



Iowa General Assembly
Daily Bills, Amendments & Study Bills
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House Amendment 1072

PAG LIN

1 1 Amend the amendment, H=1063, to House File 333 as
1 2 follows:
1 3 #1. Page 1, by inserting after line 6 the
1 4 following:
1 5 <#____. Page 5, line 17, by inserting after the
1 6 word <more.> the following: <For the purposes of this
1 7 subparagraph, any public improvement project funded in
1 8 any part by secure an advanced vision for education
1 9 fund moneys pursuant to chapter 423F shall be exempt
1 10 from the requirement to pay not less than the current
1 11 specified prevailing wage rate.>>
1 12
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1 14
1 15 DOLECHECK of Ringgold
1 16 HF 333.713 83
1 17 ak/nh/21662
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House Amendment 1073

PAG LIN

1 1 Amend House File 259 as follows:
1 2 #1. Page 1, by striking lines 7 through 10 and
1 3 inserting the following: <compulsory attendance age.
1 4 ~~However, if a A~~ child enrolled in a school district or
1 5 accredited nonpublic school who reaches the age of
1 6 ~~sixteen eighteen~~ on or after September 15, ~~the child~~
1 7 remains of compulsory age until the end of the regular
1 8 school calendar.>
1 9 #2. Page 2, by striking lines 28 through 30 and
1 10 inserting the following: <receiving competent private
1 11 instruction under this chapter or a child over
1 12 compulsory age who is receiving private instruction
1 13 submits a request, the child shall also be>.
1 14 #3. Page 4, line 23, by striking the word
1 15 <section> and inserting the following: <sections>.
1 16 #4. Page 4, by striking line 24 and inserting the
1 17 following: <providing for school district compulsory
1 18 attendance support reviews and for a compulsory
1 19 attendance working group take>.
1 20
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1 23 WINCKLER of Scott
1 24 HF 259.704 83
1 25 kh/nh/21710
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House Amendment 1074

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1 1 Amend the amendment, H=1063, to House File 333 as
1 2 follows:
1 3 #1. Page 1, by inserting after line 6 the
1 4 following:
1 5 <#____. Page 6, by inserting before line 1 the
1 6 following:
1 7 <For the purposes of this subsection, any public
1 8 improvement project funded in any part by secure an
1 9 advanced vision for education fund moneys pursuant to
1 10 chapter 423F shall be exempt from the requirement to
1 11 pay not less than the current specified prevailing
1 12 wage rate.>>
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1 16 DOLECHECK of Ringgold
1 17 HF 333.714 83
1 18 ak/nh/21663
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House Amendment 1075

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1 1 Amend the amendment, H=1063, to House File 333, as
1 2 follows:
1 3 #1. Page 1, by striking lines 7 through 20 and
1 4 inserting the following:
1 5 <#____. Page 4, lines 2 and 3, by striking the
1 6 words <paragraphs "b" and "c"> and inserting the
1 7 following: <paragraph "b">.
1 8 #____. By striking page 4, line 34, through page 5,
1 9 line 35, and inserting the following:
1 10 <b. The public improvement project's total
1 11 estimated cost is one million five hundred thousand
1 12 dollars or more and at least twenty percent of the
1 13 funding is satisfied by state funds, as defined in
1 14 section 8.2, directed for infrastructure purposes.>>
1 15 #2. By renumbering as necessary.
1 16
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1 18
1 19 UPMEYER of Hancock
1 20 HF 333.216 83
1 21 ak/nh/21859
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House Amendment 1076

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1 1 Amend the amendment, H=1063, to House File 333, as
1 2 follows:
1 3 #1. Page 1, by striking lines 7 through 20 and
1 4 inserting the following:
1 5 <#___. Page 4, lines 2 and 3, by striking the
1 6 words <paragraphs "b" and "c"> and inserting the
1 7 following: <paragraph "b">.
1 8 #___. By striking page 4, line 34, through page 5,
1 9 line 35, and inserting the following:
1 10 <b. The public improvement project's total
1 11 estimated cost is one million five hundred thousand
1 12 dollars or more and at least twenty percent of the
1 13 funding is satisfied by state funds, as defined in
1 14 section 8.2, directed specifically for infrastructure
1 15 purposes.>
1 16 #___. Page 6, by inserting before line 1 the
1 17 following:
1 18 <___. "Vertical infrastructure" includes but is
1 19 not limited to the public improvement of buildings,
1 20 appurtenant structures, and utilities; and site
1 21 development.>
1 22 #___. Page 7, by striking lines 20 through 35 and
1 23 inserting the following:
1 24 <4. a. (1) Vertical infrastructure-related state
1 25 licensing boards shall require licensees to submit
1 26 wage rates and fringe benefits rates data once a year.
1 27 A state licensing board shall transmit the data
1 28 annually to the division.
1 29 (2) Vertical infrastructure-related contractors,
1 30 who are registered with the division pursuant to
1 31 chapter 91C, who participate in an apprenticeship
1 32 program approved by and registered with the United
1 33 States department of labor's office of apprenticeship,
1 34 and who provide health insurance and retirement
1 35 benefits for their workers shall submit wage rates and
1 36 fringe benefits rates data once a year to the
1 37 division. The commissioner shall create an internet
1 38 website and paper forms for contractors to submit the
1 39 required information.
1 40 (3) All parties shall keep the wage rates and
1 41 fringe benefits rates information confidential.
1 42 (4) An individual who intentionally provides
1 43 misinformation about wage rates, fringe benefits
1 44 rates, or work locations commits a violation under
1 45 this chapter and shall be penalized one hundred
1 46 dollars per violation. A violation under this
1 47 subsection is grounds for a loss of licensure or
1 48 registration with the division, as applicable, which
1 49 shall be in addition to any penalty otherwise
1 50 authorized by this subsection.



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2 1 b. The labor commissioner shall determine wage
2 2 rates and fringe benefits rates using data only from
2 3 licensees who receive health insurance and retirement
2 4 benefits collected under paragraph "a", subparagraph
2 5 (1), and all data collected under paragraph "a",
2 6 subparagraph (2). The prevailing wage rates and
2 7 fringe benefits rates determined in each locality
2 8 shall be set at the wage rate and fringe benefits rate
2 9 that thirty percent or more of those employed in a
2 10 particular craft, classification, or type of work are
2 11 paid in total. If a common wage rate and fringe
2 12 benefits rate is not paid to at least thirty percent
2 13 of those employed in a particular craft,
2 14 classification, or type of work, the total of the wage
2 15 rates and fringe benefits rates of all workers in a
2 16 particular craft, classification, or type of work
2 17 shall be calculated and the average wage rate and
2 18 fringe benefits rate shall be the prevailing wage rate
2 19 for that particular craft, classification, or type of
2 20 worker in that locality.>
2 21 #___. Page 8, line 1, by striking the word <b.>
2 22 and inserting the following: <c.>
2 23 #___. Page 8, by striking lines 5 through 11.
2 24 #___. Page 8, line 12, by inserting after the
2 25 figure <6.> the following: <a.>
2 26 #___. Page 8, by striking lines 17 through 23 and
2 27 inserting the following: <horizontal and
2 28 transportation infrastructure.
2 29 b. However, for federal Davis-Bacon Act prevailing
2 30 wage rates to apply, the public improvement described
2 31 in paragraph "a" must meet one of the following
2 32 descriptions:
2 33 (1) The project is funded by the state or the
2 34 state board of regents and the total estimated cost is
2 35 one hundred thousand dollars or more.
2 36 (2) The project is funded by a school district and
2 37 the total estimated cost is three hundred thousand
2 38 dollars or more.
2 39 (3) The project is funded by a county with a
2 40 population of forty thousand or more and the total
2 41 estimated cost is one hundred thousand dollars or
2 42 more. Population, for the purposes of this
2 43 subparagraph, shall be based on the most recent United
2 44 States census bureau annual census figures. Beginning
2 45 in 2011, the most recent United States census bureau
2 46 decennial census figures shall be used to calculate
2 47 population for the purposes of this subparagraph.
2 48 (4) The project is funded by a city with a
2 49 population of twenty thousand or more and the total
2 50 estimated cost is one hundred thousand dollars or



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3 1 more. Population, for the purposes of this
3 2 subparagraph, shall be based on the most recent United
3 3 State census bureau annual census figures. Beginning
3 4 in 2011, the most recent United States census bureau
3 5 decennial census figures shall be used to calculate
3 6 population for the purposes of this subparagraph.
3 7 (5) The total estimated cost of the project is one
3 8 million five hundred thousand dollars or more,
3 9 regardless of the public body's population.
3 10 c. An objections and appeals process to be
3 11 established by the department of transportation in
3 12 accordance with chapter 17A shall be made applicable
3 13 to the public improvement described in paragraph
3 14 "a".>>
3 15 #2. By renumbering as necessary.
3 16
3 17
3 18
3 19 BAILEY of Hamilton
3 20 HF 333.217 83
3 21 ak/rj/21664



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House File 394 - Introduced

HOUSE FILE
BY KOESTER

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

A BILL FOR

- 1 An Act establishing alternative project delivery procedures for
- 2 certain public projects undertaken by political subdivisions.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1733YH 83
- 5 md/nh/14



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1 1 SUBCHAPTER I
1 2 ALTERNATIVE PROJECT DELIVERY
1 3 Section 1. NEW SECTION. 26A.1 SHORT TITLE.
1 4 This chapter shall be known and may be cited as the "Iowa
1 5 Alternative Project Delivery Act".
1 6 Sec. 2. NEW SECTION. 26A.2 DEFINITIONS.
1 7 As used in this chapter, unless the context clearly
1 8 indicates otherwise:
1 9 1. "Alternative project delivery" means a method of
1 10 procuring and delivering design and construction services
1 11 through an integrated comprehensive design and construction
1 12 process, including all procedures, actions, sequences of
1 13 events, contractual relations, obligations, interrelations,
1 14 and various forms of agreement all aimed at the successful
1 15 completion of the design and construction of a public project,
1 16 whereby a construction manager or design-builder is selected
1 17 according to a qualifications-based or best value selection.
1 18 2. "Best value selection" means the selection of a
1 19 construction manager or a design-builder based upon a
1 20 combination of project cost, qualifications, and other
1 21 factors.
1 22 3. "Construction documents" means the drawings,
1 23 specifications, technical submissions, and other documents
1 24 upon which a construction project is based.
1 25 4. "Construction management contract" means a contract
1 26 whereby a political subdivision acquires from a construction
1 27 manager a series of preconstruction services and a financial
1 28 obligation to carry out construction for a specified cost or
1 29 guaranteed maximum cost agreement. A construction manager is
1 30 not responsible for professional architectural services, as
1 31 defined in section 544A.16, for a public project if such
1 32 services are contracted for independent of the construction
1 33 management contract.
1 34 5. "Construction management services" means an alternative
1 35 project delivery method whereby services are provided by a



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2 1 construction manager which has entered into a construction
2 2 management contract with a political subdivision to be the
2 3 construction manager for a public project for the compensation
2 4 and schedule specified in the contract, which is to hold the
2 5 trade contracts or subcontracts and execute the work for a
2 6 project in a manner similar to a general contractor, and which
2 7 is required to solicit competitive bids for the trade packages
2 8 or subcontracts developed for the public project and to enter
2 9 into the trade contracts or subcontracts for the public
2 10 project with the lowest responsible bidder. Construction
2 11 management services may include but are not limited to
2 12 scheduling, value analysis, system analysis, constructability
2 13 reviews, progress document reviews, subcontractor involvement
2 14 and prequalification, subcontractor bonding policy, budgeting
2 15 and price guarantees, and construction coordination.

2 16 6. "Construction manager" means an individual,
2 17 partnership, joint venture, corporation, or other legal entity
2 18 that utilizes skill and knowledge of general contracting to
2 19 perform preconstruction services and that competitively
2 20 procures and contracts with specialty contractors, assuming
2 21 the responsibility and the risk for construction delivery
2 22 within a specified cost and schedule.

2 23 7. "Construction services" means the process of planning,
2 24 acquiring, building, equipping, altering, repairing,
2 25 improving, or demolishing any structure or appurtenance
2 26 thereto, including facilities, utilities, or other
2 27 improvements to real property, but excluding highways, roads,
2 28 bridges, dams, or stand-alone parking lots.

2 29 8. "Design professional" means an individual, partnership,
2 30 joint venture, corporation, or other legal entity that is
2 31 engaged in the business of providing professional design
2 32 services. A design professional shall be licensed to practice
2 33 architecture, engineering, or landscape architecture, or be
2 34 registered to practice interior design in this state.

2 35 9. "Design-build services" means a method of alternative



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3 1 project delivery for which both design and construction
3 2 services are provided under one contract. "Design=build
3 3 services" may include architecture, engineering, and related
3 4 design services required for a given project and the labor,
3 5 materials, and other construction services for the project.
3 6 10. "Design=builder" means an individual, partnership,
3 7 joint venture, corporation, or other legal entity that
3 8 furnishes design=build services, whether by itself or through
3 9 subcontracts.
3 10 11. "Estimated total cost" means the estimated total cost
3 11 to a political subdivision to construct a public project,
3 12 including the cost of labor, materials, equipment, supplies,
3 13 and fees.
3 14 12. "Fee" means an amount, in excess of actual materials
3 15 costs, paid to a construction manager or design=builder for
3 16 services provided.
3 17 13. "General conditions" means work associated with the
3 18 on-site management of administrative personnel, equipment, and
3 19 utilities, including incidental work and minor field labor
3 20 associated with a construction project.
3 21 14. "Guaranteed maximum cost" means the cost of the
3 22 project as defined in the contract between the political
3 23 subdivision and the construction manager or between the
3 24 political subdivision and the design=builder.
3 25 15. "Political subdivision" means a public body or
3 26 corporation other than the state or a state agency that has
3 27 power to levy or certify a tax or sum of money to be collected
3 28 by taxation.
3 29 16. "Preconstruction services" means a series of services
3 30 including but not limited to design review, scheduling,
3 31 estimating, cost control, value engineering, constructability
3 32 evaluation, and preparation and coordination of bid packages.
3 33 17. "Public project" means a project under the control of
3 34 a political subdivision that is paid for in whole or in part
3 35 with funds of the political subdivision, including a building



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4 1 or improvement constructed or operated jointly with any other
4 2 public or private agency. A "public project" may include
4 3 planning, acquiring, designing, building, equipping, altering,
4 4 repairing, improving, or demolishing any structure or
4 5 appurtenance thereto, including facilities, utilities, or
4 6 other improvements to any real property owned by the political
4 7 subdivision, but excluding highways, roads, bridges, dams, or
4 8 stand-alone parking lots. However, a parking lot included as
4 9 part of the site work of a public project may be included as
4 10 part of a construction management contract or a design-build
4 11 services contract. Parking ramps and parking garages are not
4 12 considered to be parking lots and may be a "public project"
4 13 constructed utilizing alternative project delivery methods.

4 14 18. "Qualifications-based selection" means a selection
4 15 process based on both a qualitative component and a cost
4 16 component that is specific to fees, expenses related to
4 17 general conditions, and self-performed services.

4 18 19. "Qualified professional" means an individual,
4 19 partnership, joint venture, corporation, or other legal entity
4 20 that has obtained professional licensure or who has
4 21 significant professional experience in a field related to a
4 22 proposed public project.

4 23 20. "Selection committee" means a group of individuals
4 24 appointed by the governing body of a political subdivision for
4 25 the purpose of selecting a construction manager or a
4 26 design-builder for a specific public project. A selection
4 27 committee shall have three, five, or seven members. An
4 28 individual shall not serve on a selection committee if the
4 29 individual has a pecuniary, equitable, or other interest in
4 30 the public project or conditions exist that would interfere
4 31 with the individual's ability to properly discharge the duties
4 32 of the selection committee.

4 33 21. "User delay value" means the estimated daily costs
4 34 that a political subdivision may incur as a result of
4 35 inability to enter into possession, occupancy, or use of a



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5 1 building or structure.
5 2 Sec. 3. NEW SECTION. 26A.3 AUTHORIZATION.
5 3 Notwithstanding chapter 26, 73A, or 573, or any other
5 4 provision of law to the contrary, a political subdivision may
5 5 utilize the alternative project delivery procedures under this
5 6 chapter to procure construction management services or
5 7 design-build services related to the completion of a public
5 8 project.
5 9 Sec. 4. NEW SECTION. 26A.4 PUBLIC NOTICE.
5 10 For each alternative project delivery method for a public
5 11 project under this chapter, a political subdivision shall
5 12 publish public notices as follows:
5 13 1. The notice shall be published at least once, not less
5 14 than fifteen and not more than forty-five days before the date
5 15 for filing submissions, if applicable, in a newspaper
5 16 published at least once weekly and having general circulation
5 17 in the geographic area served by the political subdivision.
5 18 2. The notice may also be published in a relevant
5 19 contractor organization publication and a relevant contractor
5 20 plan room service with statewide circulation, provided that a
5 21 notice is posted on an internet website sponsored by either
5 22 the political subdivision or a statewide association that
5 23 represents the political subdivision.
5 24 Sec. 5. NEW SECTION. 26A.5 PUBLIC RECORDS.
5 25 Each proposal received by a political subdivision under
5 26 this chapter, together with the name of the proposer, after
5 27 award or letting of the contract, is subject to public
5 28 inspection upon request. The political subdivision shall,
5 29 within five days after award or letting of the contract,
5 30 publish notice of the name of the successful proposer
5 31 including the proposer's phase II and phase III scores and
5 32 adjusted final score received pursuant to the selection
5 33 process under subchapter II, III, or IV. In addition, such
5 34 notice shall include the names of all proposers whose
5 35 proposals were not selected, together with the proposers'



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6 1 phase II and phase III scores and the final adjusted score for
6 2 each.

6 3 Sec. 6. NEW SECTION. 26A.6 PROHIBITION ON PROVIDING
6 4 FINANCING.

6 5 The construction manager or design=builder executing the
6 6 construction or design of a public project utilizing an
6 7 alternative project delivery method under this chapter shall
6 8 not provide any financing, funding, or facility operations for
6 9 the public project.

6 10 SUBCHAPTER II
6 11 CONSTRUCTION MANAGEMENT
6 12 PROJECT DELIVERY

6 13 Sec. 7. NEW SECTION. 26A.11 CONSTRUCTION MANAGEMENT
6 14 PROJECTS.

6 15 Construction management alternative project delivery
6 16 procedures shall be conducted as provided in this subchapter.

6 17 Sec. 8. NEW SECTION. 26A.12 SELECTION COMMITTEE.

6 18 1. When in the judgment of the governing body of a
6 19 political subdivision it is necessary to use construction
6 20 management services, the governing body of the political
6 21 subdivision shall establish a selection committee for the
6 22 purpose of selecting a construction manager for the public
6 23 project. Prior to completion of the construction documents
6 24 for the public project, and as early as during the schematic
6 25 design phase, the construction manager shall be selected. The
6 26 political subdivision shall determine the scope and level of
6 27 detail required to permit qualified construction managers to
6 28 submit proposals according to the request for qualifications
6 29 and the request for proposals, given the nature of the public
6 30 project. The request for qualifications and the request for
6 31 proposals shall specify the selection criteria and scoring
6 32 methodology used in the evaluation and selection process.

6 33 2. A qualified professional shall be employed or retained
6 34 by the political subdivision to assist the selection committee
6 35 in the selection of a construction manager. The qualified



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7 1 professional may be an employee of the political subdivision,
7 2 the design professional employed or retained under subsection
7 3 3, or an individual retained specifically to assist the
7 4 political subdivision on the public project.

7 5 3. The political subdivision shall employ a design
7 6 professional to design the public project, prepare the
7 7 construction documents for the project, and provide
7 8 administrative services in connection with the design of the
7 9 project. The design professional shall be selected and its
7 10 contract negotiated pursuant to a competitive bidding process.

7 11 Sec. 9. NEW SECTION. 26A.13 SELECTION PROCESS == GENERAL
7 12 PROCEDURE.

7 13 The political subdivision shall solicit proposals under
7 14 this subchapter pursuant to a three-phase,
7 15 qualifications-based selection process.

7 16 1. Phase I of the selection process includes publication
7 17 of a request for qualifications by the political subdivision,
7 18 review of the statements of qualifications, and the selection
7 19 of a minimum of two but not more than five construction
7 20 managers to advance to phase II.

7 21 2. Phase II includes a request for proposals and the
7 22 receipt of proposals from those construction managers selected
7 23 during phase I.

7 24 3. Phase III includes an interview with each construction
7 25 manager that submits a proposal during phase II, evaluation of
7 26 each proposal by the selection committee, and selection of a
7 27 construction manager for the public project.

7 28 Sec. 10. NEW SECTION. 26A.14 PHASE I == REQUEST FOR
7 29 QUALIFICATIONS, STATEMENT, EVALUATION, AND SELECTION.

7 30 1. During phase I the political subdivision shall publish
7 31 notice of a request for qualifications pursuant to the
7 32 requirements of section 26A.4. The political subdivision
7 33 shall specify in the request for qualifications a time, place,
7 34 and other specific instructions for the receipt of the
7 35 statements of qualifications. A statement of qualifications



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8 1 not submitted according to the instructions shall be rejected
8 2 and returned to the construction manager.
8 3 2. Each construction manager shall submit a statement of
8 4 qualifications that includes but is not limited to the
8 5 following information:
8 6 a. Similar project experience.
8 7 b. Experience in the construction management method of
8 8 alternative project delivery.
8 9 c. References from design professionals and owners from
8 10 previous projects.
8 11 d. A description of the construction manager's project
8 12 management approach.
8 13 e. The construction manager's experience modification
8 14 rating and a description of the construction manager's safety
8 15 plan.
8 16 f. A description of the construction manager's experience
8 17 and philosophy towards sustainable design and construction.
8 18 g. Bonding capacity. Construction managers submitting a
8 19 statement of qualifications shall be capable of providing a
8 20 bond according to the requirements of chapter 573 and shall
8 21 include evidence of such bonding capacity with their statement
8 22 of qualifications. If a construction manager fails to include
8 23 evidence of bonding capacity, that construction manager shall
8 24 be deemed unqualified for selection under phase I.
8 25 3. The selection committee shall evaluate and score each
8 26 statement of qualifications received according to the
8 27 predetermined selection criteria and scoring methodology that
8 28 were specified in the instructions of the request for
8 29 qualifications. The cost or fees associated with a project
8 30 shall not be considered by the selection committee when
8 31 evaluating a statement of qualifications.
8 32 4. The selection committee shall select a minimum of two
8 33 and a maximum of five qualified construction managers, who
8 34 have the best and most relevant qualifications to perform the
8 35 services required of the public project, to participate in



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9 1 phase II of the selection process. Scores assigned in the
9 2 phase I evaluation process shall not carry forward to phase
9 3 II. If two qualified construction managers cannot be
9 4 identified, the selection process shall cease. The selection
9 5 committee shall have discretion to disqualify any construction
9 6 manager that lacks the minimum qualifications required to
9 7 perform the work.

9 8 Sec. 11. NEW SECTION. 26A.15 PHASE II == REQUEST FOR
9 9 PROPOSALS.

9 10 During phase II of the selection process, each construction
9 11 manager selected during phase I shall be given a request for
9 12 proposal. Each construction manager shall submit more
9 13 detailed responses and a proposal that includes but is not
9 14 limited to the following information:

9 15 1. Resumes of proposed project personnel.

9 16 2. An overview of preconstruction services and
9 17 construction services to be provided.

9 18 3. An overview of construction control processes.

9 19 4. A proposed construction safety plan.

9 20 5. Project-specific sustainability proposals and
9 21 recommendations.

9 22 6. Fees and costs, including detailed estimates of general
9 23 conditions and preconstruction costs, and fees for overhead
9 24 and profit including fees for overhead and profit for
9 25 self-performed construction services, if applicable. General
9 26 conditions and preconstruction estimates shall include
9 27 quantities and unit prices to illustrate how estimated total
9 28 costs were calculated.

9 29 Sec. 12. NEW SECTION. 26A.16 PHASE III == PROPOSAL
9 30 REVIEW, SELECTION, AND NEGOTIATION.

9 31 Phase III of the selection process shall be conducted as
9 32 follows:

9 33 1. After the deadline for submission of proposals has
9 34 passed, the selection committee shall interview each
9 35 construction manager that has submitted a proposal



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10 1 individually, allowing each construction manager to present
10 2 their proposed team members, qualifications, and project plan,
10 3 and to answer questions from the selection committee.
10 4 Interview scores shall not account for more than fifty percent
10 5 of the total evaluation criteria.

10 6 2. The selection committee shall score each construction
10 7 manager based on the proposal criteria and weighting factors
10 8 identified by the political subdivision in the request for
10 9 qualifications and the request for proposals. The political
10 10 subdivision shall proceed to negotiate with and attempt to
10 11 enter into a preconstruction contract with the construction
10 12 manager receiving the highest score to serve as the
10 13 construction manager for the public project. If the political
10 14 subdivision is unable to negotiate a satisfactory contract
10 15 with the construction manager with the highest total score,
10 16 negotiations with that construction manager shall be
10 17 terminated and the political subdivision shall undertake
10 18 negotiations with the construction manager receiving the
10 19 second highest score. If negotiations cannot be successfully
10 20 completed with the construction manager receiving the second
10 21 highest score, the contract shall not be awarded.

10 22 3. If the selection committee determines that it is not in
10 23 the best interest of the political subdivision to proceed with
10 24 the public project pursuant to the proposals offered, the
10 25 selection committee shall recommend that the political
10 26 subdivision reject all proposals. If all proposals are
10 27 rejected, the political subdivision may solicit new statements
10 28 of qualifications and proposals using different design or
10 29 budget criteria.

10 30 Sec. 13. NEW SECTION. 26A.17 CONTRACT == PERFORMANCE OF
10 31 CERTAIN SERVICES.

10 32 1. The contract to perform construction management
10 33 services for a public project shall be prepared by the
10 34 political subdivision and entered into between the political
10 35 subdivision and the construction manager performing such



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11 1 construction management services at the cessation of the
11 2 design process. The contract shall include the fee structure
11 3 submitted by the construction manager in its proposal.
11 4 Following completion of construction documents and all
11 5 subcontractor bidding, the construction manager shall provide
11 6 the political subdivision with a guaranteed maximum price.
11 7 2. a. Those portions or subcontracts of the public
11 8 project with an estimated cost greater than ten percent of the
11 9 estimated total cost of the public project may be accomplished
11 10 using any alternative project delivery selection process under
11 11 this chapter.
11 12 b. For portions or subcontracts of the public project with
11 13 an estimated cost of ten percent or less of the estimated
11 14 total cost of the project, contracts shall be let to the
11 15 lowest responsible bidder pursuant to applicable requirements
11 16 of law other than this chapter. The political subdivision may
11 17 allow the construction manager to self=perform construction
11 18 services if the construction manager submits a bid proposal
11 19 under the same conditions as all other competitive bidders.
11 20 All bid proposals submitted by the construction manager for
11 21 self=performance shall be opened simultaneously and evaluated
11 22 in the presence of a representative of the political
11 23 subdivision.

11 24 SUBCHAPTER III

11 25 DESIGN=BUILD PROJECT DELIVERY

11 26 BEST VALUE SELECTION

11 27 Sec. 14. NEW SECTION. 26A.21 DESIGN=BUILD PROJECT
11 28 DELIVERY == BEST VALUE SELECTION.

11 29 Design=build alternative project delivery procedures
11 30 utilizing the best value selection method for selection of a
11 31 design=builder shall be conducted as provided in this
11 32 subchapter.

11 33 Sec. 15. NEW SECTION. 26A.22 SELECTION COMMITTEE.

11 34 1. When in the judgment of the governing body of a
11 35 political subdivision it is necessary to use design=build



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12 1 services pursuant to a best value selection process, the
12 2 governing body of the political subdivision shall establish a
12 3 selection committee for the purpose of selecting a
12 4 design=builder for the public project. The political
12 5 subdivision shall determine the scope and level of detail
12 6 required to permit qualified design=builders to submit
12 7 proposals according to the request for qualifications and the
12 8 request for proposals given the nature of the public project.
12 9 The request for qualifications and the request for proposals
12 10 shall specify the selection criteria and scoring methodology
12 11 used in the evaluation and selection process.

12 12 2. A qualified professional shall be employed or retained
12 13 by the political subdivision to assist the selection committee
12 14 in the selection of a design=builder. The qualified
12 15 professional may be a current employee of the political
12 16 subdivision or an individual retained specifically to assist
12 17 the political subdivision on the public project. A qualified
12 18 professional employed or retained by the political subdivision
12 19 may not submit a statement of qualifications or a design=build
12 20 proposal for the public project.

12 21 Sec. 16. NEW SECTION. 26A.23 BEST VALUE SELECTION
12 22 PROCESS == GENERAL PROCEDURE.

12 23 The political subdivision shall solicit proposals under
12 24 this subchapter pursuant to a three=phase, best value
12 25 selection process.

12 26 1. Phase I of the selection process includes publication
12 27 of a request for qualifications by the political subdivision,
12 28 review of the statements of qualifications, and the selection
12 29 of a minimum of two but not more than five design=builders to
12 30 advance to phase II.

12 31 2. Phase II includes a request for proposals and the
12 32 receipt of proposals from those design=builders selected
12 33 during phase I.

12 34 3. Phase III includes submission of a cost and schedule
12 35 proposal from each design=builder, evaluation of each proposal



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13 1 received during phase II and of the cost and schedule proposal
13 2 by the selection committee, and selection of a design=builder
13 3 for the public project.

13 4 Sec. 17. NEW SECTION. 26A.24 PHASE I == REQUEST FOR
13 5 QUALIFICATIONS, STATEMENT, EVALUATION, AND SELECTION.

13 6 1. During phase I of the selection process, the political
13 7 subdivision shall publish notice of a request for
13 8 qualifications pursuant to the requirements of section 26A.4.
13 9 The political subdivision shall specify in the request for
13 10 qualifications a time, place, and other specific instructions
13 11 for the receipt of statements of qualifications. A statement
13 12 of qualifications not submitted according to the instructions
13 13 shall be rejected and returned to the design=builder.

13 14 2. Each design=builder shall submit a statement of
13 15 qualifications that includes but is not limited to the
13 16 following information:

13 17 a. Demonstrated ability to perform projects comparable in
13 18 design, scope, and complexity.

13 19 b. References of owners for whom design=build projects
13 20 have been performed.

13 21 c. Qualifications of personnel who will manage the design
13 22 and construction aspects of the public project.

13 23 d. The names and qualifications of the primary design
13 24 consultants and contractors with whom the design=builder
13 25 proposes to subcontract. The design=builder may not replace
13 26 an identified contractor or consultant without the written
13 27 approval of the political subdivision.

13 28 e. Bonding capacity. Design=builders submitting a
13 29 statement of qualifications shall be capable of providing a
13 30 bond according to the requirements of chapter 573, and shall
13 31 include evidence of such bonding capacity with their statement
13 32 of qualifications. If a design=builder fails to include
13 33 evidence of bonding capacity, that design=builder shall be
13 34 deemed unqualified for selection under phase I.

13 35 3. The selection committee shall evaluate and score each



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14 1 statement of qualifications received according to the
14 2 predetermined selection criteria and scoring methodology that
14 3 were specified in the instructions of the request for
14 4 qualifications. The cost or fees associated with a public
14 5 project shall not be considered by the selection committee
14 6 when evaluating a statement of qualifications.
14 7 4. The selection committee shall select a minimum of two
14 8 and a maximum of five design-builders who have the highest
14 9 scores to proceed to phase II. Scores assigned in the phase I
14 10 evaluation process shall not carry forward to phase II. The
14 11 selection committee shall have discretion to disqualify any
14 12 design-builder that lacks the minimum qualifications required
14 13 to perform the work. If two qualified design-builders cannot
14 14 be identified, the design-builder selection process shall
14 15 cease. If all design-builders are rejected, the political
14 16 subdivision may solicit new proposals using different design
14 17 and budget criteria.
14 18 Sec. 18. NEW SECTION. 26A.25 PHASE II == REQUEST FOR
14 19 PROPOSALS.
14 20 1. During phase II of the selection process, each
14 21 design-builder selected during phase I shall be given a
14 22 request for proposals. The political subdivision shall
14 23 specify in the request for proposals a time, place, and other
14 24 specific instructions for the receipt of proposals. A
14 25 proposal not submitted according to the instructions shall be
14 26 rejected and returned to the design-builder. The request for
14 27 proposals shall include but is not limited to the following
14 28 information:
14 29 a. The criteria for evaluation of proposals and their
14 30 relative weight, and the procedures for making awards.
14 31 b. The proposed terms and conditions for the design-build
14 32 contract.
14 33 c. The design criteria package.
14 34 d. A description of the drawings, specifications, or other
14 35 information to be submitted with the proposal, with guidance



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15 1 as to the form and level of completeness of the drawings,
15 2 specifications, or other information that will be acceptable.

15 3 e. A schedule for planned commencement and completion of
15 4 the design=build contract.

15 5 f. Budget limits for the design=build contract, if any.

15 6 g. Requirements, including any available ratings for
15 7 performance bonds, payment bonds, and insurance.

15 8 h. Requirements relating to trade packages or subcontracts
15 9 that may be procured by the design=builder. Trade packages or
15 10 subcontracts which the design=builder chooses to include in
15 11 their proposal shall be identified by company name in the
15 12 proposal. Trade packages or subcontracts chosen for inclusion
15 13 by the design=builder must have an estimated cost greater than
15 14 ten percent of the estimated total cost of the public project
15 15 with the exception of work to be self=performed by the
15 16 design=builder. For all other trade packages or subcontracts,
15 17 except work to be self=performed by the design=builder, the
15 18 political subdivision shall advertise for public competitive
15 19 bids as required by other applicable law.

15 20 i. Any other information that the political subdivision in
15 21 its discretion chooses to supply including without limitation,
15 22 surveys, soil reports, drawings of existing structures,
15 23 environmental studies, photographs, or references to public
15 24 records.

15 25 2. Each design=builder selected during phase I shall
15 26 submit a proposal to the selection committee. Each proposal
15 27 submitted under this section shall not contain references to
15 28 costs associated with work contained in the proposal. The
15 29 selection committee shall evaluate and score each proposal
15 30 according to the requirements of the request for proposals.

15 31 Sec. 19. NEW SECTION. 26A.26 PHASE III == COST AND
15 32 SCHEDULE PROPOSALS == REVIEW OF PROPOSALS.

15 33 Phase III of the selection process shall be conducted as
15 34 follows:

15 35 1. Each design=builder that submitted a proposal in



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16 1 response to the request for proposals during phase II, shall
16 2 also provide the selection committee with a cost and schedule
16 3 proposal. A proposal submitted under section 26A.25 and the
16 4 cost and schedule proposal may be submitted sequentially or
16 5 concurrently, according to the requirements of the request for
16 6 proposals. Failure to submit a cost and schedule proposal
16 7 according to the delivery requirements of the request for
16 8 proposals shall be grounds to reject the proposal.

16 9 2. The cost and schedule proposal shall include all of the
16 10 following:

16 11 a. A guaranteed maximum price for the public project.

16 12 b. A bid security pursuant to chapter 573.

16 13 c. A proposed contract time, in calendar days, for
16 14 completing the public project. If the proposed contract time
16 15 is an element of evaluation, the request for proposals shall
16 16 specify a user delay value for each proposed calendar day
16 17 identified in the proposal.

16 18 d. Any other information required by the request for
16 19 proposals.

16 20 3. The cost and schedule proposals shall be opened only
16 21 after all proposals submitted under section 26A.25 have been
16 22 evaluated and scored. The cost and schedule proposals shall
16 23 be opened and read aloud at the time and place specified in
16 24 the request for proposals. At the same time and place that
16 25 the cost and schedule proposals are opened, the selection
16 26 committee shall make public its scoring of the proposals
16 27 submitted under section 26A.25. Cost and schedule proposals
16 28 shall be evaluated and scored according to the requirements of
16 29 the request for proposals.

16 30 4. Scores received during phase I of the selection process
16 31 shall not carry forward. All qualified design-builders shall
16 32 be ranked on scores given in phases II and III only. The
16 33 phase II and phase III scores shall be combined to determine a
16 34 total score.

16 35 5. The selection committee shall select the design-builder



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17 1 receiving the highest total score based on the proposal
17 2 criteria and weighting factors identified by the political
17 3 subdivision in the request for proposals. The political
17 4 subdivision shall proceed to negotiate with and attempt to
17 5 enter into a preconstruction contract with the selected
17 6 design=builder to serve as the design=builder for the public
17 7 project. If the political subdivision is unable to negotiate
17 8 a satisfactory contract with the selected design=builder,
17 9 negotiations with that design=builder shall be terminated, and
17 10 the political subdivision shall undertake negotiations with
17 11 the design=builder receiving the second highest score. If
17 12 negotiations cannot be successfully completed with the
17 13 design=builder receiving the second highest score, the
17 14 contract shall not be awarded.

17 15 6. If the selection committee determines that it is not in
17 16 the best interest of the political subdivision to proceed with
17 17 the public project pursuant to the proposals offered, the
17 18 selection committee shall recommend that the political
17 19 subdivision reject all proposals. If all proposals are
17 20 rejected, the political subdivision may solicit new statements
17 21 of qualifications and proposals using different design or
17 22 budget criteria.

17 23 7. As an inducement to qualified design=builders, the
17 24 political subdivision may pay a stipend, the amount of which
17 25 shall be established in the request for proposals, to each
17 26 design=builder who participates in phase II and phase III, but
17 27 is not selected as the design=builder for the public project.

17 28

SUBCHAPTER IV

17 29

DESIGN=BUILD PROJECT DELIVERY

17 30

QUALIFICATIONS=BASED SELECTION

17 31

17 32

Sec. 20. NEW SECTION. 26A.31 DESIGN=BUILD PROJECT
DELIVERY == QUALIFICATIONS=BASED SELECTION.

17 33

17 34

17 35

Design=build alternative project delivery procedures
utilizing the qualifications=based selection method for
selection of a design=builder shall be conducted as provided



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18 1 in this subchapter.

18 2 Sec. 21. NEW SECTION. 26A.32 SELECTION COMMITTEE.

18 3 1. When in the judgment of the governing body of a
18 4 political subdivision it is necessary to use design=build
18 5 services pursuant to a qualifications=based selection process,
18 6 the governing body of the political subdivision shall
18 7 establish a selection committee for the purpose of selecting a
18 8 design=builder for the public project. The political
18 9 subdivision shall determine the scope and level of detail
18 10 required to permit qualified design=builders to submit
18 11 proposals according to the request for qualifications and
18 12 request for proposals given the nature of the public project.
18 13 The request for qualifications and the request for proposals
18 14 shall specify the selection criteria and scoring methodology
18 15 used in the evaluation and selection process.

18 16 2. A qualified professional shall be employed or retained
18 17 by the political subdivision to assist the selection committee
18 18 in the selection of the design=builder. The qualified
18 19 professional may be a current employee of the political
18 20 subdivision or an individual retained specifically to assist
18 21 the political subdivision on the public project. A qualified
18 22 professional employed or retained by the political subdivision
18 23 may not submit a statement of qualifications or a design=build
18 24 proposal for the public project.

18 25 Sec. 22. NEW SECTION. 26A.33 QUALIFICATIONS=BASED
18 26 SELECTION PROCESS == GENERAL PROCEDURE.

18 27 The political subdivision shall solicit proposals under
18 28 this subchapter pursuant to a three=phase,
18 29 qualifications=based selection process.

18 30 1. Phase I of the selection process includes publication
18 31 of a request for qualifications by the political subdivision,
18 32 review of the statements of qualifications, and the selection
18 33 of a minimum of two but not more than five design=builders to
18 34 advance to phase II.

18 35 2. Phase II includes a request for proposals and the



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19 1 receipt of proposals from those design-builders selected
19 2 during phase I.
19 3 3. Phase III includes an interview with each
19 4 design-builder that submits a proposal during phase II,
19 5 evaluation of each proposal by the selection committee, and
19 6 selection of a design-builder for the public project.
19 7 Sec. 23. NEW SECTION. 26A.34 PHASE I == REQUEST FOR
19 8 QUALIFICATIONS, STATEMENT, EVALUATION, AND SELECTION.
19 9 1. During phase I of the selection process, the political
19 10 subdivision shall publish notice of a request for
19 11 qualifications pursuant to the requirements of section 26A.4.
19 12 The political subdivision shall specify in the request for
19 13 qualifications a time, place, and other specific instructions
19 14 for the receipt of statements of qualifications. A statement
19 15 of qualifications not submitted according to the instructions
19 16 shall be rejected and returned to the design-builder.
19 17 2. Each design-builder shall submit a statement of
19 18 qualifications that includes but is not limited to the
19 19 following information:
19 20 a. Demonstrated ability to perform projects comparable in
19 21 design, scope, and complexity.
19 22 b. References of owners for whom design-build projects
19 23 have been performed.
19 24 c. Qualifications of personnel who will manage the design
19 25 and construction aspects of the public project.
19 26 d. The names and qualifications of the primary design
19 27 consultants and contractors with whom the design-builder
19 28 proposes to subcontract. The design-builder may not replace
19 29 an identified contractor or consultant without the written
19 30 approval of the political subdivision.
19 31 e. Bonding capacity. Design-builders submitting a
19 32 statement of qualifications shall be capable of providing a
19 33 bond according to the requirements of chapter 573, and shall
19 34 include evidence of such bonding capacity with their statement
19 35 of qualifications. If a design-builder fails to include



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20 1 evidence of bonding capacity, that design-builder shall be
20 2 deemed unqualified for selection under phase I.
20 3 3. The selection committee shall evaluate and score each
20 4 statement of qualifications received according to the
20 5 predetermined selection criteria and scoring methodology. The
20 6 cost or fees associated with a public project shall not be
20 7 considered by the selection committee when evaluating a
20 8 statement of qualifications.

20 9 4. The selection committee shall select a minimum of two
20 10 and a maximum of five design-builders who have the highest
20 11 scores to proceed to phase II. Scores assigned in the phase I
20 12 evaluation process shall not carry forward to phase II. The
20 13 selection committee shall have discretion to disqualify any
20 14 design-builder that lacks the minimum qualifications required
20 15 to perform the work. If two qualified design-builders cannot
20 16 be identified, the design-builder selection process shall
20 17 cease. If all design-builders are rejected, the political
20 18 subdivision may solicit new proposals using different design
20 19 and budget criteria.

20 20 Sec. 24. NEW SECTION. 26A.35 PHASE II == REQUEST FOR
20 21 PROPOSALS.

20 22 During phase II of the selection process, each
20 23 design-builder selected during phase I shall be given a
20 24 request for proposal. Each design-builder shall submit more
20 25 detailed responses and a proposal that includes but is not
20 26 limited to the following information:

20 27 1. Resumes of proposed project personnel.

20 28 2. An overview of preconstruction services and
20 29 construction services to be provided.

20 30 3. An overview of construction control processes.

20 31 4. A proposed construction safety plan.

20 32 5. Project-specific sustainability proposals and
20 33 recommendations.

20 34 6. Fees and costs, including detailed estimates of general
20 35 conditions and preconstruction costs, and fees for overhead



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21 1 and profit including fees for overhead and profit for
21 2 self-performed design or construction services, if applicable.
21 3 General conditions and preconstruction estimates shall include
21 4 quantities and unit prices to illustrate how estimated total
21 5 costs were calculated.

21 6 Sec. 25. NEW SECTION. 26A.36 PHASE III == PROPOSAL
21 7 REVIEW, SELECTION, AND NEGOTIATION.

21 8 Phase III of the selection process shall be conducted as
21 9 follows:

21 10 1. After the deadline for submission of proposals has
21 11 passed, the selection committee shall interview each
21 12 design-builder that has submitted a proposal individually,
21 13 allowing each design-builder to present their proposed team
21 14 members, qualifications, and project plan, and to answer
21 15 questions from the selection committee. Interview scores
21 16 shall not account for more than fifty percent of the total
21 17 evaluation criteria.

21 18 2. The selection committee shall score each design-builder
21 19 based on the proposal criteria and weighting factors
21 20 identified by the political subdivision in the request for
21 21 qualifications and the request for proposals. The political
21 22 subdivision shall proceed to negotiate with and attempt to
21 23 enter into a preconstruction contract with the design-builder
21 24 receiving the highest total score to serve as the
21 25 design-builder for the public project. If the political
21 26 subdivision is unable to negotiate a satisfactory contract
21 27 with the design-builder with the highest total score,
21 28 negotiations with that design-builder shall be terminated and
21 29 the political subdivision shall undertake negotiations with
21 30 the design-builder receiving the second highest total score.
21 31 If negotiations cannot be successfully completed with the
21 32 design-builder receiving the second highest score, the
21 33 contract shall not be awarded.

21 34 3. If the selection committee determines that it is not in
21 35 the best interest of the political subdivision to proceed with



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22 1 the public project pursuant to the proposals offered, the
22 2 selection committee shall recommend that the political
22 3 subdivision reject all proposals. If all proposals are
22 4 rejected, the political subdivision may solicit new statements
22 5 of qualifications and proposals using different design or
22 6 budget criteria.

22 7 Sec. 26. NEW SECTION. 26A.37 CONTRACT == PERFORMANCE OF
22 8 CERTAIN SERVICES.

22 9 1. The contract to perform design=build services for a
22 10 public project shall be prepared by the political subdivision
22 11 and entered into between the political subdivision and the
22 12 design=builder selected by the selection committee. The
22 13 contract shall include the fee structure submitted by the
22 14 design=builder in its proposal. Following completion of
22 15 construction documents and all subcontractor bidding, the
22 16 design=builder shall provide the political subdivision with a
22 17 guaranteed maximum price.

22 18 2. a. Those portions or subcontracts of the public
22 19 project with an estimated cost greater than ten percent of the
22 20 estimated total cost of the public project may be accomplished
22 21 using any alternative project delivery selection process under
22 22 this chapter.

22 23 b. For portions or subcontracts of the public project with
22 24 an estimated cost of ten percent or less of the estimated
22 25 total cost of the public project, contracts shall be let to
22 26 the lowest responsible bidder pursuant to applicable
22 27 requirements of law other than this chapter. The political
22 28 subdivision may allow the design=builder to self=perform
22 29 design or construction services if the design=builder submits
22 30 a bid proposal under the same conditions as all other
22 31 competitive bidders. All bid proposals submitted by the
22 32 design=builder for self=performance shall be opened
22 33 simultaneously and evaluated in the presence of a
22 34 representative of the political subdivision.

22 35 EXPLANATION



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23 1 This bill establishes a new Code chapter 26A that provides
23 2 alternative project delivery procedures for political
23 3 subdivisions. The bill defines "political subdivision" to
23 4 mean a public body or corporation other than the state or a
23 5 state agency that has power to levy or certify a tax or sum of
23 6 money to be collected by taxation.

23 7 The bill provides that, notwithstanding any other provision
23 8 of law to the contrary, a political subdivision may utilize
23 9 the three alternative project delivery procedures under new
23 10 Code chapter 26A to procure construction management services
23 11 or design=build services, as defined in the bill, related to
23 12 the completion of a public project. Under the bill, a public
23 13 project means a project under the control of the political
23 14 subdivision that is paid for in whole or in part with funds of
23 15 the political subdivision and may include planning, acquiring,
23 16 designing, building, equipping, altering, repairing,
23 17 improving, or demolishing any structure or appurtenance
23 18 thereto, including facilities, utilities, or other
23 19 improvements to any real property owned by the political
23 20 subdivision, but excluding highways, roads, bridges, dams, or
23 21 stand-alone parking lots.

23 22 Subchapter I of new Code chapter 26A specifies publication
23 23 requirements for public notices provided by the political
23 24 subdivision during the alternative project delivery procedures
23 25 and provides that certain documents and information related to
23 26 the alternative project delivery procedures must be made
23 27 available for public inspection after the award or letting of
23 28 the contract.

23 29 The three alternative project delivery procedures
23 30 established in the bill are for construction management
23 31 project delivery, design=build best value project delivery,
23 32 and design=build qualifications-based project delivery. For
23 33 each of the three alternative project delivery procedures, the
23 34 political subdivision is required to appoint a selection
23 35 committee and the selection procedure is conducted in three



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24 1 phases. The bill also requires the political subdivision to
24 2 employ or retain a qualified professional to assist the
24 3 selection committee in the selection of a construction manager
24 4 or design=builder, as applicable.

24 5 Subchapter II of new Code chapter 26A provides the
24 6 requirements and procedures for construction management
24 7 project delivery. Phase I includes publication of a request
24 8 for qualifications, review of the statements of qualifications
24 9 received, and the selection of a minimum of two but not more
24 10 than five construction managers to advance to phase II. Phase
24 11 II includes a request for proposals and the receipt of
24 12 proposals from those construction managers selected during
24 13 phase I. Phase III includes an interview with each
24 14 construction manager that submits a proposal during phase II,
24 15 evaluation of each proposal by the selection committee, and
24 16 selection of a construction manager for the public project.

24 17 Subchapter III of new Code chapter 26A provides the
24 18 requirements and procedures for design=build best value
24 19 project delivery. Phase I includes publication of a request
24 20 for qualifications, review of the statements of qualifications
24 21 received, and the selection of a minimum of two but not more
24 22 than five design=builders to advance to phase II. Phase II
24 23 includes a request for proposals and the receipt of proposals
24 24 from those design=builders selected during phase I. Phase III
24 25 includes submission of a cost and schedule proposal from each
24 26 design=builder, evaluation of each design proposal submitted
24 27 under phase II and cost and schedule proposal by the selection
24 28 committee, and selection of a design=builder for the public
24 29 project.

24 30 Subchapter IV of new Code chapter 26A provides the
24 31 requirements and procedures for design=build
24 32 qualifications=based project delivery. Phase I includes
24 33 publication of a request for qualifications, review of the
24 34 statements of qualifications received, and the selection of a
24 35 minimum of two but not more than five design=builders to



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25 1 advance to phase II. Phase II includes a request for
25 2 proposals and the receipt of proposals from those
25 3 design-builders selected during phase I. Phase III includes
25 4 an interview with each design-builder that submits a proposal
25 5 during phase II, evaluation of each proposal by the selection
25 6 committee, and selection of a design-builder for the public
25 7 project.
25 8 LSB 1733YH 83
25 9 md/nh/14



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HOUSE FILE
BY KAUFMANN, WILLEMS, and
JACOBY

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

A BILL FOR

- 1 An Act relating to lead wheel weights on state=owned motor
- 2 vehicles.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1735YH 83
- 5 tm/nh/5



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PAG LIN

1 1 Section 1. Section 8A.362, Code 2009, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 10. In the servicing, repair, or
1 4 maintenance of a state-owned vehicle, lead wheel weights shall
1 5 be replaced with wheel weights composed of materials other
1 6 than lead.

1 7 EXPLANATION
1 8 This bill provides that, in the servicing, repair, or
1 9 maintenance of state-owned vehicles, lead wheel weights shall
1 10 be replaced with wheel weights composed of materials other
1 11 than lead.
1 12 LSB 1735YH 83
1 13 tm/nh/5.1



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HOUSE FILE
BY GASKILL

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

A BILL FOR

- 1 An Act requiring a postelection audit after each general election
- 2 and including effective and applicability date provisions.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 2125HH 83
- 5 sc/nh/8



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1 1 Section 1. Section 49.53, subsection 1, Code 2009, is
1 2 amended to read as follows:
1 3 1. The commissioner shall not less than four nor more than
1 4 twenty days before the day of each election, except those for
1 5 which different publication requirements are prescribed by
1 6 law, publish notice of the election. The notice shall contain
1 7 a facsimile of the portion of the ballot containing the first
1 8 rotation as prescribed by section 49.31, subsection 2, and
1 9 shall show the names of all candidates or nominees and the
1 10 office each seeks, and all public questions, to be voted upon
1 11 at the election. The sample ballot published as a part of the
1 12 notice may at the discretion of the commissioner be reduced in
1 13 size relative to the actual ballot but such reduction shall
1 14 not cause upper case letters appearing in candidates' names or
1 15 in summaries of public measures on the published sample ballot
1 16 to be less than ninety percent of the size of such upper case
1 17 letters appearing on the actual ballot. The notice shall also
1 18 state the date of the election, the hours the polls will be
1 19 open, the location of each polling place at which voting is to
1 20 occur in the election, the location of the polling places
1 21 designated as early ballot pick-up sites, and the names of the
1 22 precincts voting at each polling place, but the statement need
1 23 not set forth any fact which is apparent from the portion of
1 24 the ballot appearing as a part of the same notice. The notice
1 25 shall include the full text of all public measures to be voted
1 26 upon at the election. For the general election, the notice
1 27 shall also include notice of the time and place of the
1 28 postelection audit required in section 50.51.

1 29 Sec. 2. Section 50.12, Code 2009, is amended to read as
1 30 follows:

1 31 50.12 RETURN AND PRESERVATION OF BALLOTS.

1 32 Immediately after making the proclamation, and before
1 33 separating, the board members of each precinct in which votes
1 34 have been received by paper ballot shall enclose in an
1 35 envelope or other container all ballots which have been



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2 1 counted by them, except those endorsed "Rejected as double",
2 2 "Defective", or "Objected to", and securely seal the envelope.
2 3 The signatures of all board members of the precinct shall be
2 4 placed across the seal or the opening of the container so that
2 5 it cannot be opened without breaking the seal. The precinct
2 6 election officials shall return all the ballots to the
2 7 commissioner, who shall carefully preserve them for six
2 8 months. Ballots from elections for federal offices shall be
2 9 preserved for twenty-two months. The sealed packages
2 10 containing voted ballots shall be opened only for an official
2 11 recount authorized by section 50.48, 50.49, or 50.50, for an
2 12 election contest held pursuant to chapters 57 through 62, for
2 13 a postelection audit required by section 50.51, or to destroy
2 14 the ballots pursuant to section 50.19.

2 15 Sec. 3. Section 50.48, subsection 1, paragraph a,
2 16 unnumbered paragraph 1, Code 2009, is amended to read as
2 17 follows:

2 18 The county board of canvassers shall order a recount of the
2 19 votes cast for a particular office or nomination in one or
2 20 more specified election precincts in that county if a written
2 21 request ~~therefor~~ for a recount is made not later than 5:00
2 22 p.m. on the third day following the county board's canvass of
2 23 the election in question. However, if a postelection audit is
2 24 expanded pursuant to section 50.51, subsection 6, paragraph
2 25 "c", the request for a recount shall be made not later than
2 26 5:00 p.m. on the first business day following completion of
2 27 the audit. The request shall be filed with the commissioner
2 28 of that county, or with the commissioner responsible for
2 29 conducting the election if section 47.2, subsection 2, is
2 30 applicable, and shall be signed by either of the following:

2 31 Sec. 4. NEW SECTION. 50.51 POSTELECTION AUDIT.

2 32 1. a. After each general election, a postelection audit
2 33 of the tabulation of votes shall be conducted as provided in
2 34 this section.

2 35 b. A postelection audit conducted pursuant to this section



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3 1 shall not affect a person's right to request a recount under
3 2 section 50.48 or the right of electors to request a recount of
3 3 a public measure under section 50.49 or the commissioner's
3 4 right to request an administrative recount under section
3 5 50.50. If a request for a recount is filed under section
3 6 50.48, a postelection audit of the office for which the
3 7 recount was requested shall not be conducted or shall be
3 8 terminated, as the case may be.

3 9 2. The commissioner shall include notice of the time and
3 10 place of the postelection audit in the notice of the election
3 11 published pursuant to section 49.53. The commissioner shall
3 12 also notify the county chairperson of each political party
3 13 referred to in section 49.13, subsection 2, of the time and
3 14 place of the postelection audit.

3 15 3. a. The postelection audit shall be conducted for the
3 16 offices of president of the United States and governor and an
3 17 additional office listed in paragraph "b" or "c", and the
3 18 offices listed in paragraph "d", if applicable.

3 19 b. When the office of president of the United States
3 20 appears on the ballot, the votes cast for one of the following
3 21 contested offices shall be audited:

- 3 22 (1) United States senator.
- 3 23 (2) United States representative.
- 3 24 (3) Senator in the general assembly.
- 3 25 (4) Representative in the general assembly.

3 26 c. When the office of governor appears on the ballot, the
3 27 votes cast for one of the following contested offices shall be
3 28 audited:

- 3 29 (1) United States senator.
- 3 30 (2) United States representative.
- 3 31 (3) Senator in the general assembly.
- 3 32 (4) Representative in the general assembly.
- 3 33 (5) Secretary of state.
- 3 34 (6) Auditor of state.
- 3 35 (7) Treasurer of state.



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- 4 1 (8) Attorney general.
4 2 (9) Secretary of agriculture.
4 3 d. The additional office to be audited under paragraph "b"
4 4 or "c" shall be chosen by lot at the same time and in the same
4 5 manner that precincts to be audited are chosen pursuant to
4 6 subsection 4. If in the election to be audited, none of the
4 7 offices listed in paragraph "b" were contested races, the
4 8 offices of county supervisor, county auditor, and county
4 9 sheriff shall be entered in the lot, and if none of the
4 10 offices listed in paragraph "c" were contested races, the
4 11 offices of county supervisor, county attorney, county
4 12 treasurer, and county recorder shall be entered in the lot.
4 13 e. In addition to the offices listed in this subsection as
4 14 being subject to the postelection audit, the commissioner may
4 15 choose to include any other office or public measure that
4 16 appeared on the ballot in those precincts chosen for the
4 17 postelection audit.
4 18 4. a. The precincts for which a postelection audit shall
4 19 be conducted shall be chosen by lot by the chairperson of the
4 20 county board of canvassers on the day the canvass of the
4 21 general election is conducted. After the precincts have been
4 22 chosen, the additional office to be audited, as provided in
4 23 subsection 3, shall be chosen by lot by the chairperson. The
4 24 selection proceedings shall be open to the public and to
4 25 observers from the political parties.
4 26 b. The number of precincts chosen shall be as follows:
4 27 (1) In counties with fifty thousand or fewer registered
4 28 voters, two precincts.
4 29 (2) In counties with more than fifty thousand registered
4 30 voters up to and including one hundred thousand registered
4 31 voters, three precincts.
4 32 (3) In counties with more than one hundred thousand
4 33 registered voters up to and including two hundred thousand
4 34 registered voters, four precincts.
4 35 (4) In counties with more than two hundred thousand



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5 1 registered voters, six precincts.

5 2 c. The absentee and special voters precinct established in
5 3 section 53.20 shall be considered a precinct for purposes of a
5 4 postelection audit. If the absentee and special voters
5 5 precinct is chosen by lot to be audited, a number of ballots
5 6 equal to five percent of the absentee ballots cast in the
5 7 election shall be audited.

5 8 d. For purposes of paragraph "b", "registered voters"
5 9 means those persons registered to vote as of the close of
5 10 registration for the general election pursuant to section
5 11 48A.9, subsection 1.

5 12 e. The county board of canvassers shall not use a
5 13 computerized process of randomization as the method of
5 14 selecting by lot the precincts and offices to be audited.

5 15 5. The commissioner shall appoint the members of the
5 16 postelection audit board. The postelection audit board shall
5 17 be comprised of members affiliated with the political parties
5 18 as provided for regular elections boards in section 49.12.

5 19 6. a. When all members of the postelection audit board
5 20 have been selected, the board shall undertake and complete the
5 21 required audit no later than two business days following the
5 22 canvass. The ballots in each precinct chosen shall be counted
5 23 by hand. The commissioner or the commissioner's designee
5 24 shall supervise the handling of ballots, tally lists, and the
5 25 printed reports from the automatic tabulating equipment to
5 26 ensure that the ballots, tally lists, and printed reports are
5 27 protected from alteration or damage. The board shall open
5 28 only the sealed ballot containers from the precincts chosen to
5 29 be audited. The board shall recount only the ballots which
5 30 were voted and counted for the office in question, including
5 31 any disputed ballots returned as required in section 50.5.

5 32 b. Immediately following the conclusion of the audit, the
5 33 postelection audit board shall make and file with the
5 34 commissioner a written report of its findings, which report
5 35 shall be signed by the chairperson of the postelection audit



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6 1 board and one other member of the board who is affiliated with
6 2 a political party different than that of the chairperson.

6 3 c. (1) If the postelection audit of an office reveals a
6 4 difference greater than one-half of one percent, but no fewer
6 5 than two votes, from the results on the printed report from
6 6 the automatic tabulating equipment, the postelection audit
6 7 board shall, within two days, conduct an audit of the offices
6 8 for which such difference was found in at least two additional
6 9 precincts chosen in the same manner the original precincts
6 10 were chosen and shall immediately report the results to the
6 11 commissioner.

6 12 (2) If the second audit also indicates a difference in the
6 13 vote totals that is greater than one-half of one percent, but
6 14 no fewer than two votes, from the results on the printed
6 15 report from the automatic tabulating equipment, the
6 16 commissioner shall immediately notify the state commissioner
6 17 of elections.

6 18 (3) The state commissioner of elections may direct the
6 19 commissioner, or any other commissioner of a county where the
6 20 office appeared on the ballot, to conduct an additional audit
6 21 of the office in a number of precincts determined by the state
6 22 commissioner.

6 23 7. All reports pertaining to a postelection audit shall be
6 24 filed with the state commissioner of elections, and the state
6 25 commissioner shall make public the results of the postelection
6 26 audit in each county as those reports are received.

6 27 8. The state commissioner of elections shall adopt rules
6 28 to implement this section including but not limited to rules
6 29 establishing criteria for the state commissioner to utilize
6 30 when evaluating the results of postelection audits.

6 31 Sec. 5. EFFECTIVE AND APPLICABILITY DATES. This Act takes
6 32 effect July 1, 2010, and applies to the general election held
6 33 in 2010 and all subsequent general elections.

6 34 EXPLANATION

6 35 This bill requires a postelection audit after each general



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7 1 election. The postelection audit is a hand count of the
7 2 ballots cast in certain contested, partisan offices in
7 3 selected precincts. The precincts and offices to be audited
7 4 are to be selected publicly by lot by the county board of
7 5 canvassers, except that the office of President of the United
7 6 States and governor are required to be audited after each
7 7 general election.

7 8 The bill provides that the number of precincts to be
7 9 audited is as follows:

7 10 (1) In counties with 50,000 or fewer registered voters,
7 11 two precincts.

7 12 (2) In counties with more than 50,000 registered voters up
7 13 to and including 100,000 registered voters, three precincts.

7 14 (3) In counties with more than 100,000 registered voters
7 15 up to and including 200,000 registered voters, four precincts.

7 16 (4) In counties with more than 200,000 registered voters,
7 17 six precincts.

7 18 The bill provides that if the postelection audit reveals a
7 19 difference greater than one-half of 1 percent from the results
7 20 on the printed report from the automatic tabulating equipment,
7 21 the postelection audit board shall, within two days, conduct
7 22 an audit of the offices for which such difference was found in
7 23 at least two additional precincts. If the second audit also
7 24 indicates a difference in the vote totals that is greater than
7 25 one-half of 1 percent, but no fewer than two votes, from the
7 26 results on the printed report from the automatic tabulating
7 27 equipment, the commissioner shall immediately notify the state
7 28 commissioner of elections. The state commissioner may direct
7 29 the commissioner, or any other commissioner of a county where
7 30 the office appeared on the ballot, to conduct an additional
7 31 audit of the office in a number of precincts determined by the
7 32 state commissioner.

7 33 The bill provides that if a recount of an office is
7 34 requested, the postelection audit of that office shall not be
7 35 conducted or shall be terminated, as the case may be.



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8 1 The bill requires the state commissioner of elections to
8 2 make public the results of postelection audits.
8 3 The bill takes effect July 1, 2010, and applies to the
8 4 general election held in 2010 and all subsequent general
8 5 elections.
8 6 LSB 2125HH 83
8 7 sc/nh/8



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House File 397 - Introduced

HOUSE FILE
BY SCHUELLER

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

A BILL FOR

- 1 An Act relating to township property tax levies for emergency
- 2 services and providing an applicability date.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 2287YH 83
- 5 md/sc/5



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House File 397 - Introduced continued

PAG LIN

1 1 Section 1. Section 359.43, subsection 1, Code 2009, is
 1 2 amended to read as follows:
 1 3 1. The township trustees ~~may~~ shall levy an annual tax of
 1 4 not ~~exceeding~~ less than forty and one-half cents per thousand
 1 5 dollars of assessed value of the taxable property in the
 1 6 township and not exceeding eighty cents per thousand dollars
 1 7 of assessed value of taxable property in the township,
 1 8 excluding property within a benefited fire district or within
 1 9 the corporate limits of a city, for the purpose of exercising
 1 10 the powers and duties specified in section 359.42. ~~However,~~
~~1 11 in a township having a fire protection service or emergency~~
~~1 12 medical service agreement or both service agreements with a~~
~~1 13 special charter city having a paid fire department, the~~
~~1 14 township trustees may levy an annual tax not exceeding~~
~~1 15 fifty-four cents per thousand dollars of the assessed value of~~
~~1 16 the taxable property for the services authorized or required~~
~~1 17 under section 359.42 and in a township which is located within~~
~~1 18 a county having a population of three hundred thousand or~~
~~1 19 more, the township trustees may levy an annual tax not~~
~~1 20 exceeding sixty-seven and one-half cents per thousand dollars~~
~~1 21 of assessed value of taxable property for the services~~
~~1 22 authorized or required under section 359.42.~~

1 23 Sec. 2. APPLICABILITY DATE. This Act applies to taxes due
 1 24 and payable in the fiscal year beginning July 1, 2010.

1 25 EXPLANATION
 1 26 Current law allows townships to levy an amount not
 1 27 exceeding 40 1/2 cents per \$1,000 of assessed value of the
 1 28 taxable property in the township for fire protection service
 1 29 and, if the township chooses to provide emergency medical
 1 30 service, for emergency medical services. In townships that
 1 31 contract with a special charter city to provide these
 1 32 services, the levy limit is 54 cents per \$1,000 of assessed
 1 33 value. In townships located in a county with a population of
 1 34 300,000 or more, the levy limit is 67 1/2 cents per \$1,000 of
 1 35 assessed value. In addition, all townships may levy an



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2 1 additional 20 1/4 cents per \$1,000 of assessed value if the
2 2 described levy amount is insufficient.
2 3 This bill requires all townships to impose a levy of not
2 4 less than 40 1/2 cents and not exceeding 80 cents per \$1,000
2 5 of assessed value of the taxable property in the township,
2 6 excluding property within a benefited fire district or within
2 7 the corporate limits of a city, for fire protection service
2 8 and, if the township chooses to so provide, for emergency
2 9 medical service.
2 10 The bill applies to taxes due and payable in the fiscal
2 11 year beginning July 1, 2010.
2 12 LSB 2287YH 83
2 13 md/sc/5



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House File 398 - 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 changing the deadline by which a pilot project city may
2 enter into a targeted jobs withholding tax credit agreement
3 for purposes of funding an urban renewal area and including
4 effective and retroactive applicability date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TL5B 1863YH 83
7 tw/mg:sc/24



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House File 398 - Introduced continued

PAG LIN

1 1 Section 1. Section 403.19A, subsection 3, paragraph c,
1 2 subparagraph (2), Code 2009, is amended to read as follows:
1 3 (2) The pilot project city shall not enter into a
1 4 withholding agreement after ~~June 30, 2010~~ February 13, 2009.
1 5 Sec. 2. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.
1 6 This Act, being deemed of immediate importance, takes effect
1 7 upon enactment and applies retroactively to February 13, 2009.
1 8 EXPLANATION
1 9 This bill changes the deadline by which a pilot project
1 10 city may enter into a targeted jobs withholding tax credit
1 11 agreement. Currently, pilot project cities cannot enter into
1 12 an agreement after June 30, 2010. The bill changes the date
1 13 to February 13, 2009.
1 14 The bill takes effect upon enactment and applies
1 15 retroactively to February 13, 2009.
1 16 LSB 1863YH 83
1 17 tw/mg:sc/24.1



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House File 399 - Introduced

HOUSE FILE

BY WINDSCHITL, MAY, KAUFMANN,
SCHULTZ, STRUYK, HUSEMAN,
DOLECHECK, DEYOE, SODERBERG,
DE BOEF, and SORENSON

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act exempting retired veterans from the imposition of the
2 individual income tax and including a retroactive
3 applicability date provision.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1750YH 83
6 tw/mg:sc/5



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House File 399 - Introduced continued

PAG LIN

1 1 Section 1. Section 422.5, Code 2009, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 2A. However, the tax shall not be imposed
1 4 on a resident or nonresident who is at least sixty-five years
1 5 old on December 31 of the tax year and who has performed
1 6 active duty military service in the United States armed
1 7 forces, armed forces military reserve, or national guard, and
1 8 who has been honorably discharged. In the case of married
1 9 persons filing jointly, the exemption from tax under this
1 10 subsection only applies to the income of the spouse who
1 11 qualifies as a veteran.

1 12 Sec. 2. RETROACTIVE APPLICABILITY. This Act applies
1 13 retroactively to January 1, 2009, for tax years beginning on
1 14 or after that date.

1 15 EXPLANATION

1 16 This bill exempts from the imposition of the individual
1 17 income tax veterans who have performed active duty military
1 18 service in the armed forces, armed forces military reserve, or
1 19 the national guard and who have been honorably discharged.

1 20 If married persons file jointly, the exemption of income
1 21 from tax only applies to the income of the veteran spouse.

1 22 The bill applies retroactively to January 1, 2009, for tax
1 23 years beginning on or after that date.

1 24 LSB 1750YH 83

1 25 tw/mg:sc/5



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House File 400 - Introduced

HOUSE FILE
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 18)

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

A BILL FOR

- 1 An Act relating to the licensing of persons installing fire
- 2 protection systems.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1571HV 83
- 5 jr/nh/14



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House File 400 - Introduced continued

PAG LIN

1 1 Section 1. 2008 Iowa Acts, chapter 1094, section 2,
1 2 subsection 1, is amended to read as follows:

1 3 1. "Apprentice sprinkler fitter" means a person who, ~~as a~~
1 4 ~~principal occupation,~~ is engaged in learning the fire
1 5 protection system industry trade under the direct supervision
1 6 of a certified fire extinguishing system contractor or
1 7 licensed fire sprinkler installer and maintenance worker and
1 8 who is registered with the United States department of labor,
1 9 office of apprenticeship.

1 10 Sec. 2. 2008 Iowa Acts, chapter 1094, section 2, is
1 11 amended by adding the following new subsection:

1 12 NEW SUBSECTION. 2A. "Division" means division of the
1 13 state fire marshal in the department.

1 14 Sec. 3. 2008 Iowa Acts, chapter 1094, section 2,
1 15 subsection 7, is amended to read as follows:

1 16 7. "Fire sprinkler installer and maintenance worker" means
1 17 a person who, ~~as a principal occupation, and~~ having the
1 18 necessary qualifications, training, experience, and technical
1 19 knowledge, conducts fire protection system installation and
1 20 maintenance, and who is licensed by the department.

1 21 Sec. 4. 2008 Iowa Acts, chapter 1094, section 3,
1 22 subsection 1, is amended to read as follows:

1 23 1. A On or after January 1, 2010, a person shall not
1 24 perform fire protection system installations or fire
1 25 protection system maintenance without ~~first obtaining~~ holding
1 26 a current, valid fire ~~protection~~ sprinkler installer and
1 27 maintenance worker license issued pursuant to this chapter.

1 28 a. An employee of a fire extinguishing system contractor
1 29 working as an apprentice sprinkler fitter performing fire
1 30 protection system installation or maintenance under the direct
1 31 supervision of an on-site licensed fire sprinkler installer
1 32 and maintenance worker is not required to ~~obtain~~ hold a
1 33 current, valid fire sprinkler installer and maintenance worker
1 34 license.

1 35 b. A person who installs or demolishes walls, ceilings,



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2 1 flooring, insulation, or associated materials or a person who
2 2 demolishes sprinkler pipe is not subject to the provisions of
2 3 this chapter except when the work involves a complete
2 4 sprinkler system.

2 5 c. A person who is a responsible managing employee of a
2 6 fire extinguishing system contractor is not required to hold a
2 7 current, valid fire sprinkler installer and maintenance worker
2 8 license.

2 9 Sec. 5. 2008 Iowa Acts, chapter 1094, section 3,
2 10 subsection 5, is amended by striking the subsection.

2 11 Sec. 6. 2008 Iowa Acts, chapter 1094, section 3,
2 12 subsection 2, is amended to read as follows:

2 13 2. A licensed fire sprinkler installer and maintenance
2 14 worker must be present at all locations and at all times when
2 15 fire protection system installation work is being performed.
2 16 At least one licensed fire sprinkler installer and maintenance
2 17 worker must be present for every three apprentice sprinkler
2 18 fitters, ~~or any other employees~~ performing work related to
2 19 fire protection system installation.

2 20 Sec. 7. 2008 Iowa Acts, chapter 1094, section 3,
2 21 subsection 6, is amended to read as follows:

2 22 6. On and after ~~August 1, 2009~~ January 1, 2010, a
2 23 governmental subdivision shall not issue a license to a person
2 24 installing a fire protection system and shall not prohibit a
2 25 person installing fire protection systems and licensed
2 26 pursuant to this chapter from performing services for which
2 27 that person is licensed pursuant to this chapter or enforce
2 28 any licensing provisions promulgated by the governmental
2 29 subdivision against a person licensed pursuant to this
2 30 chapter.

2 31 Sec. 8. 2008 Iowa Acts, chapter 1094, section 4, is
2 32 amended to read as follows:

2 33 SEC. 4. 100D.3 FIRE SPRINKLER INSTALLER AND MAINTENANCE
2 34 WORKER LICENSE.

2 35 1. The state fire marshal shall issue a fire sprinkler



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3 1 installer and maintenance worker license to an applicant who
3 2 ~~possesses~~ meets all of the following requirements:
3 3 a. Possesses a minimum of four years of employment
3 4 experience as an apprentice sprinkler fitter ~~and~~.
3 5 b. Has completed a United States department of labor
3 6 apprenticeship program ~~and is~~.
3 7 c. Is employed by a fire extinguishing system contractor ~~7~~
~~3 8 who either receives.~~
3 9 d. Has received a passing score on the national
3 10 inspection, testing, and certification star fire sprinkler
3 11 mastery exam or on an equivalent exam from a nationally
3 12 recognized third-party testing agency that is approved by the
3 13 state fire marshal, or who is certified at level one by the
3 14 national institute for certification in engineering
3 15 technologies based on general work elements, as defined by the
3 16 national institute for certification in engineering
3 17 technologies, and as specified by rule by the state fire
3 18 marshal.
3 19 2. The holder of a fire sprinkler installer and
3 20 maintenance worker license shall be responsible for license
3 21 fees, renewal fees, and continuing education hours.
3 22 3. The license of a fire sprinkler installer and
3 23 maintenance worker licensee who ceases to be employed by a
3 24 fire extinguishing system contractor shall continue to be
3 25 valid until it would otherwise expire, but the licensee shall
3 26 not perform work requiring licensure under this chapter until
3 27 the licensee is again employed by a fire extinguishing system
3 28 contractor. If the licensee becomes employed by a fire
3 29 extinguishing system contractor other than the contractor
3 30 which employed the licensee at the time the license was
3 31 issued, the licensee shall notify the fire marshal and shall
3 32 apply for an amendment to the license. The fire marshal may
3 33 establish by rule a fee for amending a license. This
3 34 subsection shall not extend the time period during which a
3 35 license is valid.



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4 1 Sec. 9. 2008 Iowa Acts, chapter 1094, section 5,
4 2 subsections 1 and 3, are amended to read as follows:

4 3 1. An applicant for a fire sprinkler installer and
4 4 maintenance worker license or renewal of an active license
4 5 shall provide evidence of a public liability insurance policy
4 6 and surety bond in an amount determined sufficient by the
4 7 ~~department~~ fire marshal by rule.

4 8 3. The insurance and surety bond shall be written by an
4 9 entity licensed to do business in this state and each licensee
4 10 shall maintain on file with the department a certificate
4 11 evidencing the insurance providing that the insurance or
4 12 surety bond shall not be canceled without the entity first
4 13 giving fifteen days written notice to the ~~department~~ fire
4 14 marshal.

4 15 Sec. 10. 2008 Iowa Acts, chapter 1094, section 6,
4 16 subsection 5, is amended to read as follows:

4 17 5. Adopt rules specifying a violation reporting procedure
4 18 ~~applicable to division employees, deputy fire marshals,~~
4 19 ~~division inspectors, and municipal fire departments.~~

4 20 Sec. 11. 2008 Iowa Acts, chapter 1094, section 9, is
4 21 amended to read as follows:

4 22 SEC. 9. NEW SECTION. 100D.8 TEMPORARY PROVISIONAL
4 23 LICENSURE.

4 24 1. An applicant for licensure under this chapter as a fire
4 25 sprinkler installer and maintenance worker who possesses a
4 26 minimum of four years of experience as an apprentice sprinkler
4 27 fitter and who has not successfully passed the licensure
4 28 examination or achieved certification as required pursuant to
4 29 section 100D.3 by ~~August 1, 2009~~ January 1, 2010, shall be
4 30 issued a ~~temporary~~ license as a fire sprinkler installer and
4 31 maintenance worker for a period of ~~sixty days commencing~~
4 32 ~~August 1, 2009~~ ending no later than June 30, 2010. A
4 33 temporary provisional license shall be granted upon
4 34 presentation of satisfactory evidence to the ~~department~~ fire
4 35 marshal demonstrating experience and competency in conducting



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House File 400 - Introduced continued

5 1 fire protection system installations and fire protection
5 2 system maintenance according to criteria to be determined by
5 3 the ~~department~~ fire marshal in rule. ~~A temporary license~~
~~5 4 shall not be renewed.~~
5 5 2. An applicant issued a ~~temporary~~ provisional license
5 6 pursuant to this section shall pass the licensure examination
5 7 or achieve certification on or before ~~February 1~~ June 30,
5 8 2010, in order to remain licensed as a fire sprinkler
5 9 installer and maintenance worker. A ~~temporary~~ provisional
5 10 license fee shall be established by the ~~department~~ fire
~~5 11 marshal~~ by rule. No ~~temporary~~ provisional licenses ~~will shall~~
5 12 be issued after ~~February~~ April 1, 2010.
5 13 Sec. 12. 2008 Iowa Acts, chapter 1094, section 10,
5 14 subsections 2 and 3, are amended to read as follows:
5 15 2. A passing score on the national inspection, testing and
5 16 certification star fire sprinkler mastery exam or an
5 17 equivalent exam from a nationally recognized third-party
5 18 testing agency that is approved by the state fire marshal.
5 19 3. ~~A passing score on the NICET level I examination.~~
5 20 Certification, based upon general work elements, as defined by
5 21 the national institute for certification in engineering
5 22 technologies, at level I by the national institute for
5 23 certification in engineering technologies, and as specified by
5 24 rule by the state fire marshal.
5 25 Sec. 13. 2008 Iowa Acts, chapter 1094, section 10, is
5 26 amended by adding the following new unnumbered paragraph:
5 27 NEW UNNUMBERED PARAGRAPH. After July 31, 2012, a person
5 28 licensed pursuant to this section shall renew or obtain a
5 29 license pursuant to section 100D.3.
5 30 Sec. 14. 2008 Iowa Acts, chapter 1094, section 12, is
5 31 amended by adding the following new subsection:
5 32 NEW SUBSECTION. 3. The provisions of this chapter shall
5 33 not be construed to apply to a person licensed as a plumber
5 34 pursuant to chapter 105 who is working within the scope of the
5 35 person's license.



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House File 400 - Introduced continued

6 1 Sec. 15. 2008 Iowa Acts, chapter 1094, is amended by
6 2 adding the following new section after section 13:
6 3 SEC. ____ . NEW SECTION. 100D.13 TEMPORARY LICENSES.
6 4 1. The state fire marshal may issue a temporary fire
6 5 sprinkler installer and maintenance worker license to a
6 6 person, providing that all of the following conditions are
6 7 met:
6 8 a. The person is currently licensed or certified to
6 9 perform work as a fire sprinkler installer and maintenance
6 10 worker in another state.
6 11 b. The person meets any additional criteria for a
6 12 temporary license established by the state fire marshal by
6 13 rule.
6 14 c. The person provides all information required by the
6 15 state fire marshal.
6 16 d. The person has paid the fee for a temporary license,
6 17 which fee shall be established by the state fire marshal by
6 18 rule.
6 19 e. The person intends to perform work as a fire sprinkler
6 20 installer and maintenance worker only in areas of this state
6 21 which are covered by a disaster emergency declaration issued
6 22 by the governor pursuant to section 29C.6.
6 23 2. A temporary license issued pursuant to this section
6 24 shall be valid for ninety days. The state fire marshal may
6 25 establish criteria and procedures for the extension of such
6 26 licenses for additional periods, which in no event shall
6 27 exceed ninety days.
6 28 3. A temporary license shall be valid only in areas of the
6 29 state which are subject to a disaster emergency declaration
6 30 issued by the governor pursuant to section 29C.6 at the time
6 31 at which the license is issued, which become subject to such a
6 32 declaration during the time the license is valid, or which
6 33 were subject to such a declaration issued within the six
6 34 months preceding the issuance of the license.
6 35 EXPLANATION



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House File 400 - Introduced continued

7 1 In 2008, the general assembly enacted House File 2646 to
7 2 license persons performing fire protection system
7 3 installations or fire protection system maintenance. This
7 4 bill amends that Act, which takes effect August 1, 2009. The
7 5 bill eliminates a requirement limiting licensure to only those
7 6 working in the business "as a principal occupation"; this
7 7 change requires licensure for those working only part-time in
7 8 the profession. The bill requires persons to obtain a state
7 9 license by January 1, 2010, and prohibits local jurisdictions
7 10 from issuing a license after that date.

7 11 The bill provides that the term "division" means the
7 12 division of state fire marshal in the department of public
7 13 safety.

7 14 The bill clarifies certain testing requirements including
7 15 by specifying that required examinations must relate to fire
7 16 protection technologies and provides that examinations must be
7 17 approved by the fire marshal.

7 18 The bill provides that a person licensed as a fire
7 19 sprinkler installer and maintenance worker must be employed by
7 20 a fire extinguishing system contractor. If the licensee
7 21 changes employers the license must be amended.

7 22 The bill provides that after July 31, 2012, a person
7 23 licensed pursuant to the transition provisions in new Code
7 24 chapter 100D shall renew or obtain a license pursuant to the
7 25 regular licensure requirements in that chapter.

7 26 The bill exempts a licensed plumber, who is working within
7 27 the scope of a plumber's license, from the requirements of
7 28 this chapter.

7 29 The bill provides for a temporary 90-day license for
7 30 persons licensed in another who enter Iowa to work during a
7 31 disaster emergency.

7 32 LSB 1571HV 83

7 33 jr/nh/14



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House Resolution 19 - Introduced

PAG LIN

H.R. _____ S.R. _____

1 1 HOUSE RESOLUTION NO.
1 2 BY RANTS
1 3 A Resolution urging the members of the Iowa
1 4 congressional delegation to sponsor and support
1 5 the Sales Tax Fairness and Simplification Act.
1 6 WHEREAS, the 1967 Bellas Hess and the 1992 Quill
1 7 United States Supreme Court decisions denied states
1 8 the authority to require the collection of sales and
1 9 use taxes by out-of-state sellers that have no
1 10 physical presence in the taxing state; and
1 11 WHEREAS, the combined weight of the inability to
1 12 collect sales and use taxes on remote sales through
1 13 traditional carriers and the tax erosion due to
1 14 electronic commerce threatens the future viability of
1 15 the sales tax as a stable revenue source for state and
1 16 local governments; and
1 17 WHEREAS, the Center for Business and Economic
1 18 Research at the University of Tennessee has estimated
1 19 that states lost as much as \$30 billion in 2008
1 20 because they were not able to collect taxes on remote
1 21 sales, including sales on the Internet; and
1 22 WHEREAS, the same study, estimated that Iowa lost
1 23 as much as \$243 million in 2008 because of this
1 24 inability to require remote sellers to collect Iowa
1 25 sales and use taxes; and
1 26 WHEREAS, since 1999, state legislators, governors,
1 27 local elected officials, state tax administrators, and
1 28 representatives of the private sector have worked to
1 29 develop a Streamlined Sales and Use Tax Collection
1 30 System for the 21st Century; and



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House Resolution 19 - Introduced continued

2 1 WHEREAS, between 2001 and 2004, Iowa and 39 other
2 2 states enacted legislation expressing the intent of
2 3 the state to simplify the state's sales and use tax
2 4 collection systems and to participate in multistate
2 5 discussions to finalize and ratify an interstate
2 6 agreement to streamline collection of the states'
2 7 sales and use taxes; and
2 8 WHEREAS, on November 12, 2002, state delegates
2 9 unanimously ratified the Streamlined Sales and Use Tax
2 10 Agreement, which substantially simplifies state and
2 11 local sales tax systems, removes the burdens to
2 12 interstate commerce that were of concern to the
2 13 Supreme Court, and protects state sovereignty; and
2 14 WHEREAS, the Streamlined Sales and Use Tax
2 15 Agreement provides that states with a blueprint to
2 16 create a simplified and more uniform sales and use tax
2 17 collection system that when implemented, allows
2 18 justification for the United States Congress to
2 19 overturn the Bellas Hess and Quill decisions; and
2 20 WHEREAS, Iowa enacted legislation in 2003 to bring
2 21 this state's sales and use tax statutes into
2 22 compliance with the Streamlined Sales and Use Tax
2 23 Agreement; and
2 24 WHEREAS, by July 1, 2008, the states of Arkansas,
2 25 Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota,
2 26 Nebraska, Nevada, New Jersey, North Carolina, North
2 27 Dakota, Ohio, Oklahoma, South Dakota, Tennessee,
2 28 Texas, Utah, Vermont, Washington, West Virginia, and
2 29 Wyoming, representing over 35 percent of the total
2 30 population of the United States, enacted legislation



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House Resolution 19 - Introduced continued

3 1 to bring their state's sales and use tax statutes into
3 2 compliance with the Agreement; and
3 3 WHEREAS, the Iowa General Assembly and legislator
3 4 colleagues in the other states have shown the resolve
3 5 to acknowledge the complexities of the current sales
3 6 and use tax collection system, have worked with the
3 7 business community to formulate a truly simplified and
3 8 streamlined collection system, and have shown the
3 9 political will to enact the necessary changes to make
3 10 the streamlined collection system the law; and
3 11 WHEREAS, the Sales Tax Fairness and Simplification
3 12 Act will be introduced in the 111th Congress to grant
3 13 those states that comply with the Agreement the
3 14 authority to require all sellers, regardless of nexus,
3 15 to collect those states' sales and use taxes; and
3 16 WHEREAS, supporting the states' effort to comply
3 17 with the Streamlined Sales and Use Tax Agreement and
3 18 the federal legislation granting states collection
3 19 authority are such companies, unions, and
3 20 organizations as the Alabama Retail Association;
3 21 American Booksellers Association; Arizona Retailers
3 22 Association; Arkansas Grocers and Retail Merchants
3 23 Association; Best Buy, Inc.; California Retailers
3 24 Association; Colorado Retail Council; Connecticut
3 25 Retail Merchants Association; Council on State
3 26 Governments; Council of State Retail Associations;
3 27 Council on State Taxation; Cracker Barrel Old Country
3 28 Store, Inc.; CTIA=The Wireless Association; Federation
3 29 of Tax Administrators; First Washington Reality, Inc.;
3 30 Florida Retail Federation; General Growth Properties,



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House Resolution 19 - Introduced continued

4 1 Inc.; Georgia Retail Association; Retail Merchants
4 2 Association of Hawaii; Home Depot; Idaho Retailers
4 3 Association; Illinois Retail Merchants Association;
4 4 Independent Music Retailers Association; Indiana
4 5 Retail Council; International Council of Shopping
4 6 Centers; International Union of Police; Iowa Retail
4 7 Federation; J.C. Penney Corporation, Inc.; Jack in the
4 8 Box, Inc.; Jewelers of America; Kansas Retail Council;
4 9 Kentucky Retail Association; Kimco Realty Corporation;
4 10 Kmart Corporation; Land's End; Louisiana Retailers
4 11 Association; Maine Merchants Association; Maryland
4 12 Retailers Association; Retailers Association of
4 13 Massachusetts; Michigan Retailers Association;
4 14 Minnesota Retailers Association; Retail Association of
4 15 Mississippi; Missouri Retailers Association; National
4 16 Association of Chain Drug Stores; National Association
4 17 of College Stores; Nation Association of Industrial
4 18 and Office Properties; National Association of Real
4 19 Estate Investment Trusts; National Bicycle Dealers
4 20 Association; National Conference of State
4 21 Legislatures; National Education Association; National
4 22 Governors Association; National Office Products
4 23 Association; National Retail Federation; Nebraska
4 24 Retail Federation; Retail Federation of Nevada; New
4 25 England Independent Booksellers Association; New
4 26 Jersey Retail Merchants Association; New Mexico Retail
4 27 Association; Retail Council of New York State;
4 28 Newspaper Association of America; North American
4 29 Retail Dealers Association; North Carolina Retail
4 30 Merchants Association; North Dakota Retail



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House Resolution 19 - Introduced continued

5 1 Association; Northern California Independent
5 2 Booksellers; Ohio Council of Retail Merchants;
5 3 Oklahoma Retail Council; Pacific Northwest Booksellers
5 4 Association; Pennsylvania Retailers' Association;
5 5 Performance Automotive Retailers; Performance
5 6 Warehouse Association; PETSMART, Inc.; RadioShack
5 7 Corporation; Real Estate Roundtable; Retail Leaders
5 8 Association; Rhode Island Retail Federation; Ross
5 9 Stores, Inc.; Sears Holdings Corporation; Simon
5 10 Property Group, Inc.; South Carolina Retail
5 11 Association; South Dakota Retailers Association;
5 12 Staples, Inc.; Target; Tennessee Retailers
5 13 Association; The Gap, Inc.; The Macerich Company; The
5 14 TJX Companies, Inc.; US Telecom; Utah Retail Merchants
5 15 Association; Vermont Retail Association; Virginia
5 16 Retail Merchants Association; Wal-Mart; Washington
5 17 Retail Association; Weingarten Realty Investors; West
5 18 Acres Development LLP; Westfield; Wisconsin Merchants
5 19 Federation; and Wyoming Retail Merchants Association;
5 20 and
5 21 WHEREAS, until Congress and the President enact the
5 22 Sales Tax Fairness and Simplification Act,
5 23 participation by remote sellers is only voluntary and
5 24 thus states are unlikely to close the revenue gap
5 25 between what is owed on remote transactions and what
5 26 is collected; and
5 27 WHEREAS, Congressman Roy Blunt of Missouri has
5 28 termed this federal legislation as "fiscal relief for
5 29 the states that does not cost the federal government a
5 30 single cent" and ensures the viability of the sales and



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House Resolution 19 - Introduced continued

6 1 use taxes as a state revenue source; NOW THEREFORE,
6 2 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES,
6 3 That the Iowa House of Representatives calls upon the
6 4 members of Iowa's congressional delegation to join as
6 5 cosponsors of the Sales Tax Fairness and
6 6 Simplification Act and to support its swift adoption
6 7 by the Congress of the United States; and
6 8 BE IT FURTHER RESOLVED, That the Iowa House of
6 9 Representatives urges President Barack Obama to sign
6 10 the Sales Tax Fairness and Simplification Act into law
6 11 upon its passage the Congress.
6 12 BE IT FURTHER RESOLVED, That a copy of this
6 13 resolution be transmitted to President Barack Obama;
6 14 Vice President Joe Biden; Speaker of the United States
6 15 House of Representatives, Nancy Pelosi; Senator Harry
6 16 Reid, Senate Majority Leader; Representative Steny
6 17 Hoyer, House Majority Leader; Senator Mitch McConnell,
6 18 Senate Minority Leader; Representative John Boehner,
6 19 House Minority Leader; the members of Iowa's
6 20 congressional delegation; and Iowa Governor Chet
6 21 Culver.
6 22 LSB 2195HH 83
6 23 tw/rj/8.1



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House Study Bill 209

HOUSE FILE
BY (PROPOSED COMMITTEE ON
ENVIRONMENTAL PROTECTION
BILL BY CHAIRPERSON OLSON)

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to restrictions on the use of fertilizer
- 2 containing phosphorus on turf and making a penalty applicable.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 2244HC 83
- 5 tm/nh/5



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House Study Bill 209 continued

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1 1 Section 1. Section 200.3, Code 2009, is amended by adding
1 2 the following new subsection:

1 3 NEW SUBSECTION. 27A. "Turf" means noncrop land planted
1 4 with closely mowed, managed grasses including but not limited
1 5 to residential and commercial property, private golf courses,
1 6 and property owned by the state or a political subdivision of
1 7 the state including parks, recreation areas, and public golf
1 8 courses. "Turf" does not mean pasture, hay, turf grown on
1 9 turf farms, or any other form of agricultural production.

1 10 Sec. 2. NEW SECTION. 200.23 TURF FERTILIZER
1 11 RESTRICTIONS.

1 12 1. A person may apply a fertilizer containing phosphorus
1 13 to turf only under any of the following circumstances:

1 14 a. A tissue, soil, or other test by a laboratory or other
1 15 method approved by the secretary and performed within the
1 16 three years prior to application indicates that the level of
1 17 available phosphorus in the soil is insufficient to support
1 18 healthy turf growth.

1 19 b. The property owner or an agent of the property owner is
1 20 first establishing turf by seed or sod procedures. Fertilizer
1 21 containing phosphorus may only be applied during the first
1 22 growing season following the application of the seed or sod
1 23 procedure.

1 24 c. The fertilizer containing the phosphorus is used on
1 25 golf course turf under the direction of a person licensed,
1 26 certified, or approved by an organization with an ongoing turf
1 27 management training program approved by the secretary.

1 28 2. Applications of fertilizer containing phosphorus
1 29 pursuant to subsection 1 shall not exceed rates approved by
1 30 the secretary.

1 31 3. The secretary, in consultation with the Iowa
1 32 cooperative extension service in agriculture and home
1 33 economics, shall produce consumer information on restrictions
1 34 and recommended best practices for lawn fertilizer containing
1 35 phosphorus, and on best management practices for other



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House Study Bill 209 continued

2 1 residential sources of phosphorus in the urban landscape. The
2 2 information must be in a format and of a content suitable for
2 3 posting and distribution at retail points of sale of
2 4 fertilizer that contains phosphorus and is for use on turf.

2 5 EXPLANATION

2 6 This bill relates to restrictions on the use of fertilizer
2 7 containing phosphorus on turf.

2 8 The bill allows a person to apply a fertilizer containing
2 9 phosphorus to turf only under three circumstances:

2 10 1. A tissue, soil, or other test by a laboratory or other
2 11 method approved by the secretary and performed within the
2 12 three years prior to application indicates that the level of
2 13 available phosphorus in the soil is insufficient to support
2 14 healthy turf growth.

2 15 2. The property owner is first establishing turf by seed
2 16 or sod procedures.

2 17 3. The fertilizer containing the phosphorus is used on
2 18 golf course turf under the direction of a person licensed,
2 19 certified, or approved by an organization with an ongoing turf
2 20 management training program approved by the secretary of
2 21 agriculture.

2 22 The bill provides that allowable applications of fertilizer
2 23 containing phosphorus shall not exceed rates approved by the
2 24 secretary of agriculture.

2 25 The bill requires the secretary of agriculture, in
2 26 consultation with the Iowa cooperative extension service in
2 27 agriculture and home economics, to produce consumer
2 28 information on restrictions and recommended best practices for
2 29 lawn fertilizer containing phosphorus, and on best management
2 30 practices for other residential sources of phosphorus in the
2 31 urban landscape.

2 32 The bill defines the term "turf" to mean noncrop land
2 33 planted with closely mowed, managed grasses including but not
2 34 limited to residential and commercial property, private golf
2 35 courses, and property owned by the state or a political



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House Study Bill 209 continued

3 1 subdivision of the state including parks, recreation areas,
3 2 and public golf courses. "Turf" does not mean pasture, hay,
3 3 turf grown on turf farms, or any other form of agricultural
3 4 production.
3 5 A criminal penalty of a simple misdemeanor is applicable to
3 6 violations of the provisions of the bill. A simple
3 7 misdemeanor is punishable by confinement for not more than 30
3 8 days or a fine of at least \$65 but not more than \$625 or by
3 9 both.
3 10 LSB 2244HC 83
3 11 tm/nh/5



**Iowa General Assembly
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House Study Bill 210

SENATE/HOUSE FILE
BY (PROPOSED GOVERNOR'S
BILL)

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

Passed House, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

1 An Act relating to assisting schools to recover from disaster by
2 changing the approval method for transfers of emergency fund
3 moneys, by modifying certain funding provisions to relate to
4 disaster recovery, by allowing area education agency boards
5 greater authority to purchase and lease-purchase property, and
6 by allowing certain school districts to use the previous
7 year's budget enrollments in the 2009=2010 budget year, and
8 providing an effective date.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
10 TLSB 1724XL 83
11 ak/sc/14



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House Study Bill 210 continued

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1 1 Section 1. Section 24.6, Code 2009, is amended to read as
1 2 follows:

1 3 24.6 EMERGENCY FUND == LEVY.

1 4 1. A municipality may include in the estimate required, an
1 5 estimate for an emergency fund. A municipality may assess and
1 6 levy a tax for the emergency fund at a rate not to exceed
1 7 twenty-seven cents per thousand dollars of assessed value of
1 8 taxable property of the municipality, ~~provided that.~~ However,
1 9 an emergency tax levy shall not be made until the municipality
1 10 has first petitioned the state board and received its
1 11 approval.

1 12 2. a. Transfers of moneys may be made from the emergency
1 13 fund to any other fund of the municipality for the purpose of
1 14 meeting deficiencies in a fund arising from any cause,
~~1 15 provided that.~~ However, a transfer shall not be made except
1 16 upon the written approval of the state board, and then only
1 17 when that approval is requested by a two-thirds vote of the
1 18 governing body of the municipality.

1 19 b. Notwithstanding the requirements of paragraph "a", if
1 20 the municipality is a school corporation, the school
1 21 corporation may transfer money from the emergency fund to any
1 22 other fund of the school corporation for the purpose of
1 23 meeting deficiencies in a fund arising from payment of costs
1 24 necessitated by, and incurred within two years of, a disaster
1 25 as defined in section 29C.2, subsection 1. However, a
1 26 transfer shall not be made without the written approval of the
1 27 school budget review committee.

1 28 Sec. 2. Section 256.9, Code 2009, is amended by adding the
1 29 following new subsection:

1 30 NEW SUBSECTION. 61. Grant to public school districts and
1 31 accredited nonpublic schools waivers from statutory
1 32 obligations with which the entities cannot reasonably comply
1 33 due to a disaster as defined in section 29C.2, subsection 1,
1 34 if the county in which the school district or accredited
1 35 nonpublic school is located has been declared a state or



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House Study Bill 210 continued

2 1 federal disaster area. The school district or accredited
2 2 nonpublic school shall conduct a public hearing during which
2 3 school officials shall inform the public about the statutory
2 4 obligations for which waiver is sought, and the public shall
2 5 be provided an opportunity for input at the public hearing.

2 6 Sec. 3. Section 257.31, subsection 7, paragraph a, Code
2 7 2009, is amended to read as follows:

2 8 a. The committee may authorize a district to spend a
2 9 reasonable and specified amount from its unexpended cash
2 10 balance for ~~either of~~ the following purposes:

2 11 (1) Furnishing, equipping, and contributing to the
2 12 construction of a new building or structure for which the
2 13 voters of the district have approved a bond issue as provided
2 14 by law or the tax levy provided in section 298.2.

2 15 (2) The costs associated with the demolition of an unused
2 16 school building, or the conversion of an unused school
2 17 building for community use, in a school district involved in a
2 18 dissolution or reorganization under chapter 275, if the costs
2 19 are incurred within three years of the dissolution or
2 20 reorganization.

2 21 (3) The costs associated with the demolition or repair of
2 22 a building or structure in a school district if such costs are
2 23 necessitated by, and incurred within two years of, a disaster
2 24 as defined in section 29C.2, subsection 1.

2 25 Sec. 4. Section 257.32, subsection 1, unnumbered paragraph
2 26 2, Code 2009, is amended by adding the following new
2 27 paragraph:

2 28 NEW PARAGRAPH. f. Costs associated with the demolition or
2 29 repair of a building or structure within an area education
2 30 agency boundary if such costs are necessitated by, and
2 31 incurred within two years of, a disaster as defined in section
2 32 29C.2, subsection 1.

2 33 Sec. 5. Section 273.2, subsection 2, Code 2009, is amended
2 34 to read as follows:

2 35 2. An area education agency established under this chapter



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House Study Bill 210 continued

3 1 is a body politic as a school corporation for the purpose of
3 2 exercising powers granted under this chapter, and may sue and
3 3 be sued. An area education agency may hold property and
3 4 execute purchase and lease=purchase agreements pursuant to
3 5 section 273.3, subsection 7, and if the ~~lease lease=purchase~~
3 6 agreement exceeds ten years or the purchase price of the
3 7 property to be acquired pursuant to a purchase or
3 8 lease=purchase agreement exceeds twenty=five thousand dollars,
3 9 the area education agency shall conduct a public hearing on
3 10 the proposed purchase or lease=purchase agreement and receive
3 11 approval from the area education agency board of directors and
3 12 the director of the department of education before entering
3 13 into the agreement.

3 14 Sec. 6. Section 273.3, subsection 7, Code 2009, is amended
3 15 to read as follows:

3 16 7. Be authorized to lease, purchase, or lease=purchase,
3 17 subject to the approval of the director of the department of
3 18 education and to receive by gift and operate and maintain
3 19 facilities and buildings necessary to provide authorized
3 20 programs and services. However, a lease for less than ten
3 21 years and with an annual cost of less than twenty=five
3 22 thousand dollars does not require the approval of the
3 23 director. ~~If a lease requires approval, the~~ The director
3 24 shall not approve ~~the~~ a lease, purchase, or lease=purchase
3 25 until the director is satisfied by investigation that public
3 26 school corporations within the area do not have suitable
3 27 facilities available.

3 28 Sec. 7. Section 298.3, Code 2009, is amended by adding the
3 29 following new subsection:

3 30 NEW SUBSECTION. 13. Demolition, cleanup, and other costs
3 31 if such costs are necessitated by, and incurred within
3 32 eighteen months of, a disaster as defined in section 29C.2,
3 33 subsection 1.

3 34 Sec. 8. Section 423F.3, subsection 3, paragraph b, Code
3 35 2009, is amended to read as follows:



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4 1 b. (1) If the board of directors intends to use funds for
4 2 purposes other than those listed in paragraph "a", or change
4 3 the use of funds to purposes other than those listed in
4 4 paragraph "a", the board shall adopt a revenue purpose
4 5 statement, subject to approval of the electors, listing the
4 6 proposed use of the funds.

4 7 (2) School districts shall submit the statement to the
4 8 voters no later than sixty days prior to the expiration of any
4 9 existing revenue purpose statement or change in use not
4 10 included in the existing revenue purpose statement.

4 11 (3) If a school district has been affected by a disaster,
4 12 as defined in section 29C.2, subsection 1, the district may
4 13 submit the statement, which shall only include
4 14 disaster-related expenses, to the voters no later than
4 15 eighteen months after the disaster occurred and subject to all
4 16 other requirements in this section.

4 17 Sec. 9. DISASTER RELIEF FOR SCHOOL DISTRICTS == BUDGET
4 18 ENROLLMENT. Notwithstanding any provision of the Code to the
4 19 contrary, for the school budget year beginning July 1, 2009, a
4 20 school district determined by the department of education to
4 21 have been significantly affected during 2008 by a disaster, as
4 22 defined in section 29C.2, subsection 1, with a basic
4 23 enrollment for the budget year, as defined under section
4 24 257.6, that is less than the previous year's budget enrollment
4 25 may use the previous year's budget enrollment.

4 26 Sec. 10. EFFECTIVE DATE. The section of this Act relating
4 27 to budget enrollment for the budget year beginning July 1,
4 28 2009, being deemed of immediate importance, takes effect upon
4 29 enactment.

4 30 EXPLANATION

4 31 This bill assists school districts and accredited nonpublic
4 32 schools to recover from a disaster as defined in Code section
4 33 29C.2(1).

4 34 Code section 24.6(2) is amended to allow a school
4 35 corporation to transfer funds from its emergency fund when the



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House Study Bill 210 continued

5 1 school corporation has monetary deficiencies due to payment of
5 2 costs necessitated by, and incurred within two years of, a
5 3 disaster. However, the transfer must first be approved by the
5 4 school budget review committee.

5 5 Code section 256.9(61) is enacted to allow the director of
5 6 the department of education to waive statutory obligations
5 7 that school districts and accredited nonpublic schools cannot
5 8 reasonably comply with due to a disaster if the district's or
5 9 school's county has been declared a state or federal disaster
5 10 area. The school district or accredited nonpublic school must
5 11 provide a public hearing during which school officials must
5 12 inform the public about the statutory obligations sought to be
5 13 waived and must give the public a chance to give input.

5 14 Code sections 257.31(7) and 257.32(1) are amended to allow
5 15 the school budget review committee to authorize a school
5 16 district or area education agency to spend amounts from
5 17 specified sources for the costs of demolishing or repairing a
5 18 building or structure if such costs are necessitated by, and
5 19 incurred within two years of, a disaster.

5 20 Code sections 273.2(2) and 273.3(7) are amended to give
5 21 area education agencies the authorization to purchase and
5 22 lease-purchase facilities and buildings with the approval of
5 23 the director of the department of education.

5 24 Code section 298.3(13) is amended to permit funds from the
5 25 physical plant and equipment levy to be used for demolition,
5 26 clean up, and other costs necessitated by, and incurred within
5 27 18 months of, a disaster.

5 28 Code section 423F.3(3)(b) is amended to allow school
5 29 districts affected by a disaster to submit a revenue purpose
5 30 statement to the voters no more than 18 months after the
5 31 disaster in order to use funds from the secure an advanced
5 32 vision for education fund to recover from the disaster.
5 33 School districts submitting such a statement are still bound
5 34 by all the requirements of Code chapter 423F concerning the
5 35 secure an advanced vision for education fund.



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6 1 The bill allows a school district that was significantly
6 2 affected by a disaster in 2008 to use predisaster student
6 3 enrollment counts in order to offset a budget enrollment
6 4 decrease for the 2009=2010 budget year. School district
6 5 budgets for fiscal year 2008=2009 were based on October 2007
6 6 enrollments. Any district that was impacted by a disaster and
6 7 had an enrollment in October 2008 that was less than the
6 8 previous year's enrollment would be allowed to use the
6 9 previous year's enrollment for budgeting purposes in fiscal
6 10 year 2009=2010. The department of education shall determine
6 11 which school districts were significantly affected by
6 12 disasters during 2008, as defined in Code section 29C.2. This
6 13 section of the bill is effective upon enactment.
6 14 LSB 1724XL 83
6 15 ak/sc/14



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House Study Bill 211

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

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act providing for unincorporated nonprofit associations, and
- 2 providing for fees and penalties.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1166HC 83
- 5 da/nh/5



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1 1 DIVISION I
1 2 REVISED UNIFORM UNINCORPORATED
1 3 NONPROFIT ASSOCIATION ACT
1 4 Section 1. NEW SECTION. 501B.1 SHORT TITLE.
1 5 This Act shall be known and may be cited as the "Revised
1 6 Uniform Unincorporated Nonprofit Association Act".
1 7 Sec. 2. NEW SECTION. 501B.2 DEFINITIONS.
1 8 As used in this chapter:
1 9 1. "Established practices" means the practices used by an
1 10 unincorporated nonprofit association without material change
1 11 during the most recent five years of its existence, or if it
1 12 has existed for less than five years, during its entire
1 13 existence.
1 14 2. "Governing principles" means the agreements, whether
1 15 oral, in a record, or implied from its established practices,
1 16 that govern the purpose or operation of an unincorporated
1 17 nonprofit association and the rights and obligations of its
1 18 members and managers. "Governing principles" includes any
1 19 amendment or restatement of the agreements constituting the
1 20 governing principles.
1 21 3. "Manager" means a person that is responsible, alone or
1 22 in concert with others, for the management of an
1 23 unincorporated nonprofit association and includes but is not
1 24 limited to persons who may be designated as directors and
1 25 officers or some other designation indicating that such
1 26 persons would perform the duties of a manager.
1 27 4. "Member" means a person that, under the governing
1 28 principles, may participate in the selection of persons
1 29 authorized to manage the affairs of the unincorporated
1 30 nonprofit association or in the development of the policies
1 31 and activities of the association.
1 32 5. "Person" means an individual, corporation, business
1 33 trust, statutory entity trust, estate, trust, partnership,
1 34 limited liability company, cooperative, association, joint
1 35 venture, public corporation, government or governmental



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2 1 subdivision, agency, or instrumentality, or any other legal or
2 2 commercial entity.

2 3 6. "Record" means information that is inscribed on a
2 4 tangible medium or that is stored in an electronic or other
2 5 medium and is retrievable in perceivable form.

2 6 7. "State" means a state of the United States, the
2 7 District of Columbia, Puerto Rico, United States Virgin
2 8 Islands, or any territory or insular possession subject to the
2 9 jurisdiction of the United States.

2 10 8. "Unincorporated nonprofit association" or "association"
2 11 means an unincorporated organization consisting of two or more
2 12 members joined under an agreement that is oral, in a record,
2 13 or implied from conduct, for one or more common, nonprofit
2 14 purposes. "Unincorporated nonprofit association" does not
2 15 include any of the following:

2 16 a. A trust.

2 17 b. A marriage, domestic partnership, common law domestic
2 18 relationship, civil union, or other domestic living
2 19 arrangement.

2 20 c. An organization formed under any other statute that
2 21 governs the organization and operation of unincorporated
2 22 associations.

2 23 d. A joint tenancy or tenancy in common even if the
2 24 co-owners share use of the property for a nonprofit purpose.

2 25 e. A relationship under an agreement in a record that
2 26 expressly provides that the relationship between the parties
2 27 does not create an unincorporated nonprofit association.

2 28 Sec. 3. NEW SECTION. 501B.3 RELATION TO OTHER LAW.

2 29 1. Principles of law and equity supplement this chapter
2 30 unless displaced by a particular provision of this chapter.

2 31 2. A statute governing a specific type of unincorporated
2 32 nonprofit association prevails over an inconsistent provision
2 33 in this chapter, to the extent of the inconsistency.

2 34 3. This chapter supplements the law of this state that
2 35 applies to nonprofit associations operating in this state. If



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3 1 a conflict exists, that law applies.

3 2 Sec. 4. NEW SECTION. 501B.4 GOVERNING LAW.

3 3 1. Except as otherwise provided in subsection 2, this
3 4 chapter governs the operation in this state of all
3 5 unincorporated nonprofit associations formed or operating in
3 6 this state.

3 7 2. Unless the governing principles specify a different
3 8 jurisdiction, the law of the jurisdiction in which an
3 9 unincorporated nonprofit association has its main place of
3 10 activities governs the internal affairs of the association.

3 11 Sec. 5. NEW SECTION. 501B.5 LEGAL ENTITY == PERPETUAL
3 12 EXISTENCE == POWERS.

3 13 1. An unincorporated nonprofit association is a legal
3 14 entity distinct from its members and managers.

3 15 2. An unincorporated nonprofit association has perpetual
3 16 duration unless the governing principles specify otherwise.

3 17 3. An unincorporated nonprofit association has the same
3 18 powers as an individual to do all things necessary or
3 19 convenient to carry on its purposes.

3 20 4. An unincorporated nonprofit association may engage in
3 21 profit-making activities but profits from any activities must
3 22 be used or set aside for the association's nonprofit purposes.

3 23 Sec. 6. NEW SECTION. 501B.6 OWNERSHIP AND TRANSFER OF
3 24 PROPERTY.

3 25 1. An unincorporated nonprofit association may acquire,
3 26 hold, encumber, or transfer in its name an interest in real or
3 27 personal property.

3 28 2. An unincorporated nonprofit association may be a
3 29 beneficiary of a trust or contract, a legatee, or a devisee.

3 30 Sec. 7. NEW SECTION. 501B.7 STATEMENT OF AUTHORITY AS TO
3 31 REAL PROPERTY.

3 32 1. For purposes of this section, "statement of authority"
3 33 means a statement authorizing a person to transfer an interest
3 34 in real property held in the name of an unincorporated
3 35 nonprofit association.



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4 1 2. An interest in real property held in the name of an
4 2 unincorporated nonprofit association may be transferred by a
4 3 person authorized to do so in a statement of authority filed
4 4 by the association in the office of the county recorder in
4 5 which a transfer of the property would be recorded.
4 6 3. A statement of authority must set forth all of the
4 7 following:
4 8 a. The name of the unincorporated nonprofit association.
4 9 b. The address in this state, including the street
4 10 address, if any, of the association or, if the association
4 11 does not have an address in this state, its out-of-state
4 12 address.
4 13 c. That the association is an unincorporated nonprofit
4 14 association.
4 15 d. The name, title, or position of a person authorized to
4 16 transfer an estate or interest in real property held in the
4 17 name of the association.
4 18 4. A statement of authority must be executed in the same
4 19 manner as an affidavit by a person other than the person
4 20 authorized in the statement to transfer the interest.
4 21 5. The county recorder may collect a fee as provided in
4 22 sections 331.604 and 331.605 for filing a statement of
4 23 authority in the amount authorized for filing a transfer of
4 24 real property.
4 25 6. A document amending, revoking, or canceling a statement
4 26 of authority or stating that the statement is unauthorized or
4 27 erroneous must meet the requirements for executing and filing
4 28 an original statement.
4 29 7. Unless canceled earlier, a filed statement of authority
4 30 and its most recent amendment expire five years after the date
4 31 of the most recent filing.
4 32 8. If the record title to real property is in the name of
4 33 an unincorporated nonprofit association and the statement of
4 34 authority is filed in the office of the county recorder in
4 35 which a transfer of the property would be filed, the authority



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5 1 of the person named in the statement to transfer is conclusive
5 2 in favor of a person that gives value without notice that the
5 3 person lacks authority.

5 4 Sec. 8. NEW SECTION. 501B.8 LIABILITY.

5 5 1. For a debt, obligation, or other liability of an
5 6 unincorporated nonprofit association, whether arising in
5 7 contract, tort, or otherwise, all of the following apply:

5 8 a. It is solely the debt, obligation, or other liability
5 9 of the association.

5 10 b. It does not become a debt, obligation, or other
5 11 liability of a member, manager, employee, or volunteer solely
5 12 because the member acts as a member, the manager acts as a
5 13 manager, the employee acts as an employee, or a volunteer acts
5 14 as a volunteer.

5 15 2. A person's status as a member, manager, employee, or
5 16 volunteer does not prevent or restrict law other than this
5 17 chapter from imposing liability on the person or the
5 18 association because of the person's conduct.

5 19 3. A person who is a manager, member, employee, or
5 20 volunteer is not personally liable in that capacity to the
5 21 unincorporated nonprofit association or any of its members for
5 22 any action taken or failure to take any action in the
5 23 discharge of the person's duties except liability for any of
5 24 the following:

5 25 a. The amount of any financial benefit to which the person
5 26 is not entitled.

5 27 b. An intentional infliction of harm on the unincorporated
5 28 nonprofit association or the members.

5 29 c. An intentional violation of criminal law.

5 30 d. Improper distributions.

5 31 Sec. 9. NEW SECTION. 501B.9 ASSERTION AND DEFENSE OF
5 32 CLAIMS.

5 33 1. An unincorporated nonprofit association may sue or be
5 34 sued in its own name.

5 35 2. A member or manager may assert a claim the member or



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6 1 manager has against the unincorporated nonprofit association.
6 2 An association may assert a claim it has against a member or
6 3 manager.

6 4 Sec. 10. NEW SECTION. 501B.10 EFFECT OF JUDGMENT OR
6 5 ORDER.

6 6 A judgment or order against an unincorporated nonprofit
6 7 association is not by itself a judgment or order against a
6 8 member or manager.

6 9 Sec. 11. NEW SECTION. 501B.11 APPOINTMENT OF AGENT TO
6 10 RECEIVE SERVICE OF PROCESS.

6 11 1. An unincorporated nonprofit association may file in the
6 12 office of the secretary of state a statement appointing an
6 13 agent authorized to receive service of process.

6 14 2. A statement appointing an agent must set forth all of
6 15 the following:

6 16 a. The name of the unincorporated nonprofit association.

6 17 b. The name of the person in this state authorized to
6 18 receive service of process and the person's address, including
6 19 the street address, in this state.

6 20 3. A statement appointing an agent must be signed and
6 21 acknowledged by a person authorized to manage the affairs of
6 22 the unincorporated nonprofit association and by the person
6 23 appointed as the agent. By signing and acknowledging the
6 24 statement the person becomes the agent.

6 25 4. An amendment to or cancellation of a statement
6 26 appointing an agent to receive service of process must meet
6 27 the requirements for executing an original statement. An
6 28 agent may resign by filing a resignation in the office of the
6 29 secretary of state and giving notice to the association.

6 30 5. The secretary of state may collect a fee for filing a
6 31 statement appointing an agent to receive service of process,
6 32 an amendment, a cancellation, or a resignation in the amount
6 33 charged for filing similar documents.

6 34 Sec. 12. NEW SECTION. 501B.12 SERVICE OF PROCESS.

6 35 In an action or proceeding against an unincorporated



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7 1 nonprofit association, process may be served on an agent
7 2 authorized by appointment to receive service of process
7 3 pursuant to section 501B.11, on a manager of the association,
7 4 or in any other manner authorized by the law of this state.
7 5 Sec. 13. NEW SECTION. 501B.13 ACTION OR PROCEEDING NOT
7 6 ABATED BY CHANGE.
7 7 An action or proceeding against an unincorporated nonprofit
7 8 association does not abate merely because of a change in its
7 9 members or managers.
7 10 Sec. 14. NEW SECTION. 501B.14 VENUE.
7 11 Unless otherwise provided by law other than this chapter,
7 12 venue of an action against an unincorporated nonprofit
7 13 association brought in this state is determined under the
7 14 statutes applicable to an action brought in this state against
7 15 a corporation under chapter 504.
7 16 Sec. 15. NEW SECTION. 501B.15 MEMBER NOT AGENT.
7 17 A member is not an agent of an unincorporated nonprofit
7 18 association solely by reason of being a member.
7 19 Sec. 16. NEW SECTION. 501B.16 APPROVAL BY MEMBERS.
7 20 1. Except as otherwise provided in the governing
7 21 principles, an unincorporated nonprofit association must have
7 22 the approval of its members to do any of the following:
7 23 a. Admit, suspend, dismiss, or expel a member.
7 24 b. Select or dismiss a manager.
7 25 c. Adopt, amend, or repeal the governing principles.
7 26 d. Sell, lease, exchange, or otherwise dispose of all, or
7 27 substantially all, of the association's property, with or
7 28 without the association's goodwill, outside the ordinary
7 29 course of its activities.
7 30 e. Dissolve under section 501B.28, or merge under section
7 31 501B.30.
7 32 f. Undertake any other act outside the ordinary course of
7 33 the association's activities.
7 34 g. Determine the policy and purposes of the association.
7 35 2. An unincorporated nonprofit association must have the



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8 1 approval of the members to do any other act or exercise a
8 2 right that the governing principles require to be approved by
8 3 members.

8 4 Sec. 17. NEW SECTION. 501B.17 MEETINGS OF MEMBERS ==
8 5 VOTING, NOTICE, AND QUORUM REQUIREMENTS.

8 6 1. Unless the governing principles provide otherwise all
8 7 of the following apply:

8 8 a. Approval of a matter by members requires an affirmative
8 9 majority of the votes cast at a meeting of members.

8 10 b. Each member is entitled to one vote on each matter that
8 11 is submitted for approval by members.

8 12 2. Notice and quorum requirements for member meetings and
8 13 the conduct of meetings of members are determined by the
8 14 governing principles.

8 15 Sec. 18. NEW SECTION. 501B.18 DUTIES OF MEMBER.

8 16 1. A member does not have a fiduciary duty to an
8 17 unincorporated nonprofit association or to another member
8 18 solely by being a member.

8 19 2. A member shall discharge the duties to the
8 20 unincorporated nonprofit association and the other members and
8 21 exercise any rights under this chapter consistent with the
8 22 governing principles and the obligation of good faith and fair
8 23 dealing.

8 24 Sec. 19. NEW SECTION. 501B.19 ADMISSION, SUSPENSION,
8 25 DISMISSAL, OR EXPULSION OF MEMBERS.

8 26 1. A person becomes a member and may be suspended,
8 27 dismissed, or expelled in accordance with the association's
8 28 governing principles. If there are no applicable governing
8 29 principles, a person may become a member or be suspended,
8 30 dismissed, or expelled from an association only by a vote of
8 31 its members. A person may not be admitted as a member without
8 32 the person's consent.

8 33 2. Unless the governing principles provide otherwise, the
8 34 suspension, dismissal, or expulsion of a member does not
8 35 relieve the member from any unpaid capital contribution, dues,



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9 1 assessments, fees, or other obligation incurred or commitment
9 2 made by the member before the suspension, dismissal, or
9 3 expulsion.

9 4 Sec. 20. NEW SECTION. 501B.20 MEMBER'S RESIGNATION.

9 5 1. A member may resign as a member in accordance with the
9 6 governing principles. In the absence of applicable governing
9 7 principles, a member may resign at any time.

9 8 2. Unless the governing principles provide otherwise,
9 9 resignation of a member does not relieve the member from any
9 10 unpaid capital contribution, dues, assessments, fees, or other
9 11 obligation incurred or commitment made by the member before
9 12 resignation.

9 13 Sec. 21. NEW SECTION. 501B.21 MEMBERSHIP INTEREST NOT
9 14 TRANSFERABLE.

9 15 Except as otherwise provided in the governing principles, a
9 16 member's interest or any right under the governing principles
9 17 is not transferable.

9 18 Sec. 22. NEW SECTION. 501B.22 SELECTION OF MANAGERS ==
9 19 MANAGEMENT RIGHTS OF MANAGERS.

9 20 Except as otherwise provided in this chapter or the
9 21 governing principles, all of the following apply:

9 22 1. Only the members may select a manager or managers.

9 23 2. A manager may be a member or a nonmember.

9 24 3. If a manager is not selected, all members are managers.

9 25 4. Each manager has equal rights in the management and
9 26 conduct of the association's activities.

9 27 5. All matters relating to the association's activities
9 28 shall be decided by its managers except for matters reserved
9 29 for approval by members pursuant to section 501B.16.

9 30 6. A difference among managers is decided by a majority of
9 31 the managers.

9 32 Sec. 23. NEW SECTION. 501B.23 DUTIES OF MANAGERS.

9 33 1. A manager owes to the unincorporated nonprofit
9 34 association and to its members the fiduciary duties of loyalty
9 35 and care.



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10 1 2. A manager shall manage the unincorporated nonprofit
10 2 association in good faith, in a manner the manager reasonably
10 3 believes to be in the best interests of the association, and
10 4 with such care, including reasonable inquiry, as a prudent
10 5 person would reasonably exercise in a similar position and
10 6 under similar circumstances. A manager may rely in good faith
10 7 upon any opinion, report, statement, or other information
10 8 provided by another person that the manager reasonably
10 9 believes is a competent and reliable source for the
10 10 information.

10 11 3. After full disclosure of all material facts, a specific
10 12 act or transaction that would otherwise violate the duty of
10 13 loyalty by a manager may be authorized or ratified by a
10 14 majority of the members that are not interested directly or
10 15 indirectly in the act or transaction.

10 16 4. A manager that makes a business judgment in good faith
10 17 satisfies the duties specified in subsection 1 if all of the
10 18 following conditions apply:

10 19 a. The manager is not interested, directly or indirectly,
10 20 in the subject of the business judgment and is otherwise able
10 21 to exercise independent judgment.

10 22 b. The manager is informed with respect to the subject of
10 23 the business judgment to the extent the manager reasonably
10 24 believes to be appropriate under the circumstances.

10 25 c. The manager believes that the business judgment is in
10 26 the best interests of the unincorporated nonprofit association
10 27 and in accordance with its purposes.

10 28 Sec. 24. NEW SECTION. 501B.24 NOTICE AND QUORUM
10 29 REQUIREMENTS FOR MEETINGS OF MANAGERS.

10 30 Notice and quorum requirements for meetings of managers and
10 31 the conduct of meetings of managers are determined by the
10 32 governing principles.

10 33 Sec. 25. NEW SECTION. 501B.25 RIGHT OF MEMBER OR MANAGER
10 34 TO INFORMATION.

10 35 1. On reasonable notice, a member or manager of an



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11 1 unincorporated nonprofit association may inspect and copy
11 2 during the unincorporated nonprofit association's regular
11 3 operating hours, at a reasonable location specified by the
11 4 association, any record maintained by the association
11 5 regarding its activities, financial condition, or other
11 6 circumstances, to the extent the information is material to
11 7 the member's or manager's rights or duties under the governing
11 8 principles.

11 9 2. An unincorporated nonprofit association may impose
11 10 reasonable restrictions on access to and use of information to
11 11 be furnished under this section, including designating the
11 12 information confidential and imposing obligations of
11 13 nondisclosure and safeguarding on the recipient.

11 14 3. An unincorporated nonprofit association may charge a
11 15 person that makes a demand under this section reasonable
11 16 copying costs, limited to the costs of labor and materials.

11 17 4. A former member or manager is entitled to information
11 18 to which the member or manager was entitled while a member or
11 19 manager if the information pertains to the period during which
11 20 the person was a member or manager, the former member or
11 21 manager seeks the information in good faith, and the former
11 22 member or manager satisfies subsections 1 through 3.

11 23 Sec. 26. NEW SECTION. 501B.26 DISTRIBUTIONS PROHIBITED
11 24 == COMPENSATION AND OTHER PERMITTED PAYMENTS.

11 25 1. Except as otherwise provided in subsection 2, an
11 26 unincorporated nonprofit association may not pay dividends or
11 27 make distributions to a member or manager.

11 28 2. An unincorporated nonprofit association may do any of
11 29 the following:

11 30 a. Pay reasonable compensation or reimburse reasonable
11 31 expenses to a member or manager for services rendered.

11 32 b. Confer benefits on a member or manager in conformity
11 33 with its nonprofit purposes.

11 34 c. Repurchase a membership and repay a capital
11 35 contribution made by a member to the extent authorized by its



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12 1 governing principles.
12 2 d. Make distributions of property to members upon winding
12 3 up and termination to the extent permitted by section 501B.29.
12 4 Sec. 27. NEW SECTION. 501B.27 REIMBURSEMENT ==
12 5 INDEMNIFICATION == ADVANCEMENT OF EXPENSES.
12 6 1. Except as otherwise provided in the governing
12 7 principles, an unincorporated nonprofit association shall
12 8 reimburse a member, manager, employee, or volunteer for
12 9 authorized expenses reasonably incurred in the course of the
12 10 member's, manager's, employee's, or volunteer's activities on
12 11 behalf of the association.
12 12 2. An unincorporated nonprofit association may indemnify a
12 13 member, manager, employee, or volunteer for any debt,
12 14 obligation, or other liability incurred in the course of the
12 15 member's, manager's, employee's, or volunteer's activities on
12 16 behalf of the association if the person seeking
12 17 indemnification has complied with section 501B.18 or 501B.23,
12 18 or other law, as applicable. Governing principles in a record
12 19 may broaden or limit indemnification.
12 20 3. If a person is made or threatened to be made a party in
12 21 an action based on that person's activities on behalf of an
12 22 unincorporated nonprofit association and the person makes a
12 23 request in a record to the association, a majority of the
12 24 disinterested managers may approve in a record advance
12 25 payment, or reimbursement, by the association, of all or a
12 26 part of the reasonable expenses, including attorney fees and
12 27 costs, incurred by the person before the final disposition of
12 28 the proceeding. To be entitled to an advance payment or
12 29 reimbursement, the person must state in a record that the
12 30 person has a good faith belief that the criteria for
12 31 indemnification in subsection 2 have been satisfied and that
12 32 the person will repay the amounts advanced or reimbursed if
12 33 the criteria for payment have not been satisfied. Governing
12 34 principles in a record may broaden or limit the advance
12 35 payments or reimbursements.



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13 1 4. An unincorporated nonprofit association may purchase
13 2 insurance on behalf of a member, manager, employee, or
13 3 volunteer for liability asserted against or incurred by the
13 4 member, manager, employee, or volunteer in the capacity of a
13 5 member, manager, employee, or volunteer whether or not the
13 6 association has authority under this chapter to reimburse,
13 7 indemnify, or advance expenses to the member, manager,
13 8 employee, or volunteer against the liability.

13 9 5. The rights of reimbursement, indemnification, and
13 10 advancement of expenses under this section apply to a former
13 11 member, manager, employee, or volunteer for an activity
13 12 undertaken on behalf of the unincorporated nonprofit
13 13 association while a member, manager, employee, or volunteer.

13 14 Sec. 28. NEW SECTION. 501B.28 DISSOLUTION.

13 15 1. An unincorporated nonprofit association may be
13 16 dissolved pursuant to any of the following:

13 17 a. If the governing principles provide a time or method
13 18 for dissolution, at that time or by that method.

13 19 b. If the governing principles do not provide a time or
13 20 method for dissolution, upon approval by the members.

13 21 c. If no member can be located and the association's
13 22 operations have been discontinued for at least three years, by
13 23 the managers or, if the association has no current manager, by
13 24 its last manager.

13 25 d. By court order.

13 26 e. Under law other than this chapter.

13 27 2. After dissolution, an unincorporated nonprofit
13 28 association continues in existence until its activities have
13 29 been wound up and it is terminated pursuant to section
13 30 501B.29.

13 31 Sec. 29. NEW SECTION. 501B.29 WINDING UP AND
13 32 TERMINATION.

13 33 Winding up and termination of an unincorporated nonprofit
13 34 association shall proceed in accordance with all of the
13 35 following rules:



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14 1 1. All known debts and liabilities must be paid or
14 2 adequately provided for.
14 3 2. Any property subject to a condition requiring return to
14 4 the person designated by the donor must be transferred to that
14 5 person.
14 6 3. Any property subject to a trust must be distributed in
14 7 accordance with the trust agreement.
14 8 4. Any remaining property must be distributed as follows:
14 9 a. As required by law other than this chapter that
14 10 requires assets of an association to be distributed to another
14 11 person with similar nonprofit purposes.
14 12 b. In accordance with the association's governing
14 13 principles or in the absence of applicable governing
14 14 principles, to the members of the association per capita or as
14 15 the members direct.
14 16 c. If neither paragraph "a" nor "b" applies, under chapter
14 17 556.
14 18 Sec. 30. NEW SECTION. 501B.30 MERGERS.
14 19 1. For purposes of this section all of the following
14 20 definitions apply:
14 21 a. "Constituent organization" means an organization that
14 22 is merged with one or more other organizations including the
14 23 surviving organization.
14 24 b. "Nonsurviving organization" means a constituent
14 25 organization that is not the surviving organization.
14 26 c. "Organization" means an unincorporated nonprofit
14 27 association; a general partnership, including a limited
14 28 liability partnership; limited partnership, including a
14 29 limited liability limited partnership; limited liability
14 30 company; business or statutory trust; corporation; or any
14 31 other legal or commercial entity having a statute governing
14 32 its formation and operation. "Organization" includes a
14 33 for-profit or nonprofit organization.
14 34 d. "Surviving organization" means an organization into
14 35 which one or more other organizations are merged.



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15 1 2. An unincorporated nonprofit association may merge with
15 2 any organization that is authorized by law to merge with an
15 3 unincorporated nonprofit association.

15 4 3. A merger involving an unincorporated nonprofit
15 5 association is subject to the following rules:

15 6 a. Each constituent organization shall comply with its
15 7 governing law.

15 8 b. Each party to the merger shall approve a plan of
15 9 merger. The plan, which must be in a record, must include all
15 10 of the following provisions:

15 11 (1) The name and form of each organization that is a party
15 12 to the merger.

15 13 (2) The name and form of the surviving organization and,
15 14 if the surviving organization is to be created by the merger,
15 15 a statement to that effect.

15 16 (3) If the surviving organization is to be created by the
15 17 merger, the surviving organization's organizational documents
15 18 that are proposed to be in a record.

15 19 (4) If the surviving organization is not to be created by
15 20 the merger, any amendments to be made by the merger to the
15 21 surviving organization's organizational documents that are, or
15 22 are proposed to be, in a record.

15 23 (5) The terms and conditions of the merger, including the
15 24 manner and basis for converting the interests in each
15 25 constituent organization into any combination of money,
15 26 interests in the surviving organization, and other
15 27 consideration except that the plan of merger may not permit
15 28 members of an unincorporated nonprofit association to receive
15 29 merger consideration if a distribution of such consideration
15 30 would not be permitted in the absence of a merger under
15 31 section 501B.26 or 501B.29.

15 32 c. The plan of merger must be approved by the members of
15 33 each unincorporated nonprofit association that is a
15 34 constituent organization in the merger. If a plan of merger
15 35 would impose personal liability for an obligation of a



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16 1 constituent or surviving organization on a member of an
16 2 association that is a party to the merger, the plan may not
16 3 take effect unless it is approved in a record by the member.
16 4 d. Subject to the contractual rights of third parties,
16 5 after a plan of merger is approved and at any time before the
16 6 merger is effective, a constituent organization may amend the
16 7 plan or abandon the merger as provided in the plan, or except
16 8 as otherwise prohibited in the plan, with the same consent as
16 9 was required to approve the plan.
16 10 e. Following approval of the plan, a merger under this
16 11 section is effective as follows:
16 12 (1) If a constituent organization is required to give
16 13 notice to or obtain the approval of a governmental agency or
16 14 officer in order to be a party to a merger, when the notice
16 15 has been given and the approval has been obtained.
16 16 (2) For the surviving organization the following apply:
16 17 (a) If the surviving organization is an unincorporated
16 18 nonprofit association, as specified in the plan of merger and
16 19 upon compliance by any constituent organization that is not an
16 20 association with any requirements, including any required
16 21 filings in the office of the secretary of state, of the
16 22 organization's governing statute.
16 23 (b) If the surviving organization is not an unincorporated
16 24 nonprofit association, as provided by the statute governing
16 25 the surviving organization.
16 26 4. When a merger becomes effective all of the following
16 27 apply:
16 28 a. The surviving organization continues or comes into
16 29 existence.
16 30 b. Each constituent organization that merges into the
16 31 surviving organization ceases to exist as a separate entity.
16 32 c. All property owned by each constituent organization
16 33 that ceases to exist vests in the surviving organization.
16 34 d. All debts, obligations, or other liabilities of each
16 35 nonsurviving organization continue as debts, obligations, or



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17 1 other liabilities of the surviving organization.

17 2 e. An action or proceeding pending by or against any
17 3 nonsurviving organization may be continued as if the merger
17 4 had not occurred.

17 5 f. Except as prohibited by law other than this chapter,
17 6 all of the rights, privileges, immunities, powers, and
17 7 purposes of each constituent organization that ceases to exist
17 8 vest in the surviving organization.

17 9 g. Except as otherwise provided in the plan of merger, the
17 10 terms and conditions of the plan of merger take effect.

17 11 h. The merger does not affect the personal liability, if
17 12 any, of a member or manager of a constituent organization for
17 13 a debt, obligation, or other liability incurred before the
17 14 merger is effective.

17 15 i. A surviving organization that is not organized in this
17 16 state is subject to the jurisdiction of the courts of this
17 17 state to enforce any debt, obligation, or other liability owed
17 18 by a constituent organization, if before the merger the
17 19 constituent organization was subject to suit in this state for
17 20 the debt, obligation, or other liability.

17 21 5. Property held for a charitable purpose under the law of
17 22 this state by a constituent organization immediately before a
17 23 merger under this section becomes effective may not, as a
17 24 result of the merger, be diverted from the objects for which
17 25 it was given, unless, to the extent required by or pursuant to
17 26 the law of this state concerning cy pres or other law dealing
17 27 with nondiversion of charitable assets, the organization
17 28 obtains an appropriate order from the district court
17 29 specifying the disposition of the property.

17 30 6. A bequest, devise, gift, grant, or promise contained in
17 31 a will or other instrument of donation, subscription, or
17 32 conveyance that is made to a nonsurviving organization and
17 33 that takes effect or remains payable after the merger inures
17 34 to the surviving organization. A trust obligation that would
17 35 govern property if transferred to the nonsurviving



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18 1 organization applies to property that is transferred to the
18 2 surviving organization under this section.

18 3 Sec. 31. NEW SECTION. 501B.31 UNIFORMITY OF APPLICATION
18 4 AND CONSTRUCTION.

18 5 In applying and construing this chapter, consideration
18 6 shall be given to the need to promote uniformity of the law
18 7 with respect to its subject matter among states that enact the
18 8 revised uniform unincorporated nonprofit association Act as
18 9 recommended by the national conference of commissioners on
18 10 uniform state laws.

18 11 Sec. 32. NEW SECTION. 501B.32 RELATION TO ELECTRONIC
18 12 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

18 13 This chapter modifies, limits, and supersedes the federal
18 14 Electronic Signatures in Global and National Commerce Act, 15
18 15 U.S.C. } 7001, et seq., but does not modify, limit, or
18 16 supersede section 101(c) of that Act, 15 U.S.C. } 7001(c), or
18 17 authorize electronic delivery of any of the notices described
18 18 in section 103(b) of that Act, 15 U.S.C. } 7003(b).

18 19 Sec. 33. SAVINGS CLAUSE. This division of this Act does
18 20 not affect an action or proceeding commenced or right accrued
18 21 before the effective date of this division of this Act.

18 22 DIVISION II
18 23 OTHER AMENDMENTS

18 24 Sec. 34. Section 9H.1, Code 2009, is amended by adding the
18 25 following new subsections:

18 26 NEW SUBSECTION. 5A. "Authorized unincorporated nonprofit
18 27 association" means an unincorporated nonprofit association to
18 28 which all of the following apply:

18 29 a. The members do not exceed twenty-five in number.

18 30 b. The members are all natural persons or persons acting
18 31 in a fiduciary capacity for the benefit of a natural person or
18 32 unincorporated nonprofit association.

18 33 NEW SUBSECTION. 11A. "Family farm unincorporated
18 34 nonprofit association" means an unincorporated nonprofit
18 35 association to which all of the following apply:



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19 1 a. The association is founded for the purpose of farming
19 2 and the ownership of agricultural land and the majority of the
19 3 members are persons related to each other as spouse, parent,
19 4 grandparent, lineal ascendants of grandparents or their
19 5 spouses and other lineal descendants of the grandparents or
19 6 their spouses, or persons acting in a fiduciary capacity for
19 7 persons so related.

19 8 b. All of its members are natural persons or persons
19 9 acting in a fiduciary capacity for the benefit of natural
19 10 persons or family trusts.

19 11 c. Sixty percent of the gross revenues of the
19 12 unincorporated nonprofit association over the last consecutive
19 13 three-year period comes from farming.

19 14 NEW SUBSECTION. 23. "Unincorporated nonprofit
19 15 association" means the same as defined in section 501B.2.

19 16 Sec. 35. Section 9H.4, subsection 1, unnumbered paragraph
19 17 1, Code 2009, is amended to read as follows:

19 18 A corporation, limited liability company, ~~or~~ trust, or
19 19 unincorporated nonprofit association, other than a family farm
19 20 corporation, authorized farm corporation, family farm limited
19 21 liability company, authorized limited liability company,
19 22 family trust, authorized trust, revocable trust, ~~or~~
19 23 testamentary trust, family farm unincorporated nonprofit
19 24 association, or authorized unincorporated nonprofit

19 25 association shall not, either directly or indirectly, acquire
19 26 or otherwise obtain or lease any agricultural land in this
19 27 state. However, the restrictions provided in this section
19 28 shall not apply to the following:

19 29 Sec. 36. Section 9H.4, subsection 1, Code 2009, is amended
19 30 by adding the following new paragraph:

19 31 NEW PARAGRAPH. 1. Agricultural land that is owned,
19 32 leased, or otherwise held by an unincorporated nonprofit
19 33 association on the effective date of this Act, as long as the
19 34 unincorporated nonprofit association continues to hold or
19 35 lease such agricultural land.



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20 1 Sec. 37. Section 9H.4, subsection 2, Code 2009, is amended
20 2 to read as follows:

20 3 2. A corporation, limited liability company, ~~or~~ trust, or
20 4 unincorporated nonprofit association, other than a family farm
20 5 corporation, authorized farm corporation, family farm limited
20 6 liability company, authorized limited liability company,
20 7 family trust, authorized trust, revocable trust, ~~or~~
20 8 testamentary trust, family farm unincorporated nonprofit
20 9 association, or authorized unincorporated nonprofit

20 10 association, violating this section shall be assessed a civil
20 11 penalty of not more than twenty-five thousand dollars and
20 12 shall divest itself of any land held in violation of this
20 13 section within one year after judgment. The courts of this
20 14 state may prevent and restrain violations of this section
20 15 through the issuance of an injunction. The attorney general
20 16 or a county attorney shall institute suits on behalf of the
20 17 state to prevent and restrain violations of this section.

20 18 Sec. 38. Section 9H.5, subsection 1, Code 2009, is amended
20 19 to read as follows:

20 20 1. An authorized farm corporation, authorized limited
20 21 liability company, or authorized trust shall not, on or after
20 22 July 1, 1987, ~~and~~ a limited partnership other than a family
20 23 farm limited partnership shall not, on or after July 1, 1988,
20 24 and an authorized unincorporated nonprofit association shall
20 25 not, on or after the effective date of this Act, either
20 26 directly or indirectly, acquire or otherwise obtain or lease
20 27 agricultural land, if the total agricultural land either
20 28 directly or indirectly owned or leased by the authorized farm
20 29 corporation, authorized limited liability company, limited
20 30 partnership, ~~or~~ authorized trust, or authorized unincorporated
20 31 nonprofit association would then exceed one thousand five
20 32 hundred acres.

20 33 a. However, the restrictions provided in this subsection
20 34 do not apply to agricultural land that is leased by an
20 35 authorized farm corporation, authorized trust, ~~or~~ limited



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21 1 partnership, or authorized unincorporated nonprofit
21 2 association to the immediate prior owner of the land for the
21 3 purpose of farming, as defined in section 9H.1. Upon
21 4 cessation of the lease to the immediate prior owner, the
21 5 authorized farm corporation, authorized trust, ~~or~~ limited
21 6 partnership, or authorized unincorporated nonprofit
21 7 association shall, within three years following the date of
21 8 the cessation, sell or otherwise dispose of the agricultural
21 9 land leased to the immediate prior owner.
21 10 b. This subsection also does not apply to land that is
21 11 held or acquired and maintained by an authorized farm
21 12 corporation, authorized trust, ~~or~~ limited partnership, or
21 13 authorized unincorporated nonprofit association to protect
21 14 significant elements of the state's natural open space
21 15 heritage, including but not limited to significant river,
21 16 lake, wetland, prairie, forest areas, other biologically
21 17 significant areas, land containing significant archaeological,
21 18 historical, or cultural value, or fish or wildlife habitats,
21 19 as defined in rules adopted by the department of natural
21 20 resources.
21 21 Sec. 39. Section 9H.5, Code 2009, is amended by adding the
21 22 following new subsection:
21 23 NEW SUBSECTION. 2A. a. A person shall not, after the
21 24 effective date of this Act, become a member of an authorized
21 25 unincorporated nonprofit association, that owns or leases
21 26 agricultural land if the person is also any of the following:
21 27 (1) A stockholder of an authorized farm corporation.
21 28 (2) A beneficiary of an authorized trust.
21 29 (3) A limited partner in a limited partnership which owns
21 30 or leases agricultural land.
21 31 (4) A member of an authorized limited liability company.
21 32 (5) A member of another authorized unincorporated
21 33 nonprofit association.
21 34 b. A person shall not, after the effective date of this
21 35 Act, become a stockholder of an authorized farm corporation, a



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22 1 beneficiary of an authorized trust, a limited partner in a
22 2 limited partnership, or a member of an authorized limited
22 3 liability company that owns or leases agricultural land, if
22 4 the person is a member of an authorized unincorporated
22 5 nonprofit association.

22 6 c. This subsection shall not apply to limited partners in
22 7 a family farm limited partnership.

22 8 Sec. 40. Section 9H.5, subsection 3, paragraph a, Code
22 9 2009, is amended to read as follows:

22 10 a. An authorized farm corporation, authorized trust,
22 11 authorized limited liability company, ~~or~~ limited partnership,
22 12 or unincorporated nonprofit association violating this section
22 13 shall be assessed a civil penalty of not more than twenty-five
22 14 thousand dollars and shall divest itself of any land held in
22 15 violation of this section within one year after judgment. A
22 16 civil penalty of not more than one thousand dollars may be
22 17 imposed on a person who becomes a stockholder of an authorized
22 18 farm corporation, beneficiary of an authorized trust, member
22 19 of an authorized limited liability company, ~~or~~ limited partner
22 20 in a limited partnership, or member in an unincorporated
22 21 nonprofit association in violation of this section. The
22 22 person shall divest the interest held by the person in the
22 23 corporation, trust, limited liability company, ~~or~~ limited
22 24 partnership, or unincorporated nonprofit association to comply
22 25 with this section. The court may determine the method of
22 26 divesting an interest held by a person found to be in
22 27 violation of this chapter. A financial gain realized by a
22 28 person who disposes of an interest held in violation of this
22 29 chapter shall be forfeited to the state's general fund. All
22 30 court costs and fees shall be paid by the person holding the
22 31 interest in violation of this chapter.

22 32 EXPLANATION

22 33 DIVISION I == REVISED UNIFORM UNINCORPORATED NONPROFIT
22 34 ASSOCIATION ACT. This bill creates a new Code chapter 501B
22 35 which creates the "Revised Uniform Unincorporated Nonprofit



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23 1 Association Act" (new Code section 501B.1). The provisions
23 2 are based on those drafted by the national conference of
23 3 commissioners on uniform state laws and approved for enactment
23 4 by states by that organization in 2008.

23 5 DESCRIPTION. An unincorporated nonprofit association (UNA)
23 6 is a nonprofit entity created to carry out a philanthropic,
23 7 beneficial, or religious purpose, which may or may not be
23 8 tax-exempt, and which is not organized under another statute
23 9 (new Code section 501B.2). Moreover, it excludes certain
23 10 relationships which are based on the special legal status of
23 11 the parties, including a domestic relationship (e.g.,
23 12 marriage) or a property holding relationship (e.g., joint
23 13 tenancy). A UNA may engage in profit-making activities so
23 14 long as the profits are set aside for nonprofit purposes. The
23 15 parties to an agreement may specifically provide that they are
23 16 not subject to the new Code chapter's provisions (new Code
23 17 section 501B.2(8)).

23 18 GOVERNING PRINCIPLES AND ORGANIZATION. A UNA is subject to
23 19 "governing principles" that govern the internal affairs of the
23 20 organization (new Code section 501B.2(2)). A UNA's governing
23 21 principles are not required to be in writing. An agreement to
23 22 form a UNA may be in writing (in a "record"), or may be by
23 23 oral consent or implied from "established practices". The
23 24 agreement to form a UNA becomes part of its governing
23 25 principles.

23 26 MEMBERS AND MANAGERS. A distinction is created between a
23 27 UNA's members and managers (new Code section 501B.2(3),(4)).
23 28 A manager is authorized to make decisions affecting the
23 29 policies of the UNA and the conduct of its affairs.

23 30 APPLICATION OF OTHER LAW. The provisions of the new Code
23 31 chapter are to be supplemented by other principles of law and
23 32 equity (new Code section 501B.3). If another statute
23 33 governing a specific type of UNA conflicts with a provision in
23 34 the new Code chapter, the other statute prevails. The law of
23 35 Iowa governs the operation of all UNAs formed or operating in



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24 1 this state, unless the UNA's main place of activities is
24 2 located in another state (new Code section 501B.4).
24 3 SEPARATE LEGAL ENTITY. A UNA is recognized as a distinct
24 4 legal entity separate from its members and managers and has
24 5 perpetual duration unless its governing principles specify
24 6 otherwise. This reverses the common law rule of aggregation
24 7 that recognizes the participants of the entity rather than the
24 8 entity. Two consequences result from this special
24 9 recognition:
24 10 1. HOLDING PROPERTY. A UNA may hold, convey, or encumber
24 11 real or personal property in its name (new Code section
24 12 501B.6). However, a UNA acquiring, disposing, or encumbering
24 13 real property must record a statement of authority with the
24 14 county recorder where the real property is located and the
24 15 county recorder may charge the UNA a filing fee (new Code
24 16 section 501B.7).
24 17 2. LEGAL ACTIONS. Code section 613.19 provides a limited
24 18 shield for persons associated with UNAs. The bill adds a
24 19 provision that shields a member or manager from personal
24 20 liability for breach of contract or for a tortious act or
24 21 omission solely because the person has a participatory
24 22 interest in the organization (new Code section 501B.8). A UNA
24 23 may sue or be sued in its own name (new Code section 501B.9),
24 24 and as a corollary to new Code section 501B.9, a judgment or
24 25 order against a UNA is not a judgment or order against a
24 26 member or manager (new Code section 501B.10).
24 27 A UNA is allowed but not required to file with the
24 28 secretary of state a statement appointing an agent authorized
24 29 to receive service of process, and the secretary of state is
24 30 authorized to charge a filing fee (new Code section 501B.11).
24 31 Since a UNA may elect not to file a statement of appointment,
24 32 process may be served on a manager of the UNA (new Code
24 33 section 501B.12).
24 34 Since a UNA is treated as a distinct entity with perpetual
24 35 duration, an action brought against a UNA is not abated merely



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25 1 because of a change in its members or managers (new Code
25 2 section 501B.13).

25 3 For purposes of venue, an action against a UNA is
25 4 determined in the same manner as the same action brought
25 5 against a nonprofit corporation under Code chapter 504 (new
25 6 Code section 501B.14).

25 7 Finally, a member of a UNA is not the agent of the
25 8 association, and therefore does not have apparent authority to
25 9 bind the UNA in a contractual relationship with another party
25 10 solely because of their status (new Code section 501B.15).

25 11 MEMBERS. A number of provisions control the conduct of
25 12 members. In most cases, the provisions may be altered by the
25 13 UNA's governing principles.

25 14 DECISION MAKING. By default, fundamental decisions
25 15 regarding the UNA are to be made by the members, including
25 16 those that affect the composition of the membership, the
25 17 governing principles, the disposition of the UNA's property
25 18 outside the ordinary course of its activities, or dissolving
25 19 the UNA or merging the UNA with another entity (new Code
25 20 section 501B.16). By default, the members vote on a per
25 21 capita basis and a majority of votes are required to approve
25 22 an action (new Code section 501B.17). The governing
25 23 principles may provide that these decisions may be made by
25 24 managers.

25 25 STANDARD OF CONDUCT. A member of a UNA does not have a
25 26 fiduciary duty to the UNA or to another member, but does have
25 27 an obligation to exercise rights and duties in accordance with
25 28 the UNA's governing principles and obligations of "good faith
25 29 and fair dealing" (new Code section 501B.18).

25 30 CHANGE IN COMPOSITION. A UNA may suspend, dismiss, or
25 31 expel a member upon a vote of the membership, unless the
25 32 governing principles provide otherwise (new Code section
25 33 501B.19). A member of a UNA may resign their membership at
25 34 any time unless the governing principles provide otherwise
25 35 (new Code section 501B.20).



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26 1 TRANSFERABILITY. A member cannot transfer an interest in a
26 2 UNA, unless otherwise provided in its governing principles
26 3 (new Code section 501B.20).

26 4 MANAGERS. A UNA must have one or more managers (new Code
26 5 section 501B.22). By default all members are managers,
26 6 although the members may select a manager or managers and in
26 7 that case a manager is not required to be a member.

26 8 1. DECISION MAKING. If there is more than one manager,
26 9 each manager has equal rights in the conduct of the UNA's
26 10 activities. If there are more than two managers, issues of
26 11 difference are to be decided by majority vote. However,
26 12 certain issues which fundamentally impact the UNA are reserved
26 13 to the members (new Code section 501B.16).

26 14 2. STANDARD OF CONDUCT. A manager has a fiduciary duty to
26 15 the UNA and its members which includes a duty of loyalty and
26 16 care (new Code section 501B.23). Nevertheless, a managerial
26 17 decision which would otherwise be a breach of a fiduciary duty
26 18 may be excused if the manager's decision is ratified by a
26 19 majority of the members, or the manager makes a business
26 20 judgment in good faith so long as the manager is not
26 21 personally interested in the outcome of the decision, is
26 22 reasonably informed, and believes that the decision is in the
26 23 UNA's best interest.

26 24 3. MEETING PROCEDURES. Manager meetings and the conduct
26 25 of such meetings are to be determined by the UNA's governing
26 26 principles which may be controlled by its (unwritten)
26 27 established practices (new Code section 501B.24).

26 28 ACCESS TO INFORMATION. Although a UNA is not required to
26 29 keep books or records, a member or manager has the right to
26 30 inspect any of them during regular operating hours at a
26 31 reasonable location as designated by the UNA (new Code section
26 32 501B.25).

26 33 DISTRIBUTIONS. An organization which made a distribution
26 34 (e.g., dividend) to a member or manager which was not
26 35 permitted by law would disqualify it as a UNA (in effect,



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27 1 convert the organization to a general partnership) (new Code
27 2 sections 501B.26 and 501B.27). However, there are a number of
27 3 exceptions, including the payment of reasonable expenses to a
27 4 member or manager for services, to confer benefits on a member
27 5 or manager in conformity with the UNA's purpose, to repurchase
27 6 a membership or repay a member's capital contribution, or to
27 7 make distributions to a UNA's membership when the UNA is
27 8 winding up its affairs (new Code section 501B.29). A UNA may,
27 9 in accordance with its governing principles, pay a member's or
27 10 manager's reasonable litigation expenses and attorney fees
27 11 arising from their conduct as a member or manager and may make
27 12 such payments in advance upon approval by a majority of
27 13 disinterested managers.

27 14 DISSOLUTION AND WINDING UP. A UNA may be dissolved upon a
27 15 vote by the members, unless the UNA's governing principles
27 16 provide another mechanism (i.e., by the manager).
27 17 Alternatively the dissolution occurs upon the UNA's
27 18 discontinuance (e.g., no manager), or by court order (new Code
27 19 section 501B.28). During the dissolution process, the UNA's
27 20 assets are to be allocated according to a three-tier priority
27 21 system (new Code section 501B.29). The first tier recognizes
27 22 the rights of three classes without apparent order of
27 23 priority: satisfying the claims by creditors, giving back
27 24 property donated upon condition of return, and distributing
27 25 trust property in accordance with a trust agreement. The
27 26 second tier provides for two classes of recipients again
27 27 without apparent order of priority: to persons carrying out a
27 28 similar nonprofit purpose and members of the UNA (by default
27 29 on a per capita basis, or the affirmative action taken by the
27 30 members, or as otherwise specified in the governing
27 31 principles). The third tier provides that any of the UNA's
27 32 remaining assets are to be considered as unclaimed property
27 33 under Code chapter 556 and administered by the secretary of
27 34 state.

27 35 MERGERS. A UNA may merge into another UNA, if the merger



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28 1 complies with certain preconditions. First, the parties to
28 2 the merger, the "constituent organization" being absorbed, and
28 3 the "surviving organization" remaining after the merger must
28 4 both approve the plan of merger (new Code section 501B.30(2)).
28 5 The plan must be in a "record" (i.e., in writing), contain
28 6 information regarding the identify of the parties and account
28 7 for conversion of the interests of the membership, and be
28 8 approved by the members of the constituent organization in a
28 9 record. If a UNA merges with another UNA, the merger is
28 10 effective upon approval of the plan without further action.
28 11 There are no corresponding provisions for other entities that
28 12 would allow for a merger with a UNA.

28 13 SPECIAL PROVISIONS. The bill provides for a number of
28 14 special provisions.

28 15 1. TRANSFER OF INTERESTS. The bill departs from the model
28 16 Act by omitting an optional provision that accounts for
28 17 interests in real and personal property that have been
28 18 transferred to a UNA prior to the effective date of the bill
28 19 but are vested in another person.

28 20 2. UNIFORMITY OF APPLICATION. The new Code chapter is to
28 21 be construed to promote the uniformity of the law with respect
28 22 to the same law enacted in other states (new Code section
28 23 501B.32).

28 24 3. ELECTRONIC SIGNATURES. The new Code chapter limits the
28 25 application of the federal Electronic Signatures in Global and
28 26 National Commerce Act (new Code section 501B.33).

28 27 4. SAVINGS CLAUSE. The provisions of the division do not
28 28 affect an action or proceeding commenced or right accrued
28 29 prior to the bill's effective date.

28 30 DEPARTURES FROM THE UNIFORM ACT. The bill departs from the
28 31 uniform Act as follows:

28 32 1. The definition of UNA is changed to include a tenancy
28 33 by the entirety (new Code section 501B.2(8)(d)).

28 34 2. The shield against liability provided to a member or
28 35 manager of a UNA is extended to similarly shield an employee



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29 1 or volunteer of the UNA (new Code section 501B.8).
29 2 3. Express authorization is removed which would otherwise
29 3 allow a UNA's governing principles to limit or eliminate the
29 4 liability of a manager or members for acting or failing to act
29 5 in their capacities, but would prohibit the governing
29 6 principles from affecting their liability in cases involving
29 7 an improper financial benefit received by a manager, an
29 8 intentional infliction of harm on the association or its
29 9 members, an intentional violation of criminal law, a breach of
29 10 the duty of loyalty, or an improper distribution (new Code
29 11 section 501B.23(5) omitted).
29 12 4. Unless its governing principles provide otherwise, a
29 13 UNA must reimburse an employee or volunteer for authorized
29 14 expenses which is similar to its reimbursement of expenses for
29 15 a member or manager (new Code section 501B.27(1)). The UNA
29 16 may also indemnify a former or existing employee or volunteer
29 17 for liabilities assumed by the employee or volunteer and
29 18 purchase insurance on their behalf, similar to its right to
29 19 reimburse a member or manager and purchase insurance on their
29 20 behalf (new Code section 501B.27(2) through (5)).
29 21 DIVISION II == OTHER AMENDMENTS. The division amends
29 22 provisions in Code chapter 9H which restrict corporate
29 23 entities from holding agricultural land. The division
29 24 prohibits an unincorporated nonprofit association from
29 25 acquiring agricultural land to the same extent currently
29 26 applicable to other entities including nonprofit corporations
29 27 (Code section 9H.4). Code chapter 9H does allow certain
29 28 special types of corporate entities to hold agricultural land,
29 29 generally designated as a "family" entity. The division
29 30 provides for a family farm unincorporated nonprofit
29 31 association based on qualifications for family farm
29 32 corporations. In order to be exempt from the chapter's
29 33 restrictions, the UNA must be founded for the purpose of
29 34 farming, all of its members must be natural persons or persons
29 35 acting in a fiduciary capacity for its members, and 60 percent



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30 1 of its revenue must come from farming (Code section 9H.1).
30 2 Code chapter 9H creates a special classification for
30 3 certain "authorized" entities including authorized
30 4 corporations, but also including authorized limited liability
30 5 companies, and authorized trusts. These authorized entities
30 6 along with limited partnerships (other than family farm
30 7 limited partnerships) cannot hold more than 1,500 acres of
30 8 agricultural land. Moreover a person belonging to an
30 9 authorized entity or limited partnership cannot belong to a
30 10 second authorized entity or limited partnership (Code section
30 11 9H.5). The division creates a new entity referred to as an
30 12 authorized unincorporated nonprofit corporation based on the
30 13 qualifications for an authorized corporation. In order to
30 14 qualify, the UNA's membership cannot exceed 25 in number and
30 15 the members must all be natural persons or persons acting in a
30 16 fiduciary capacity (Code section 9H.1). An authorized
30 17 unincorporated nonprofit association cannot hold more than
30 18 1,500 acres. In addition, a member of an authorized
30 19 unincorporated nonprofit association cannot belong to another
30 20 authorized entity or limited partnership.
30 21 Persons who violate Code chapter 9H are subject to a civil
30 22 penalty of up to \$25,000 and must divest themselves of any
30 23 prohibited interest.
30 24 LSB 1166HC 83
30 25 da/nh/5.1