchase of an
2 35 annuity or other periodic payment plan for the benefit of the



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3 1 claimant.

3 2 b. The commissioner of insurance shall not be required to
3 3 pay more for all claims of an insolvent self-insured employer
3 4 than is available for payment of such claims from the security
3 5 given under this section.

3 6 4. Notwithstanding contrary provisions of section 85.45,
3 7 any future payment of medical expenses, weekly compensation
3 8 benefits, or other payments by the commissioner of insurance
3 9 from the security given under this section, pursuant to
3 10 chapter 85, 85A, 85B, 86, or 87, shall be deemed an undue
3 11 expense, hardship, or inconvenience upon the employer for
3 12 purposes of a full commutation pursuant to section 85.45,
3 13 subsection 2.

3 14 5. Financial statements provided to the commissioner of
3 15 insurance pursuant to this section may be held as
3 16 confidential, proprietary trade secrets, pursuant to section
3 17 22.7, subsection 3, upon the request of the employer, subject
3 18 to rules adopted by the commissioner of insurance, and are not
3 19 subject to disclosure or examination under chapter 22.

3 20 Sec. 2. Section 432.1, subsection 3, Code 2007, is amended
3 21 to read as follows:

3 22 3. The applicable percent, as provided in subsection 4, of
3 23 the gross amount of premiums written, and assessments, and
3 24 fees received during the preceding calendar year by every
3 25 company or association other than life on contracts of
3 26 insurance other than life for business done in this state,
3 27 including all insurance upon property situated in this state,
3 28 after deducting the amounts returned upon canceled policies,
3 29 certificates, and rejected applications but not including the
3 30 gross premiums written, and assessments, and fees received in
3 31 connection with ocean marine insurance authorized in section
3 32 515.48.

3 33 Sec. 3. Section 502.602, subsection 3, unnumbered
3 34 paragraph 1, Code 2007, is amended to read as follows:

3 35 If a person does not appear or refuses to testify, file a



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4 1 statement, produce records, or otherwise does not obey a
4 2 subpoena as required by the administrator under this chapter,
4 3 the administrator may apply to the Polk county district court
4 4 or the district court for the county in which the person
4 5 resides or is located or a court of another state to enforce
4 6 compliance. The court may do any of the following:

4 7 Sec. 4. Section 502.603, subsection 1, Code 2007, is
4 8 amended to read as follows:

4 9 1. CIVIL ACTION INSTITUTED BY ADMINISTRATOR. If the
4 10 administrator believes that a person has engaged, is engaging,
4 11 or is about to engage in an act, practice, or course of
4 12 business constituting a violation of this chapter or a rule
4 13 adopted or order issued under this chapter or that a person
4 14 has, is, or is about to engage in an act, practice, or course
4 15 of business that materially aids a violation of this chapter
4 16 or a rule adopted or order issued under this chapter, the
4 17 administrator may maintain an action in the ~~district court~~
4 18 county in which the person against whom the action is being
4 19 brought resides, has a principal place of business, or is
4 20 doing business, or in the county where the transaction or any
4 21 substantial portion of the transaction which is the subject of
4 22 the action occurred, or in the county in which one or more of
4 23 the victims of the transaction which is the subject of the
4 24 action resides, to enjoin the act, practice, or course of
4 25 business and to enforce compliance with this chapter or a rule
4 26 adopted or order issued under this chapter.

4 27 Sec. 5. Section 502.604, subsections 2 and 7, Code 2007,
4 28 are amended to read as follows:

4 29 2. SUMMARY PROCESS. An order under subsection 1 is
4 30 effective on the date of issuance. Upon issuance of the
4 31 order, the administrator shall promptly serve each person
4 32 subject to the order with a copy of the order and a notice
4 33 that the order has been entered. The order must include a
4 34 statement of any civil penalty or costs of investigation the
4 35 administrator will seek, a statement of the reasons for the



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5 1 order, and notice that, within ~~fifteen~~ thirty days after
5 2 receipt of a request in a record from the person, the matter
5 3 will be scheduled for a hearing. If a person subject to the
5 4 order does not request a hearing and none is ordered by the
5 5 administrator within thirty days after the date of service of
5 6 the order, the order, including the imposition of a civil
5 7 penalty or requirement for payment of costs of investigation
5 8 sought in the order, becomes final as to that person by
5 9 operation of law. If a hearing is requested or ordered, the
5 10 administrator, after notice of and opportunity for hearing to
5 11 each person subject to the order, may modify or vacate the
5 12 order or extend it until final determination.

5 13 7. ENFORCEMENT BY COURT == FURTHER CIVIL PENALTY. If a
5 14 person does not comply with an order under this section, the
5 15 administrator may petition ~~a~~ the Polk county district court of
~~5 16 competent jurisdiction or the district court for the county in~~
5 17 which the person resides or is located to enforce the order.

5 18 The court shall not require the administrator to post a bond
5 19 in an action or proceeding under this section. If the court
5 20 finds, after service and opportunity for hearing, that the
5 21 person was not in compliance with the order, the court may
5 22 adjudge the person in civil contempt of the order. The court
5 23 may impose a further civil penalty against the person for
5 24 contempt in an amount not less than three thousand dollars but
5 25 not greater than ten thousand dollars for each violation and
5 26 may grant any other relief the court determines is just and
5 27 proper in the circumstances.

5 28 Sec. 6. Section 505.8, Code 2007, is amended by adding the
5 29 following new subsections:

5 30 NEW SUBSECTION. 8. The commissioner may do any of the
5 31 following:

5 32 a. Conduct public or private investigations within or
5 33 outside of this state which the commissioner deems necessary
5 34 or appropriate to determine whether a person has violated, is
5 35 violating, or is about to violate a provision of any chapter



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6 1 of this subtitle or a rule adopted or order issued under any
6 2 chapter of this subtitle, or to aid in the enforcement of any
6 3 chapter of this subtitle or in the adoption of rules and forms
6 4 under any chapter of this subtitle.

6 5 b. Require or permit a person to testify, file a
6 6 statement, or produce a record under oath or otherwise as the
6 7 commissioner determines, concerning facts and circumstances
6 8 relating to a matter being investigated or about which an
6 9 action or proceeding will be instituted.

6 10 c. Notwithstanding subsection 6, publish a record
6 11 concerning an action, proceeding, or investigation under, or a
6 12 violation of, any chapter of this subtitle or a rule adopted
6 13 or order issued under any chapter of this subtitle, if the
6 14 commissioner determines that such publication is in the public
6 15 interest and is necessary and appropriate for the protection
6 16 of the public.

6 17 NEW SUBSECTION. 9. For the purpose of an investigation
6 18 made under any chapter of this subtitle, the commissioner or
6 19 the commissioner's designee may administer oaths and
6 20 affirmations, subpoena witnesses, seek compulsory attendance,
6 21 take evidence, require the filing of statements, and require
6 22 the production of any records that the commissioner considers
6 23 relevant or material to the investigation, pursuant to rules
6 24 adopted under chapter 17A.

6 25 NEW SUBSECTION. 10. If a person does not appear or
6 26 refuses to testify, or does not file a statement or produce
6 27 records, or otherwise does not obey a subpoena or order issued
6 28 by the commissioner under any chapter of this subtitle, the
6 29 commissioner may, in addition to assessing the penalties
6 30 contained in sections 505.7A, 507B.6A, 507B.7, 522B.11, and
6 31 522B.17, make application to a district court of this state or
6 32 another state to enforce compliance with the subpoena or
6 33 order. A court to whom application is made to enforce
6 34 compliance with a subpoena or order pursuant to this subtitle
6 35 may do any of the following:



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- 7 1 a. Hold the person in contempt.
- 7 2 b. Order the person to appear before the commissioner.
- 7 3 c. Order the person to testify about the matter under
- 7 4 investigation.
- 7 5 d. Order the production of records.
- 7 6 e. Grant injunctive relief, including restricting or
- 7 7 prohibiting the offer or sale of insurance or insurance
- 7 8 advice.
- 7 9 f. Impose a civil penalty as set forth in section 505.7A.
- 7 10 g. Grant any other necessary or appropriate relief.
- 7 11 NEW SUBSECTION. 11. This section shall not be construed
- 7 12 to prohibit a person from applying to a district court of this
- 7 13 state or another state for relief from a subpoena or order
- 7 14 issued by the commissioner under any chapter of this subtitle.
- 7 15 NEW SUBSECTION. 12. An individual shall not be relieved
- 7 16 of an order to appear, testify, file a statement, produce a
- 7 17 record or other evidence, or obey a subpoena or other order of
- 7 18 the commissioner made under any chapter of this subtitle on
- 7 19 the grounds that fulfillment of the requirement may, directly
- 7 20 or indirectly, tend to incriminate the individual or subject
- 7 21 the individual to a criminal fine, penalty, or forfeiture. If
- 7 22 an individual refuses to obey a subpoena or order by asserting
- 7 23 that individual's privilege against self-incrimination, the
- 7 24 commissioner may apply to the district court to compel the
- 7 25 individual to obey the subpoena or order of the commissioner.
- 7 26 Testimony, records, or other evidence that is compelled by a
- 7 27 court enforcing an order of the commissioner shall not be
- 7 28 used, directly or indirectly, against that individual in a
- 7 29 criminal case, except in a prosecution for perjury or contempt
- 7 30 or for otherwise failing to comply with the order.
- 7 31 NEW SUBSECTION. 13. Upon request of the insurance
- 7 32 regulator of another state or foreign jurisdiction, the
- 7 33 commissioner may provide assistance in conducting an
- 7 34 investigation to determine whether a person has violated, is
- 7 35 violating, or is about to violate an insurance law or rule of



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8 1 the other state or foreign jurisdiction administered or
8 2 enforced by that insurance regulator. The commissioner may
8 3 provide such assistance pursuant to the powers conferred under
8 4 this section as the commissioner determines is necessary or
8 5 appropriate under the circumstances. Such assistance may be
8 6 provided regardless of whether the conduct being investigated
8 7 would constitute a violation of this subtitle or any other law
8 8 of this state if the conduct occurred in this state. In
8 9 determining whether to provide such assistance the
8 10 commissioner may consider whether the insurance regulator
8 11 requesting the assistance is permitted to and has agreed to
8 12 reciprocate in providing assistance to the commissioner upon
8 13 request, whether compliance with the request would violate or
8 14 prejudice the public policy of this state, and the
8 15 availability of division commissioner resources and employees
8 16 to provide such assistance.

8 17 Sec. 7. NEW SECTION. 505.27A SALE OF INSURANCE TO
8 18 MILITARY PERSONNEL.

8 19 Notwithstanding any other provision of this title, the
8 20 commissioner of insurance shall have the authority to adopt
8 21 such rules related to the business of insurance, other than
8 22 the servicemembers' group life insurance program under 38
8 23 U.S.C. pt. II, ch. 19, subc. III, as may be necessary to
8 24 protect military personnel located either on a United States
8 25 military installation or elsewhere in this state and to carry
8 26 out the provisions of this title.

8 27 Sec. 8. NEW SECTION. 506.13 NEW OFFICERS OR DIRECTORS ==
8 28 BIOGRAPHICAL AFFIDAVIT REQUIRED.

8 29 Within thirty days after a quarterly or annual statement of
8 30 an insurance company domiciled in this state first names an
8 31 individual as an officer or director of the company on the
8 32 jurat page of the quarterly or annual statement, the new
8 33 officer or director shall file a biographical affidavit with
8 34 the commissioner. The affidavit shall be prepared on the
8 35 current template for biographical affidavits prescribed by the
9 1 national association of insurance commissioners.

9 2 Sec. 9. Section 507.1, subsection 2, paragraphs b and e,
9 3 Code 2007, are amended to read as follows:

9 4 b. "Company" means any person engaging in or proposing or
9 5 attempting to engage in any transaction or kind of insurance
9 6 or surety business and any person or group of persons who may
9 7 otherwise be subject to the administrative, regulatory, or
9 8 taxing authority of the commissioner including nonadmitted
9 9 insurers authorized to do business in Iowa.

9 10 e. "Insurer" includes all companies or associations
9 11 organized under chapter 508, 511, 512A, 512B, 514, 514B, 515,
9 12 515C, or 518A, associations subject to chapters 518 and 520,
9 13 and companies or associations admitted or seeking to be
9 14 admitted to this state under any of those chapters. "Insurer"
9 15 also includes nonadmitted insurers authorized to do business
9 16 in Iowa.

9 17 Sec. 10. Section 508.6, Code 2007, is amended to read as
9 18 follows:

9 19 508.6 DEPOSIT OF SECURITIES == CERTIFICATE.

9 20 Securities in the amount of the capital and surplus
9 21 required under section 508.5 shall be deposited by companies



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9 22 organized under the laws of this state with the commissioner
9 23 of insurance or at such places as the commissioner may
9 24 designate. When the deposit is made and evidence furnished,
9 25 by affidavit or otherwise, satisfactory to the commissioner,
9 26 that the capital stock is all fully paid and the company
9 27 possessed of the surplus required and that the company is the
9 28 actual and unqualified owner of the securities representing
9 29 the paid-up capital stock or other funds of the company, and
9 30 all laws have been complied with, the commissioner shall issue
9 31 the company the certificate provided for in this chapter.
9 32 Sec. 11. Section 508.10, Code 2007, is amended to read as
9 33 follows:
9 34 508.10 FOREIGN COMPANIES == CAPITAL OR SURPLUS ==
9 35 INVESTMENTS.



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10 1 1. ~~No~~ A company incorporated by or organized under the
10 2 laws of any other state or government shall not transact
10 3 business in this state unless it is possessed of the actual
10 4 amount of capital and surplus required of any company
10 5 organized by the laws of this state, or, if it be a mutual
10 6 company, of surplus equal in amount thereto, ~~and the same is~~
~~10 7 invested in bonds of the United States or of this state, or in~~
~~10 8 interest-paying bonds, when they are at or above par, of the~~
~~10 9 state in which the company is located, or of some other state,~~
~~10 10 or in notes or bonds secured by mortgages on unencumbered real~~
~~10 11 estate within this or the state where such company is located,~~
~~10 12 worth one and one-third times the amount loaned thereon, which~~
~~10 13 securities shall, at the time, be on deposit with the~~
~~10 14 commissioner of insurance, auditor, director of revenue, or~~
~~10 15 chief financial officer of the state by whose laws the company~~
~~10 16 is incorporated, or of some other state, and the commissioner~~
~~10 17 of insurance is furnished with a certificate of such officer,~~
~~10 18 under the officer's official seal, that the person as such~~
~~10 19 officer holds in trust and on deposit for the benefit of all~~
~~10 20 the policyholders of such company, the securities above~~
~~10 21 mentioned. This certificate shall embrace the items of~~
~~10 22 security so held, and show that such officer is satisfied that~~
~~10 23 such securities are worth the amount stated in the~~
~~10 24 certificate. Nothing herein contained shall invalidate the~~
~~10 25 agency of any company incorporated in another state by reason~~
~~10 26 of its having exchanged the bonds or securities so deposited~~
~~10 27 with such officer for other bonds or securities authorized by~~
~~10 28 this chapter, or by reason of its having drawn its interest~~
~~10 29 and dividends on the same.~~

10 30 2. An alien insurer, with the approval of the
10 31 commissioner, may be treated as a domestic insurer of this
10 32 state in whole or in part, and if so approved is deemed to be
10 33 organized under the laws of this state and is an Iowa domestic
10 34 insurer as provided by rules adopted by the commissioner. The
10 35 approval of the commissioner may be based upon such factors



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11 1 as:

11 2 ~~1. a.~~ Maintenance of an appropriate trust account,
11 3 surplus account, or other financial mechanism in this state.

11 4 ~~2. b.~~ Maintenance of all books and records of United
11 5 States operations in this state.

11 6 ~~3. c.~~ Maintenance of a separate financial reporting
11 7 system for its United States operations.

11 8 ~~4. d.~~ Any other provisions deemed necessary by the
11 9 commissioner.

11 10 3. A foreign company authorized to do business in this
11 11 state shall not assumptively reinsure a block of business
11 12 which includes policyholders residing in this state to a
11 13 company not authorized to do business in this state without
11 14 the prior written approval of the commissioner.

11 15 Sec. 12. Section 514.4, unnumbered paragraph 2, Code 2007,
11 16 is amended to read as follows:

11 17 A subscriber director is a director of the board of a
11 18 corporation who is a subscriber and who is not a provider of
11 19 health care pursuant to section 514B.1, subsection 7, a person
11 20 who has material financial or fiduciary interest in the
11 21 delivery of health care services or a related industry, an
11 22 employee of an institution which provides health care
11 23 services, or a spouse or a member of the immediate family of
11 24 such a person. However, a subscriber director of a dental
11 25 service corporation may be an employee, officer, director, or
11 26 trustee of a hospital that does not contract with the dental
11 27 service corporation. A subscriber director of a hospital or
11 28 medical service corporation shall be a subscriber of the
11 29 services of that corporation.

11 30 Sec. 13. Section 514J.2, subsection 3, Code 2007, is
11 31 amended to read as follows:

11 32 3. "Coverage decision" means a final adverse decision
11 33 based on medical necessity. This definition does not include
11 34 a denial of coverage for a service or treatment specifically
11 35 listed in plan or evidence of coverage documents as excluded



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12 1 from coverage, or a denial of coverage for a service or
12 2 treatment that has already been received and for which the
12 3 enrollee has no financial liability.

12 4 Sec. 14. Section 515.35, subsection 2, Code 2007, is
12 5 amended by adding the following new paragraph:

12 6 NEW PARAGRAPH. aa. "Capital and surplus", for purposes of
12 7 computing percentage limitations on particular types of
12 8 investments, means the capital and surplus that is authorized
12 9 to be shown as capital and surplus on the national association
12 10 of insurance commissioners' annual statement template as of
12 11 the December 31 immediately preceding the date the company
12 12 acquires the investment.

12 13 Sec. 15. NEW SECTION. 515H.1 SHORT TITLE.

12 14 This chapter shall be known and may be cited as the
12 15 "Property and Casualty Actuarial Opinions Act".

12 16 Sec. 16. NEW SECTION. 515H.2 ACTUARIAL OPINION OF
12 17 RESERVES == SUPPORTING DOCUMENTATION.

12 18 1. STATEMENT OF ACTUARIAL OPINION. Every property and
12 19 casualty insurance company doing business in this state,
12 20 unless otherwise exempted from this requirement by the
12 21 commissioner, shall annually submit the opinion of an
12 22 appointed actuary entitled "statement of actuarial opinion"
12 23 with the company's annual statement in accordance with the
12 24 provisions of section 515.63 and with the requirements of the
12 25 national association of insurance commissioners' property and
12 26 casualty annual statement instructions.

12 27 2. ACTUARIAL OPINION SUMMARY.

12 28 a. Every property and casualty insurance company domiciled
12 29 in this state that is required to submit a statement of
12 30 actuarial opinion shall annually submit an actuarial opinion
12 31 summary, prepared and signed by the company's appointed
12 32 actuary. The actuarial summary shall be filed in accordance
12 33 with the requirements of the national association of insurance
12 34 commissioners' property and casualty company annual statement
12 35 instructions and shall be considered a document in support of



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13 1 the statement of actuarial opinion required under subsection
13 2 1.
13 3 b. A property and casualty insurance company that is
13 4 licensed but not domiciled in this state shall provide an
13 5 actuarial opinion summary upon request of the commissioner.
13 6 3. ACTUARIAL REPORT AND WORK PAPERS.
13 7 a. An actuarial report and supporting work papers shall be
13 8 prepared to support each statement of actuarial opinion in
13 9 accordance with the requirements of the national association
13 10 of insurance commissioners' property and casualty company
13 11 annual statement instructions.
13 12 b. If an insurance company fails to provide a supporting
13 13 actuarial report and work papers as requested by the
13 14 commissioner or the commissioner determines that the actuarial
13 15 report and work papers provided are unacceptable, the
13 16 commissioner may engage a qualified actuary at the company's
13 17 expense to review the statement of actuarial opinion and the
13 18 basis for the opinion and to prepare a supporting actuarial
13 19 report and work papers.
13 20 4. An appointed actuary of a property and casualty
13 21 insurance company that prepares a statement of actuarial
13 22 opinion pursuant to this section shall not be liable for
13 23 damages to any person, except the company and the insurance
13 24 commissioner, for any act, error, omission, decision, or
13 25 misconduct of the appointed actuary in conducting the
13 26 actuary's duties pursuant to this section.
13 27 Sec. 17. NEW SECTION. 515H.3 CONFIDENTIALITY.
13 28 1. A statement of actuarial opinion filed pursuant to
13 29 section 515H.2 is a public record subject to examination and
13 30 copying.
13 31 2. Documents in the possession or control of the insurance
13 32 division that are provided to the division in support of a
13 33 statement of actuarial opinion, that are considered an
13 34 actuarial report, work papers, an actuarial opinion summary,
13 35 or any other material provided by the company in connection



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14 1 with the actuarial report, work papers, or actuarial opinion
14 2 summary are confidential records under section 507.14 and
14 3 shall not be subject to subpoena or discovery or be admissible
14 4 in evidence in any private civil action.

14 5 3. Disclosure of any documents, materials, or information
14 6 to the division in compliance with the requirements of this
14 7 chapter shall not be considered a waiver of any applicable
14 8 privilege or claim of confidentiality.

14 9 Sec. 18. Section 516E.3, subsection 2, paragraph a, Code
14 10 2007, is amended by striking the paragraph.

14 11 Sec. 19. Section 518.14, subsection 2, Code 2007, is
14 12 amended by adding the following new paragraph:

14 13 NEW PARAGRAPH. h. "Surplus", for purposes of computing
14 14 percentage limitations on particular types of investments,
14 15 means the surplus that is authorized to be shown on the
14 16 commissioner's annual statement blank as surplus as of the
14 17 December 31 immediately preceding the date the association
14 18 acquires the investment.

14 19 Sec. 20. Section 518A.1, subsection 1, paragraph d, Code
14 20 2007, is amended to read as follows:

14 21 d. Any automobile vehicle, excluding authomobiles or
14 22 aircraft or other vehicle, including loss, and expense, or
14 23 ~~liability~~ resulting from the ownership, maintenance, or use
14 24 thereof, but shall not include insurance against bodily injury
14 25 to the person.

14 26 Sec. 21. Section 518A.12, subsection 2, Code 2007, is
14 27 amended by adding the following new paragraph:

14 28 NEW PARAGRAPH. h. "Surplus", for purposes of computing
14 29 percentage limitations on particular types of investments,
14 30 means the surplus that is authorized to be shown on the
14 31 commissioner's annual statement blank as surplus as of the
14 32 December 31 immediately preceding the date the association
14 33 acquires the investment.

14 34 Sec. 22. Section 520.9, subsection 1, Code 2007, is
14 35 amended to read as follows:



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15 1 1. There shall at all times be maintained as assets a sum
15 2 in cash, or in securities of the kind designated by the laws
15 3 of the state where the principal office is located for the
15 4 investment of funds of insurance companies, equal to one
15 5 hundred percent of the net unearned premiums or deposits
15 6 collected and credited to the account of subscribers, or
15 7 assets equal to fifty percent of the net annual deposits
15 8 collected and credited to the account of subscribers on
15 9 policies having one year or less to run and pro rata on those
15 10 for longer periods; in addition to which there shall be
15 11 maintained in cash, or in such securities, assets sufficient
15 12 to discharge all liabilities on all outstanding losses arising
15 13 under policies issued, the same to be calculated in accordance
15 14 with the laws of the state relating to similar reserves for
15 15 companies insuring similar risks; provided that where the
15 16 assets on hand available for the payment of losses other than
15 17 determined losses, do not equal ~~two~~ five million dollars, all
15 18 liability for each determined loss or claim deferred for more
15 19 than one year, shall be provided for by a special deposit in a
15 20 trust company or bank having fiduciary powers of the state in
15 21 which the principal office is located, to be used in payment
15 22 of compensation benefits for disability; such deposit to be a
15 23 trust fund and applicable only to the purposes stated, or such
15 24 liability may be reinsured in authorized companies with a
15 25 surplus of at least ~~two~~ five million dollars. For the purpose
15 26 of such reserves, net deposits shall be construed to mean the
15 27 advance payments of subscribers after deducting the amount
15 28 specifically provided in the subscribers' agreements for
15 29 expenses. If at any time the assets so held in cash or such
15 30 securities shall be less than required above, or less than ~~two~~
15 31 five million dollars, the subscribers or their attorney for
15 32 them shall make up the deficiency within thirty days after
15 33 notice from the commissioner of insurance to do so. In
15 34 computing the assets required by this section, the amount
15 35 specified in section 520.4, subsection 7, shall be included.



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16 1 Sec. 23. Section 522B.6, subsection 3, Code 2007, is
16 2 amended to read as follows:
16 3 3. An insurance producer license remains in effect unless
16 4 revoked or suspended as long as all required fees are paid and
16 5 continuing education requirements for resident individual
16 6 insurance producers are met by any applicable due date.
16 7 Resident individual insurance producers are required to
16 8 complete continuing education requirements in order to be
16 9 eligible for license renewal.
16 10 Sec. 24. NEW SECTION. 522C.1 PURPOSE.
16 11 The purpose of this chapter is to govern the qualifications
16 12 and procedures for licensing public adjusters in this state,
16 13 and to specify the duties of and restrictions on public
16 14 adjusters, including limitation of such licensure to assisting
16 15 insureds only with first-party claims.
16 16 Sec. 25. NEW SECTION. 522C.2 DEFINITIONS.
16 17 As used in this chapter, unless the context otherwise
16 18 requires:
16 19 1. "Business entity" means a corporation, association,
16 20 partnership, limited liability company, limited liability
16 21 partnership, or any other legal entity.
16 22 2. "Commissioner" means the commissioner of insurance.
16 23 3. "Fingerprints" means an impression of the lines on a
16 24 human finger taken for the purposes of identification. The
16 25 impression may be electronic or in ink converted to an
16 26 electronic format.
16 27 4. "First-party claim" means a claim filed by a person
16 28 insured under the insurance policy against which the claim is
16 29 made.
16 30 5. "Individual" means a natural person.
16 31 6. "Person" means an individual or a business entity.
16 32 7. "Public adjuster" means any person who for compensation
16 33 or any other thing of value acts on behalf of an insured by
16 34 doing any of the following:
16 35 a. Acting for or aiding an insured in negotiating for or



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- 17 1 effecting the settlement of a first-party claim for loss or
17 2 damage to real or personal property of the insured.
17 3 b. Advertising for employment as a public adjuster of
17 4 first-party insurance claims or otherwise soliciting business
17 5 or representing to the public that the person is a public
17 6 adjuster of first-party insurance claims for loss or damage to
17 7 real or personal property of an insured.
17 8 c. Directly or indirectly soliciting business
17 9 investigating or adjusting losses, or advising an insured
17 10 about first-party claims for loss or damage to real or
17 11 personal property of the insured.
17 12 8. "Uniform business entity application" means the current
17 13 version of the national association of insurance
17 14 commissioners' uniform business entity application for
17 15 resident and nonresident business entities.
17 16 9. "Uniform individual application" means the current
17 17 version of the national association of insurance
17 18 commissioners' uniform individual application for resident and
17 19 nonresident individuals.
17 20 Sec. 26. NEW SECTION. 522C.3 AUTHORITY OF THE
17 21 COMMISSIONER.
17 22 1. The commissioner shall adopt rules pursuant to chapter
17 23 17A as necessary to administer and enforce this chapter.
17 24 2. The commissioner shall adopt rules including but not
17 25 limited to all of the following:
17 26 a. Advertising standards.
17 27 b. Continuing education requirements for licensees.
17 28 c. Contracts between public adjusters and insureds.
17 29 d. Required disclosures by licensees.
17 30 e. Examinations for licensure.
17 31 f. Exemptions.
17 32 g. License bonds and errors and omissions insurance
17 33 requirements.
17 34 h. License requirements and exclusions.
17 35 i. Prohibited practices.



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18 1 j. Record retention requirements.
18 2 k. Reporting requirements.
18 3 l. Requirements and limitations on fees charged by public
18 4 adjusters.
18 5 m. Standards for reasonableness of payment.
18 6 n. Standards of conduct.
18 7 o. Penalties.
18 8 Sec. 27. NEW SECTION. 522C.4 LICENSE REQUIRED.
18 9 A person shall not operate as or represent that the person
18 10 is a public adjuster in this state unless the person is
18 11 licensed by the commissioner in accordance with this chapter.
18 12 Sec. 28. NEW SECTION. 522C.5 APPLICATION FOR LICENSE.
18 13 1. A person applying for a public adjuster license shall
18 14 make application on a uniform individual application or
18 15 uniform business entity application as prescribed by the
18 16 commissioner pursuant to rules adopted under chapter 17A.
18 17 2. In determining eligibility for licensure under this
18 18 chapter, the commissioner shall require each individual
18 19 applying for a public adjuster license to submit a full set of
18 20 fingerprints with the application. The commissioner shall
18 21 also require each business entity applying for licensure under
18 22 this chapter to submit a full set of fingerprints for each
18 23 individual who will be acting as a public adjuster on behalf
18 24 of the business entity. The commissioner shall conduct a
18 25 state and national criminal history record check on each
18 26 applicant. The commissioner is authorized to submit
18 27 fingerprints and any required fees to the state department of
18 28 public safety, the state attorney general, and the federal
18 29 bureau of investigation for the performance of such criminal
18 30 record checks.
18 31 a. The commissioner may contract for the collection,
18 32 transmission, and resubmission of fingerprints required under
18 33 this section and may contract for a reasonable fingerprinting
18 34 fee to be charged by the contractor for these services. Any
18 35 fees for the collection, transmission, and retention of
19 1 fingerprints submitted pursuant to this subsection shall be
19 2 paid directly to the contractor by the applicant.
19 3 b. The commissioner may waive submission of fingerprints
19 4 by any person who has previously furnished fingerprints if
19 5 those fingerprints are on file with the central repository of
19 6 the national association of insurance commissioners, its
19 7 affiliates, or subsidiaries.
19 8 c. The commissioner may receive criminal history record
19 9 information concerning an applicant that was requested by the
19 10 state department of justice directly from the federal bureau
19 11 of investigation.
19 12 d. The commissioner may submit electronic fingerprint
19 13 records and necessary identifying information to the national
19 14 association of insurance commissioners, its affiliates, or
19 15 subsidiaries for permanent retention in a centralized
19 16 repository whose purpose is to provide state insurance
19 17 commissioners with access to fingerprint records in order to
19 18 perform criminal history record checks.
19 19 Sec. 29. NEW SECTION. 522C.6 PENALTIES.
19 20 1. The commissioner may place on probation, suspend,
19 21 revoke, or refuse to issue or renew a public adjuster's



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19 22 license or may levy a civil penalty as provided in section
19 23 505.7A if a licensed public adjuster is found after hearing to
19 24 be in violation of the requirements of this chapter or rules
19 25 adopted or orders issued pursuant to this chapter.

19 26 2. A person who is found after hearing to have operated as
19 27 or represented that the person is a public adjuster and does
19 28 not have a license issued under this chapter, is guilty of a
19 29 class "D" felony.

19 30 3. A person who is found after hearing to have willfully
19 31 violated any provisions of this chapter or any rule adopted or
19 32 order issued under this chapter, is guilty of a class "D"
19 33 felony.

19 34 Sec. 30. Sections 523.5 and 523.6, Code 2007, are
19 35 repealed.



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20 1 EXPLANATION
20 2 This bill relates to various matters under the purview of
20 3 the insurance division of the department of commerce.
20 4 WORKERS' COMPENSATION == RELEASE OF SECURITY. Code section
20 5 87.11 is amended to allow an employer that is self-insured for
20 6 workers' compensation purposes and discontinues its
20 7 self-insured status or enters bankruptcy proceedings to
20 8 petition the workers' compensation commissioner for a release
20 9 of its security under specified circumstances.
20 10 PREMIUM TAXES. Code section 432.1 is amended to specify
20 11 that an insurance company or association other than life is
20 12 required to pay taxes based on a percentage of gross premiums
20 13 written instead of gross premiums.
20 14 UNIFORM SECURITIES ACT. Code section 502.602 is amended to
20 15 allow an administrator to seek remedies for noncompliance with
20 16 the chapter by application to the Polk county district court
20 17 or the district court for the county in which the person
20 18 resides or is located.
20 19 Code section 502.603 is amended to authorize an
20 20 administrator to maintain an action for civil enforcement in
20 21 the county in which the person against whom the action is
20 22 being brought resides, has a principal place of business, or
20 23 is doing business, or in the county where the transaction or
20 24 any substantial part of the transaction which is the subject
20 25 of the action occurred, or in the county in which one or more
20 26 of the victims of the transaction which is the subject of the
20 27 action resides.
20 28 Code section 502.604 is amended to provide that a hearing
20 29 will be scheduled within 30 instead of 15 days after an
20 30 administrator receives a request for hearing and to authorize
20 31 the administrator to petition for enforcement of an
20 32 administrative order against a person in the Polk county
20 33 district court or the district court for the county in which
20 34 the person resides or is located.
20 35 INSURANCE DIVISION POWERS AND DUTIES. Code section 505.8



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21 1 is amended to authorize the commissioner of insurance to do
21 2 the following: (1) conduct certain public or private
21 3 investigations within or outside of this state, require or
21 4 permit certain persons to provide information concerning
21 5 matters being investigated or actions or proceedings to be
21 6 instituted, and publish records as the commissioner deems
21 7 appropriate for the protection of the public; (2) administer
21 8 oaths and affirmations, subpoena witnesses, compel attendance,
21 9 take evidence, and require statements and production of
21 10 records in connection with an investigation; (3) assess
21 11 penalties and seek judicial enforcement of subpoenas or orders
21 12 issued by the commissioner; (4) require a person to comply
21 13 with an order even if compliance may directly or indirectly
21 14 incriminate the individual or subject the individual to
21 15 criminal fines, penalties, or forfeiture so long as the
21 16 testimony, records, or evidence compelled is not used against
21 17 the individual in a criminal case; and (5) assist insurance
21 18 regulators in other states or foreign jurisdictions with their
21 19 investigations of insurance law violations under specified
21 20 circumstances.

21 21 SALE OF INSURANCE TO MILITARY PERSONNEL. New Code section
21 22 505.27A authorizes the commissioner of insurance to adopt
21 23 rules related to the business of insurance, other than the
21 24 federal servicemembers' group life insurance program, as
21 25 necessary to protect military personnel located either on a
21 26 United States military installation or elsewhere in the state
21 27 and to carry out the provisions of Iowa insurance law and
21 28 related rules.

21 29 DOMESTIC INSURANCE COMPANIES == BIOGRAPHICAL AFFIDAVITS.
21 30 New Code section 506.13 requires new officers or directors of
21 31 an insurance company domiciled in Iowa to file a biographical
21 32 affidavit with the insurance commissioner within 30 days after
21 33 a quarterly or annual statement of the company first names the
21 34 individual as an officer or director of the company on the
21 35 jurat page (where individual swears to the individual's



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22 1 signature) of the quarterly or annual statement.

22 2 EXAMINATION OF INSURANCE COMPANIES. Code section 507.1 is

22 3 amended to provide that companies and insurers that are

22 4 subject to the provisions of Code chapter 507 concerning the

22 5 examination of insurance companies include nonadmitted

22 6 insurers that are authorized to do business in Iowa.

22 7 LIFE INSURANCE COMPANIES. Code section 508.6 is amended to

22 8 specify that securities in the amount of capital and surplus

22 9 are required to be deposited with the commissioner of

22 10 insurance only by life insurance companies organized under the

22 11 laws of this state.

22 12 Code section 508.10 is amended to eliminate the requirement

22 13 that foreign life insurance companies doing business in Iowa

22 14 maintain on deposit an amount equal to their minimum capital

22 15 and surplus requirements.

22 16 NONPROFIT HEALTH SERVICE CORPORATIONS. Code section 514.4

22 17 is amended to provide that a subscriber director of a dental

22 18 service corporation may be an employee, officer, director, or

22 19 trustee of a hospital that does not contract with the dental

22 20 service corporation.

22 21 EXTERNAL REVIEW OF HEALTH CARE COVERAGE DECISIONS. Code

22 22 section 514J.2 is amended to provide that a "coverage

22 23 decision" for which there is a right of appeal pursuant to

22 24 Code chapter 514J does not include a denial of coverage for a

22 25 service or treatment that has already been received and for

22 26 which the enrollee has no financial liability.

22 27 INSURANCE OTHER THAN LIFE == INVESTMENT LIMITATIONS. Code

22 28 section 515.35 is amended by adding a definition of what

22 29 constitutes "capital and surplus" for purposes of computing

22 30 percentage limitations on particular types of investments by

22 31 insurance companies other than life insurers.

22 32 PROPERTY AND CASUALTY INSURANCE == ACTUARIAL OPINION OF

22 33 RESERVES. New Code chapter 515H requires every property and

22 34 casualty insurance company doing business in Iowa, unless

22 35 otherwise exempted, to annually submit a statement of



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23 1 actuarial opinion by an appointed actuary with the company's
23 2 annual statement as prescribed in the new Code chapter. The
23 3 new Code chapter also provides that a statement of actuarial
23 4 opinion filed with the company's annual statement is a public
23 5 record, although other documents filed in support of the
23 6 statement such as an actuarial report, work papers, or an
23 7 actuarial opinion summary are considered confidential records
23 8 under Code section 507.14.

23 9 MOTOR VEHICLE SERVICE CONTRACTS. Code section 516E.3 is
23 10 amended by striking the requirement that the provider of a
23 11 motor vehicle service contract file a copy of the contract
23 12 with the commissioner of insurance since the service company
23 13 that issues the contract is already required to file such a
23 14 copy.

23 15 COUNTY MUTUAL INSURANCE ASSOCIATIONS. Code section 518.14
23 16 is amended to include a definition of what constitutes
23 17 "surplus" for purposes of computing percentage limitations on
23 18 particular types of investments by county mutual insurance
23 19 associations.

23 20 STATE MUTUAL INSURANCE ASSOCIATIONS. Code section 518A.1
23 21 is amended to prohibit state mutual insurance associations
23 22 from providing liability and property insurance for loss and
23 23 expense resulting from the ownership, maintenance, or use of
23 24 automobiles or aircraft.

23 25 Code section 518A.12 is amended to include a definition of
23 26 what constitutes "surplus" for purposes of computing
23 27 percentage limitations on particular types of investments by
23 28 state mutual insurance associations.

23 29 RECIPROCAL OR INTERINSURANCE CONTRACTS. Code section 520.9
23 30 is amended to require designated subscribers that are
23 31 authorized to exchange reciprocal or interinsurance contracts
23 32 to provide special trust deposits where assets for the payment
23 33 of certain losses do not equal \$5 million and to require that
23 34 reinsurance be secured in an authorized company with a surplus
23 35 of at least \$5 million. Currently, the required minimum



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24 1 amounts are \$2 million.

24 2 LICENSING OF INSURANCE PRODUCERS. Code section 522B.6 is
24 3 amended to require resident individual insurance producers to
24 4 complete continuing education requirements in order to be
24 5 eligible for license renewal.

24 6 LICENSING OF PUBLIC ADJUSTERS. New Code chapter 522C
24 7 governs qualifications and procedures for licensing public
24 8 adjusters in this state, and specifies duties and restrictions
24 9 on public adjusters, including limitation of their licensure
24 10 to assisting insureds with first-party claims.

24 11 The bill authorizes the commissioner to place on probation,
24 12 suspend, revoke, or refuse to issue or renew the license of or
24 13 levy a civil penalty as provided in Code section 505.7A
24 14 against a person who violates the requirements of the new Code
24 15 chapter or rules or orders issued pursuant to the chapter.
24 16 Operating as a public adjuster without a license or willful
24 17 violations of the new Code chapter are classified as class "D"
24 18 felonies. A class "D" felony is punishable by confinement for
24 19 no more than five years and a fine of at least \$750 but not
24 20 more than \$7,500.

24 21 INSURANCE COMPANY BOARD OF DIRECTORS == PROPORTIONATE
24 22 REPRESENTATION. Code sections 523.5 and 523.6 which allow
24 23 proportionate representation of certain minority shareholders
24 24 on the board of directors of certain life or fire insurance
24 25 companies are repealed.

24 26 LSB 1235DP 82

24 27 av:rj/gg/14.1



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