



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Amendment 1091 continued

2 1 4. The committees on appropriations of the
2 2 senate and house of representatives shall recommend
2 3 legislation applying a directive for the executive
2 4 branch to implement a master marketing contract for
2 5 state agencies that commences on or before July 1,
2 6 2011.

2 7 5. The appropriations to which the expenditure
2 8 reductions required by this section are attributed
2 9 shall be reduced by the amount of the expenditure
2 10 reductions. Within 30 days of the enactment date of
2 11 this section, the department of management shall apply
2 12 such appropriation reductions and shall submit a report
2 13 to the general assembly and legislative services agency
2 14 itemizing the expenditure and appropriation reductions
2 15 applied.

2 16 6. This section is not applicable to the state
2 17 board of regents and the institutions under the control
2 18 of the state board.

2 19 Sec. 3. Section 7E.3, Code 2011, is amended by
2 20 adding the following new subsection:

2 21 NEW SUBSECTION. 5. Adults not lawfully
2 22 present. Unless expressly authorized by federal or
2 23 state law, ensure that the public benefits administered
2 24 by the department or independent agency are not
2 25 provided to persons who are not lawfully present in the
2 26 United States.

2 27 Sec. 4. Section 68B.8, Code 2011, is amended by
2 28 adding the following new unnumbered paragraph:
2 29 NEW UNNUMBERED PARAGRAPH A state agency of the
2 30 executive branch of state government shall not employ
2 31 a person through the use of its public funds whose
2 32 position with the agency is primarily representing the
2 33 agency relative to the passage, defeat, approval, or
2 34 modification of legislation that is being considered by
2 35 the general assembly.

2 36 Sec. 5. EFFECTIVE UPON ENACTMENT. This division of
2 37 this Act, being deemed of immediate importance, takes
2 38 effect upon enactment.

2 39 DIVISION II
2 40 ADMINISTRATION AND REGULATION

2 41 Sec. 6. JOINT APPROPRIATIONS SUBCOMMITTEE ON
2 42 ADMINISTRATION AND REGULATION REQUIREMENTS. If the
2 43 joint appropriations subcommittee on administration
2 44 and regulation determines one or both of the options
2 45 described in subsections 1 and 2 are significantly less
2 46 costly than maintaining the current system, the joint
2 47 subcommittee shall develop and shall submit recommended
2 48 implementation provisions to the general assembly's
2 49 committees on appropriations in proposed legislation
2 50 concerning one or both of the following:



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Amendment 1091 continued

3 1 1. Eliminating and selling the pool of state-owned
3 2 passenger vehicles located in Polk county for temporary
3 3 assignment to multiple drivers of a department or
3 4 agency that is located within Polk county. The
3 5 recommendations shall not encompass vehicles assigned
3 6 for law enforcement purposes or for specialized use by
3 7 the department of natural resources.

3 8 2. Outsourcing state vehicle leasing through a
3 9 private entity to fill the needs addressed by the
3 10 vehicles subject to sale under subsection 1.

3 11 Sec. 7. DEPARTMENT OF ADMINISTRATIVE SERVICES ====
3 12 STATE=OWNED PASSENGER VEHICLES.

3 13 1. Consistent with the requirements of section
3 14 8A.361, for the period beginning on the effective
3 15 date of this section and ending June 30, 2011, the
3 16 department of administrative services shall be the
3 17 sole department authorized to operate a pool of
3 18 passenger vehicles located in Polk county for temporary
3 19 assignment to multiple drivers of a state department or
3 20 agency that is located within Polk county. For that
3 21 period, the department shall not purchase new passenger
3 22 vehicles for the pool. The department shall continue
3 23 to be the sole department authorized to operate a pool
3 24 of passenger vehicles as provided under this section
3 25 until a date specified in a later enactment, or the end
3 26 date of the period, whichever is later.

3 27 2. For purposes of this section, "passenger
3 28 vehicles" means United States environmental protection
3 29 agency designated compact sedans, compact wagons,
3 30 midsize sedans, midsize wagons, full-size sedans,
3 31 and passenger minivans. "Passenger vehicles" does
3 32 not mean utility vehicles, vans other than passenger
3 33 minivans, fire trucks, ambulances, motor homes, buses,
3 34 medium-duty and heavy-duty trucks, heavy construction
3 35 equipment, and other highway maintenance vehicles,
3 36 vehicles assigned for law enforcement purposes,
3 37 vehicles assigned for specialized use by the department
3 38 of natural resources, and any other classes of vehicles
3 39 of limited application approved by the director of the
3 40 department of administrative services.

3 41 Sec. 8. SALE OR LEASE OF IOWA COMMUNICATIONS
3 42 NETWORK. The Iowa telecommunications and technology
3 43 commission shall implement a request for proposals
3 44 process to sell or lease the Iowa communications
3 45 network. The request for proposals shall provide for
3 46 the sale to be concluded or the lease to commence
3 47 during the fiscal year beginning July 1, 2011. The
3 48 commission shall condition the sale or lease of the
3 49 Iowa communications network with terms that will allow
3 50 existing authorized users of the network to continue



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Amendment 1091 continued

4 1 such use at a lower overall long-term cost when
4 2 compared to the anticipated operation and maintenance
4 3 costs if state ownership and control were to continue.
4 4 Public funds shall not be used to secure the purchase
4 5 of the network. The commission shall submit periodic
4 6 status reports to the general assembly at three-month
4 7 intervals, beginning on October 1, 2011, regarding
4 8 progress made toward selling or leasing the network.

4 9 Sec. 9. Section 8A.321, subsection 6, paragraph a,
4 10 Code 2011, is amended to read as follows:

4 11 a. Lease all buildings and office space necessary
4 12 to carry out the provisions of this subchapter or
4 13 necessary for the proper functioning of any state
4 14 agency at the seat of government. For state agencies
4 15 at the seat of government, the director may lease
4 16 buildings and office space in Polk county or in a
4 17 county contiguous to Polk county. If no specific
4 18 appropriation has been made, the proposed lease
4 19 shall be submitted to the executive council for
4 20 approval. The cost of any lease for which no specific
4 21 appropriation has been made shall be paid from the
4 22 fund provided in section 7D.29. An office space
4 23 lease shall not be terminated at a time when either
4 24 contract damages or early termination penalties may be
4 25 applicable for doing so.

4 26 Sec. 10. EFFECTIVE UPON ENACTMENT. This division
4 27 of this Act, being deemed of immediate importance,
4 28 takes effect upon enactment.

DIVISION III
ECONOMIC DEVELOPMENT

4 30 Sec. 11. Section 15.108, subsection 5, paragraph c,
4 31 Code 2011, is amended to read as follows:

4 32 c. Coordinate and develop with the department of
4 33 transportation, the department of natural resources,
4 34 the department of cultural affairs, ~~the generation~~
4 35 ~~Iowa commission,~~ the vision Iowa board, other state
4 36 agencies, and local and regional entities public
4 37 interpretation, marketing, and education programs
4 38 that encourage Iowans and out-of-state visitors
4 39 to participate in the recreational and leisure
4 40 opportunities available in Iowa. The department shall
4 41 establish and administer a program that helps connect
4 42 both Iowa residents and residents of other states to
4 43 new and existing Iowa experiences as a means to enhance
4 44 the economic, social, and cultural well-being of the
4 45 state. The program shall include a broad range of
4 46 new opportunities, both rural and urban, including
4 47 main street destinations, green space initiatives, and
4 48 artistic and cultural attractions.

4 50 Sec. 12. 2010 Iowa Acts, chapter 1186, section 1,



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Amendment 1091 continued

5 1 subsection 11, is amended to read as follows:
 5 2 11. For membership in North America's supercorridor
 5 3 coalition:
 5 4 \$ 50,000
 5 5 Beginning July 1, 2011, the department shall not
 5 6 renew membership in North America's supercorridor
 5 7 coalition.
 5 8 Sec. 13. REPEAL. Section 15.421, Code 2011, is
 5 9 repealed.
 5 10 Sec. 14. EFFECTIVE UPON ENACTMENT. This division
 5 11 of this Act, being deemed of immediate importance,
 5 12 takes effect upon enactment.
 5 13 DIVISION IV
 5 14 EDUCATION
 5 15 Sec. 15. 2010 Iowa Acts, chapter 1183, section 6,
 5 16 subsection 1, is amended to read as follows:
 5 17 1. GENERAL ADMINISTRATION
 5 18 For salaries, support, maintenance, miscellaneous
 5 19 purposes, and for not more than the following full-time
 5 20 equivalent positions:
 5 21 \$ ~~7,096,482~~
 5 22 7,037,482
 5 23 FTEs 83.67
 5 24 Sec. 16. LIBRARY ACQUISITION FUNDING ==== DEPARTMENT
 5 25 OF EDUCATION ==== STATE LIBRARY.
 5 26 1. For the period beginning on the effective date
 5 27 of this section through the close of the fiscal year
 5 28 ending on June 30, 2011, the department of education
 5 29 shall be subject to a limitation on expenditures made
 5 30 on or after the effective date of this section for
 5 31 library acquisitions at the state library including
 5 32 digital acquisitions.
 5 33 2. The limitation shall be equal to 50 percent
 5 34 of the unexpended or unencumbered amount that the
 5 35 department of education has budgeted or otherwise
 5 36 designated for purposes of library acquisitions,
 5 37 including digital acquisitions, from the appropriations
 5 38 made to the department from all sources, as of the
 5 39 effective date of this section.
 5 40 Sec. 17. REGENTS UNIVERSITY LEAVE LIMITATION. For
 5 41 the period beginning on the effective date of this
 5 42 section and ending June 30, 2012, the state board of
 5 43 regents shall limit the number of leave of absence
 5 44 assignments granted pursuant to section 262.9,
 5 45 subsection 14, to not more than the equivalent of
 5 46 3 percent of the faculty staff members employed at
 5 47 each of the institutions under the state board. In
 5 48 addition, the board shall establish policies and
 5 49 oversight to ensure that the assignments enhance the
 5 50 core mission of the institutions. The board shall



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Amendment 1091 continued

7 1 takes effect upon enactment.

7 2 DIVISION VI

7 3 INFRASTRUCTURE AND TRANSPORTATION

7 4 Sec. 24. WILDFLOWERS. For the period beginning on
7 5 the effective date of this section through the close of
7 6 the fiscal year ending June 30, 2011, the department of
7 7 transportation shall only pay for wildflowers or other
7 8 aesthetic plantings when justified to prevent erosion
7 9 or control weed growth, and to reduce maintenance
7 10 costs.

7 11 Sec. 25. SUSTAINABLE COMMUNITIES ==== JOINT
7 12 APPROPRIATIONS SUBCOMMITTEE ON TRANSPORTATION,
7 13 INFRASTRUCTURE, AND CAPITALS. The joint appropriations
7 14 subcommittee on transportation, infrastructure, and
7 15 capitals shall develop and, on or before April 4, 2011,
7 16 shall submit recommended implementation provisions to
7 17 the general assembly's committees on appropriations
7 18 in proposed legislation concerning reductions of all
7 19 identifiable appropriations enacted by the Eighty-third
7 20 General Assembly, 2010 session, for purposes of
7 21 sustainable communities projects.

7 22 Sec. 26. 2010 Iowa Acts, chapter 1184, section 1,
7 23 subsection 1, paragraph c, unnumbered paragraph 1, is
7 24 amended to read as follows:

7 25 For the state's share of support in conjunction
7 26 with the city of Des Moines and local area businesses
7 27 to provide a free shuttle service to the citizens
7 28 of Iowa that includes transportation between the
7 29 capitol complex and the downtown Des Moines area,
7 30 notwithstanding section 8.57, subsection 6, paragraph
7 31 "c":

7 32	\$	200,000
7 33		<u>125,000</u>

7 34 Sec. 27. EFFECTIVE UPON ENACTMENT. This division
7 35 of this Act, being deemed of immediate importance,
7 36 takes effect upon enactment.

7 37 DIVISION VII

7 38 REBUILD IOWA OFFICE

7 39 Sec. 28. Section 16.191, subsection 2, paragraph e,
7 40 Code 2011, is amended to read as follows:

7 41 e. ~~The executive director of the rebuild Iowa~~
~~7 42 office or the director's designee until June 30, 2011,~~
~~7 43 and then the administrator of the homeland security~~
7 44 and emergency management division of the department of
7 45 public defense or the administrator's designee.

7 46 Sec. 29. Section 29C.20B, subsection 1, Code 2011,
7 47 is amended to read as follows:

7 48 1. ~~The rebuild Iowa office shall work with the~~
7 49 department of human services and nonprofit, voluntary,
7 50 and faith-based organizations active in disaster



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Amendment 1091 continued

8 1 recovery and response in coordination with the homeland
8 2 security and emergency management division shall
8 3 work to establish a statewide system of disaster case
8 4 management to be activated following the governor's
8 5 proclamation of a disaster emergency or the declaration
8 6 of a major disaster by the president of the United
8 7 States for individual assistance purposes. Under
8 8 the system, the department of human services shall
8 9 coordinate case management services locally through
8 10 local committees as established in each local emergency
8 11 management commission's emergency plan. ~~Beginning~~
~~8 12 July 1, 2011, the department of human services shall~~
~~8 13 assume the duties of the rebuild Iowa office under this~~
~~8 14 subsection.~~

8 15 Sec. 30. Section 29C.20B, subsection 2, unnumbered
8 16 paragraph 1, Code 2011, is amended to read as follows:

8 17 The department of human services, in conjunction
8 18 with ~~the rebuild Iowa office,~~ the homeland security
8 19 and emergency management division~~,~~ and an Iowa
8 20 representative to the national voluntary organizations
8 21 active in disaster, shall adopt rules pursuant to
8 22 chapter 17A to create coordination mechanisms and
8 23 standards for the establishment and implementation of
8 24 a statewide system of disaster case management which
8 25 shall include at least all of the following:

8 26 Sec. 31. Section 103A.8C, subsection 1, Code 2011,
8 27 is amended to read as follows:

8 28 1. The commissioner, after consulting with
8 29 and receiving recommendations from the department
8 30 of public defense~~,~~ and the department of natural
8 31 resources, ~~and the rebuild Iowa office,~~ shall adopt
8 32 rules pursuant to chapter 17A specifying standards and
8 33 requirements for design and construction of safe rooms
8 34 and storm shelters. In developing these standards,
8 35 the commissioner shall consider nationally recognized
8 36 standards. The standards and requirements shall be
8 37 incorporated into the state building code established
8 38 in section 103A.7, but shall not be interpreted
8 39 to require the inclusion of a safe room or storm
8 40 shelter in a building construction project unless such
8 41 inclusion is expressly required by another statute
8 42 or by a federal statute or regulation. However,
8 43 if a safe room or storm shelter is included in any
8 44 building construction project which reaches the
8 45 design development phase on or after January 1, 2011,
8 46 compliance with the standards developed pursuant to
8 47 this section shall be required.

8 48 Sec. 32. 2010 Iowa Acts, chapter 1189, section 28,
8 49 is amended to read as follows:

8 50 SEC. 28. REBUILD IOWA OFFICE.



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Amendment 1091 continued

9 1 There is appropriated from the general fund of the
 9 2 state to the rebuild Iowa office for the fiscal year
 9 3 beginning July 1, 2010, and ending June 30, 2011, the
 9 4 following amount, or so much thereof as is necessary,
 9 5 to be used for the purposes designated:
 9 6 For salaries, support, maintenance, and
 9 7 miscellaneous purposes, and for not more than the
 9 8 following full-time equivalent positions:
 9 9 \$ 647,014
 9 10 497,014
 9 11 FTEs 12.00

9 12 It is the intent of the general assembly that the
 9 13 rebuild Iowa office shall be repealed effective June
 9 14 30, 2011, and shall not receive an appropriation from
 9 15 the general fund of the state after that date.

9 16 Sec. 33. REBUILD IOWA OFFICE ELIMINATION ==== JOINT
 9 17 APPROPRIATIONS SUBCOMMITTEE ON THE JUSTICE SYSTEM. The
 9 18 joint appropriations subcommittee on the justice system
 9 19 shall consult with the homeland security and emergency
 9 20 management division of the department of public defense
 9 21 and other relevant sources in proposing legislation
 9 22 identifying the appropriate state agencies to assume
 9 23 the duties of the rebuild Iowa office.

9 24 Sec. 34. EFFECTIVE UPON ENACTMENT. The provision
 9 25 of this division of this Act amending 2010 Iowa Acts,
 9 26 chapter 1189, section 28, being deemed of immediate
 9 27 importance, takes effect upon enactment.

9 28 DIVISION VIII
 9 29 CORRECTIVE PROVISIONS
 9 30 EARLY CHILDHOOD IOWA INITIATIVE

9 31 Sec. 35. 2010 Iowa Acts, chapter 1031, section 310,
 9 32 is amended by adding the following new subsection:
 9 33 5. a. References to community empowerment areas
 9 34 in 2010 Iowa Acts, shall be deemed to instead refer to
 9 35 early childhood Iowa areas, including but not limited
 9 36 to such references made in the following provisions:
 9 37 (1) 2010 Iowa Acts, chapter 1183, section 6,
 9 38 subsection 10, paragraph "c".
 9 39 (2) 2010 Iowa Acts, chapter 1192, section 2,
 9 40 subsection 4, paragraph "a".
 9 41 (3) 2010 Iowa Acts, chapter 1192, section 6,
 9 42 subsection 12.

9 43 b. References to the Iowa empowerment fund and the
 9 44 school ready children grants account in 2010 Iowa Acts,
 9 45 shall be deemed to instead refer to the early childhood
 9 46 Iowa fund and the comparable account within that fund,
 9 47 including but not limited to such references made in
 9 48 the following provisions: 2010 Iowa Acts, chapter
 9 49 1183, section 6, subsections 10, 11, and 12.

9 50 UNEMPLOYMENT COMPENSATION PROGRAM REFERENCE



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Amendment 1091 continued

10 1 Sec. 36. 2010 Iowa Acts, chapter 1188, section 22,
10 2 is amended to read as follows:

10 3 SEC. 22. UNEMPLOYMENT COMPENSATION
10 4 PROGRAM. Notwithstanding section 96.9, subsection
10 5 4, paragraph "a", moneys credited to the state by
10 6 the secretary of the treasury of the United States
10 7 pursuant to section 903 of the Social Security Act
10 8 are appropriated to the department of workforce
10 9 development and shall be used by the department for the
10 10 administration of the unemployment compensation program
10 11 only. This appropriation shall not apply to any fiscal
10 12 year beginning after December 31, ~~2009~~ 2010.

DIVISION IX

GOVERNMENT EFFICIENCY MEASURES

10 15 Sec. 37. Section 8.51, Code 2011, is amended to
10 16 read as follows:

10 17 8.51 ~~Fiscal year of political~~ Political subdivisions
10 18 ~~==== fiscal year ==== unexpended funds.~~

10 19 1. The fiscal year of cities, counties, and other
10 20 political subdivisions of the state shall begin July 1
10 21 and end the following June 30. For the purpose of this
10 22 section, the term political subdivision includes school
10 23 districts.

10 24 2. Each department that provides state funding to
10 25 a political subdivision of the state shall annually
10 26 review the statutory and regulatory requirements
10 27 applicable to the political subdivision's receipt
10 28 of the funding. The purpose of the review is to
10 29 identify any barrier in statute or departmental rule
10 30 or policy that would prevent recovery of any such
10 31 state funding provided to a political subdivision that
10 32 remains unencumbered or unobligated and the political
10 33 subdivision no longer complies with requirements to
10 34 receive the state funding. If an identified barrier
10 35 exists in state law, the department shall propose
10 36 legislation to the governor and general assembly to
10 37 remove the barrier. If an identified barrier is in
10 38 departmental rule or policy, the department shall amend
10 39 the rule or policy to remove the barrier.

10 40 Sec. 38. EFFECTIVE UPON ENACTMENT. This division
10 41 of this Act, being deemed of immediate importance,
10 42 takes effect upon enactment.

DIVISION X

BUDGET AND TAX RATE DATABASE

10 45 Sec. 39. Section 8.6, Code 2011, is amended by
10 46 adding the following new subsection:

10 47 NEW SUBSECTION. 9A. Budget and tax rate
10 48 databases. To develop and make available to the public
10 49 a searchable budget database and internet site as
10 50 required under chapter 8G, division I, and to develop



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Amendment 1091 continued

11 1 and make available to the public a searchable tax rate
11 2 database and internet site as required under chapter
11 3 8G, division II.
11 4 Sec. 40. Section 8A.502, subsection 9, Code 2011,
11 5 is amended by striking the subsection.
11 6 Sec. 41. NEW SECTION. 8G.1 Intent ==== findings.
11 7 The general assembly finds that taxpayers should
11 8 be able to easily access the details on how the state
11 9 is spending their tax dollars and the performance
11 10 results achieved for those expenditures. Therefore,
11 11 it is the intent of the general assembly to direct
11 12 the department of management to create and maintain a
11 13 searchable budget database and internet site detailing
11 14 where tax dollars are expended, the purposes for which
11 15 tax dollars are expended, and the results achieved for
11 16 all taxpayer investments in state government.
11 17 Sec. 42. NEW SECTION. 8G.2 Short title.
11 18 This subchapter shall be known as and may be cited
11 19 as the "Taxpayer Transparency Act".
11 20 Sec. 43. NEW SECTION. 8G.3 Definitions.
11 21 As used in this subchapter, unless the context
11 22 otherwise requires:
11 23 1. "Agency" means a state department, office,
11 24 board, commission, bureau, division, institution,
11 25 or public institution of higher education. "Agency"
11 26 includes individual state agencies and programs,
11 27 as well as those programs and activities that are
11 28 administered by or involve more than one agency.
11 29 "Agency" includes all elective offices in the executive
11 30 branch of government and the general assembly.
11 31 "Agency" includes the judicial branch of state
11 32 government.
11 33 2. "Director" means the director of the department
11 34 of management.
11 35 3. "Entity" or "recipients" means any of the
11 36 following:
11 37 a. A corporation.
11 38 b. An association.
11 39 c. An employee union.
11 40 d. A limited liability company.
11 41 e. A limited liability partnership.
11 42 f. Any other legal business entity, including
11 43 nonprofit entities.
11 44 g. A grant recipient.
11 45 h. Contractors.
11 46 i. A county, city, school district, or other local
11 47 government entity.
11 48 "Entity" or "recipients" does not include an
11 49 individual recipient of state assistance, an employee,
11 50 or a student. The department of management shall



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Amendment 1091 continued

12 1 define by rule adopted pursuant to chapter 17A the
12 2 meaning of the term "individual recipient of state
12 3 assistance".
12 4 4. "Funding action or expenditure" includes details
12 5 on the type of spending that is provided including but
12 6 not limited to grants, contracts, and appropriations.
12 7 "Funding action or expenditure" includes tax exemptions
12 8 or credits. Where possible, an electronic link to
12 9 the actual grants or contracts shall be provided.
12 10 An electronic link shall be in a format that is a
12 11 searchable document.
12 12 5. "Funding source" means the state account or fund
12 13 from which the expenditure is appropriated."Funding
12 14 source" does not include federal moneys or grants
12 15 received by an agency.
12 16 6. "Searchable internet site" means an internet site
12 17 that allows the public at no cost to search and compile
12 18 the information identified in section 8G.4 and that
12 19 provides such information in a format capable of being
12 20 downloaded from the site to personal computers.
12 21 7. "State audit or report" shall include any audit
12 22 or report issued by the auditor of state, department of
12 23 management, legislative services agency, legislative
12 24 committee, or executive body relating to the entity
12 25 or recipient of state funds, the budget program or
12 26 activity, or agency.
12 27 8. "Tax exemption or credit" means an exclusion from
12 28 the operation or collection of a tax imposed in this
12 29 state. Tax exemption or credit includes tax credits,
12 30 exemptions, deductions, and rebates. "Tax exemption or
12 31 credit" also includes sales tax refunds if such refunds
12 32 are applied for and granted as a form of financial
12 33 assistance, including but not limited to the refunds
12 34 allowed in sections 15.331A and 423.4.
12 35 9. "Taxing jurisdiction" means a political
12 36 subdivision of the state with the authority to levy
12 37 taxes. Taxing jurisdiction includes but is not limited
12 38 to a city, a county, a school district, and a township.
12 39 Sec. 44. NEW SECTION. 8G.4 Searchable budget
12 40 database internet site created.
12 41 1. By January 1, 2013, the director shall develop
12 42 and make publicly available a database internet
12 43 site for searching, accessing, and processing data,
12 44 including the data required in this section, for the
12 45 most recent state budget. The internet site shall
12 46 be developed in such a way that the information can
12 47 be provided to other software applications, including
12 48 internet software applications, in a manner and format
12 49 that allows such software applications to access and
12 50 interpret the data using the internal programming of



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Amendment 1091 continued

13 1 the software applications. In gathering or receiving
13 2 information from agencies, the director shall make a
13 3 good faith effort to minimize the costs and disruptions
13 4 to other agencies and their computer systems of
13 5 providing such information.
13 6 2. The searchable internet site developed pursuant
13 7 to this section shall allow the public at no cost to
13 8 search and compile the information provided pursuant
13 9 to this subsection. Each state agency, except the
13 10 institutions under the state board of regents, shall
13 11 provide the following:
13 12 a. Name of the entity or recipient of state funds.
13 13 b. Amount of state funds expended.
13 14 c. Funding or expending agency.
13 15 d. Funding source.
13 16 e. Budget program or activity of the expenditure.
13 17 f. Descriptive purpose for the funding action or
13 18 expenditure.
13 19 g. Expected performance outcome for the funding
13 20 action or expenditure, to the extent that such
13 21 information is available and can be provided.
13 22 h. Past performance outcomes achieved for the
13 23 funding action or expenditure, to the extent that such
13 24 information is available and can be provided.
13 25 i. State audit or report relating to the entity
13 26 or recipient of state funds or the budget program or
13 27 activity or agency.
13 28 j. Any other relevant information specified by the
13 29 director.
13 30 3. For purposes of complying with this section,
13 31 the institutions under the state board of regents, for
13 32 each budgeted department, program, or activity, shall
13 33 provide the following:
13 34 a. The funding source and the amount of state funds
13 35 received by the institutions.
13 36 b. The amount of state funds expended by the
13 37 institutions.
13 38 c. The names of the entities or recipients
13 39 receiving state funds from the institutions.
13 40 d. The amounts paid to the entities or recipients
13 41 named in paragraph "c".
13 42 e. A description of the department, program,
13 43 or activity involved, including, to the extent
13 44 practicable, the descriptive purpose and expected
13 45 performance outcome of each budget program or activity.
13 46 f. Past performance outcomes of the budget program
13 47 or activity.
13 48 g. State audit or report relating to the budget
13 49 program or activity.
13 50 h. Other information as the institutions may deem



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Amendment 1091 continued

14 1 appropriate for a budget program or activity.
14 2 4. a. In providing information pursuant to this
14 3 section on tax exemptions or credits, the department of
14 4 revenue shall do the following:
14 5 (1) Provide aggregate information for those tax
14 6 exemptions or credits that are claimed by individual
14 7 taxpayers.
14 8 (2) Provide the information described in subsection
14 9 2 for those tax exemptions or credits that are awarded
14 10 by an agency.
14 11 (3) Adhere to all applicable confidentiality
14 12 provisions to the extent possible while complying with
14 13 the requirements of this section.
14 14 b. An agency awarding tax exemptions or credits
14 15 shall provide to the department of revenue any
14 16 information the department may request regarding such
14 17 exemptions or credits.
14 18 5. In addition to the information to be provided
14 19 pursuant to subsection 2, there shall be provided on
14 20 the searchable internet site all of the following:
14 21 a. A listing and description of awarded tax credits
14 22 claimed for the individual income tax, corporate income
14 23 tax, franchise tax, and insurance premiums tax. An
14 24 awarded tax credit is a tax credit allowed and claimed
14 25 through a state=authorized program. For each category
14 26 of tax the internet site shall list each of the awarded
14 27 tax credits applicable to it, the total amount of
14 28 that tax credit claimed, and the number of taxpayers
14 29 claiming the tax credit.
14 30 b. The estimated cost to the state of each of
14 31 the twenty sales tax exemptions that account for the
14 32 largest dollar amount share of sales tax exemptions
14 33 under section 423.3. The estimated cost to the state
14 34 shall include the amount of exempt sales by business
14 35 type for each county. This paragraph does not apply
14 36 to the tax exemptions pursuant to section 423.3,
14 37 subsections 2, 31, 39, 58, 73, and 85.
14 38 c. The information to be provided pursuant to
14 39 subsection 2 shall also be provided for entities or
14 40 recipients of the awarded tax credits or exemptions
14 41 described in this subsection.
14 42 6. This section does not apply to local
14 43 governments.
14 44 Sec. 45. NEW SECTION. 8G.5 Internet site updates.
14 45 1. Effective July 1, 2013, the internet site shall
14 46 be updated regularly as new data and information become
14 47 available, but shall be updated no less frequently
14 48 than annually within sixty days following the close of
14 49 the state fiscal year. In addition, the director may
14 50 update the internet site as new data becomes available.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Amendment 1091 continued

15 1 All agencies shall provide to the director data that is
15 2 required to be included on the internet site not later
15 3 than sixty days following the close of the state fiscal
15 4 year. The director shall provide guidance to agency
15 5 heads or the governing body of an agency to ensure
15 6 compliance with this section.
15 7 2. By January 1, 2014, the director shall add data
15 8 for the previous budgets to the internet site. Data
15 9 for previous fiscal years may be added as it becomes
15 10 available and as time permits. The director shall
15 11 ensure that all data added to the internet site remain
15 12 accessible to the public for a minimum of ten years.
15 13 Sec. 46. NEW SECTION. 8G.6 Noncompliance.
15 14 The director shall not be considered in compliance
15 15 with this subchapter if the data required for the
15 16 internet site is not available in a searchable manner
15 17 and capable of being compiled or if the public is
15 18 redirected to other government internet sites unless
15 19 each of those sites displays information from all
15 20 agencies and each category of information required can
15 21 be searched electronically by field in a single search.
15 22 Sec. 47. NEW SECTION. 8G.10 Intent ==== findings.
15 23 The general assembly finds that increasing
15 24 the ease of public access to state and local tax
15 25 rates, particularly where the rates are currently
15 26 available from disparate government sources and are
15 27 difficult for the public to collect and efficiently
15 28 aggregate, significantly contributes to governmental
15 29 accountability, public participation, and the
15 30 understanding of the cost of government services.
15 31 Therefore, it is the intent of the general assembly to
15 32 direct the department of management, in consultation
15 33 with the department of revenue, to create and maintain
15 34 a searchable database and internet site of each tax
15 35 rate for all taxing jurisdictions in the state to make
15 36 citizen access to state and local tax rates as open,
15 37 transparent, and publicly accessible as is feasible.
15 38 Sec. 48. NEW SECTION. 8G.11 Short title.
15 39 This subchapter shall be known and cited as the
15 40 "Taxation Disclosure Act".
15 41 Sec. 59. NEW SECTION. 8G.12 Tax rate database.
15 42 1. Searchable tax rate database. By January 1,
15 43 2012, the department of management, in consultation
15 44 with the department of revenue, shall make publicly
15 45 available on an internet site a searchable database
15 46 of all tax rates in the state for each taxing
15 47 jurisdiction. The information shall include all
15 48 applicable tax types imposed in the taxing jurisdiction
15 49 and shall be organized, presented, and accessible, to
15 50 the extent possible, by county, city, and physical



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Amendment 1091 continued

16 1 address for each residency or business. Individual tax
16 2 levies shall be further specified within each tax rate.
16 3 2. Geographical tax rate map. In addition to
16 4 searching for tax rates in the manner described
16 5 in subsection 1, searches shall be accommodated by
16 6 a geographical tax rate map of the state that is
16 7 capable of being displayed with a level of specificity
16 8 corresponding to each taxing jurisdiction.
16 9 Sec. 50. NEW SECTION. 8G.13 Updating database.
16 10 To facilitate the department of management's efforts
16 11 in creating and maintaining a searchable database of
16 12 the taxes identified in section 8G.12, subsection 3,
16 13 for all taxing jurisdictions in the state, each taxing
16 14 jurisdiction may annually be required to report its tax
16 15 rates to the department of management or the department
16 16 of revenue and shall report any changes to its tax
16 17 rates within thirty days of the change.>
16 18 Sec. 51. Section 422.20, subsection 3, paragraph a,
16 19 Code 2011, is amended to read as follows:
16 20 a. Unless otherwise expressly permitted by section
16 21 8A.504, section 8G.4,section 96.11, subsection 6,
16 22 section 421.17, subsections 22, 23, and 26, subsection
16 23 27, paragraph "k", and subsection 31, section 252B.9,
16 24 section 321.40, subsection 6, sections 321.120, 421.19,
16 25 421.28, 422.72, and 452A.63, and this section, a tax
16 26 return, return information, or investigative or audit
16 27 information shall not be divulged to any person or
16 28 entity, other than the taxpayer, the department, or
16 29 internal revenue service for use in a matter unrelated
16 30 to tax administration.
16 31 Sec. 52. Section 422.72, subsection 3, paragraph a,
16 32 Code 2011, is amended to read as follows:
16 33 a. Unless otherwise expressly permitted by section
16 34 8A.504, section 8G.4,section 96.11, subsection 6,
16 35 section 421.17, subsections 22, 23, and 26, subsection
16 36 27, paragraph "k", and subsection 31, section 252B.9,
16 37 section 321.40, subsection 6, sections 321.120, 421.19,
16 38 421.28, 422.20, and 452A.63, and this section, a tax
16 39 return, return information, or investigative or audit
16 40 information shall not be divulged to any person or
16 41 entity, other than the taxpayer, the department, or
16 42 internal revenue service for use in a matter unrelated
16 43 to tax administration.
16 44 #2. Title page, by striking lines 1 through 5 and
16 45 inserting <An Act relating to public funding and
16 46 regulatory matters and revising appropriations and
16 47 including effective and other applicability date
16 48 provisions, and making penalties applicable.>
16 49 #3. By renumbering as necessary.

HF45.565.S (3) 84



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House File 334 - Introduced

HOUSE FILE
BY WAGNER

A BILL FOR

1 An Act expanding the definition of alternate energy production
2 facility for purposes of compliance with electric utility
3 rate regulation requirements.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2389YH (2) 84
rn/nh



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House File 334 - Introduced continued

PAG LIN

1 1 Section 1. Section 476.42, subsection 1, paragraph a, Code
 1 2 2011, is amended to read as follows:
 1 3 a. A solar, wind turbine, waste management, resource
 1 4 recovery, refuse=derived fuel, agricultural crops or residues,
 1 5 or woodburning facility. For purposes of this definition only,
 1 6 "waste management" includes a facility using plasma gasification
 1 7 to produce synthetic gas, either as a stand=alone fuel or for
 1 8 blending with natural gas, the output of which is used to
 1 9 generate electricity or steam. For purposes of this definition
 1 10 only, "plasma gasification" means the thermal dissociation
 1 11 of carbonaceous material into fragments of compounds in an
 1 12 oxygen=starved environment.

1 13 EXPLANATION
 1 14 This bill expands the definition of an "alternate energy
 1 15 production facility" for purposes of compliance with electric
 1 16 utility rate regulation requirements.
 1 17 Provisions contained in Code sections 476.43 and 476.44
 1 18 require electric utilities to either own alternate energy
 1 19 production facilities or small hydro facilities located
 1 20 in Iowa or enter into long=term contracts to purchase or
 1 21 wheel electricity from such facilities, or provide for the
 1 22 availability of supplemental or backup power to such facilities
 1 23 on a nondiscriminatory basis and at just and reasonable rates.
 1 24 Currently, the applicable definition of "alternate energy
 1 25 production facility" in Code section 476.42 references
 1 26 solar, wind turbine, waste management, resource recovery,
 1 27 refuse=derived fuel, agricultural crops or residues, or
 1 28 woodburning facilities. The bill specifies that for purposes
 1 29 of this definition only, "waste management" includes a facility
 1 30 using plasma gasification to produce synthetic gas, either
 1 31 as a stand=alone fuel or for blending with natural gas, the
 1 32 output of which is used to generate electricity or steam, and
 1 33 that "plasma gasification" means the thermal dissociation
 1 34 of carbonaceous material into fragments of compounds in an
 1 35 oxygen=starved environment.

LSB 2389YH (2) 84
 rn/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House File 335 - Introduced

HOUSE FILE
BY PETTENGILL

A BILL FOR

1 An Act adding geothermal to specified definitions or references
2 relating to alternate and renewable energy.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2648YH (3) 84
rn/nh



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House File 335 - Introduced continued

PAG LIN

1 1 Section 1. Section 476.42, subsection 1, paragraph a, Code
1 2 2011, is amended to read as follows:

1 3 a. A solar, wind turbine, waste management, resource
1 4 recovery, refuse=derived fuel, agricultural crops or residues,
1 5 geothermal, or woodburning facility.

1 6 Sec. 2. Section 476C.1, subsection 6, unnumbered paragraph
1 7 1, Code 2011, is amended to read as follows:

1 8 "Eligible renewable energy facility" means a wind energy
1 9 conversion facility, a biogas recovery facility, a biomass
1 10 conversion facility, a methane gas recovery facility, a solar
1 11 energy conversion facility, a geothermal energy conversion
1 12 facility, or a refuse conversion facility that meets all of the
1 13 following requirements:

1 14 Sec. 3. Section 476C.1, Code 2011, is amended by adding the
1 15 following new subsection:

1 16 NEW SUBSECTION. 7A. "Geothermal energy conversion facility"
1 17 means a geothermal energy facility in this state that converts
1 18 thermal energy or heat from the earth into energy to generate
1 19 electricity.

EXPLANATION

1 20
1 21 This bill adds "geothermal" to specified Code provisions
1 22 defining or relating to alternate and renewable energy,
1 23 including alternate energy production purchase requirements
1 24 imposed on electric public utilities by the Iowa utilities
1 25 board, and eligibility for the renewable energy tax credit.

LSB 2648YH (3) 84
rn/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House File 336 - Introduced

HOUSE FILE
BY VAN ENGELENHOVEN

A BILL FOR

1 An Act relating to the compensation paid by a motor vehicle
2 manufacturer, distributor, or importer for warranty parts,
3 repairs, or service supplied by a motor vehicle dealer.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2321YH (3) 84
dea/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House File 336 - Introduced continued

PAG LIN

1 1 Section 1. Section 322.3, Code 2011, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 16. A manufacturer, distributor, or
1 4 importer of motor vehicles or an agent or representative
1 5 of such manufacturer, distributor, or importer shall not
1 6 compensate motor vehicle dealers at different rates for the
1 7 same warranty parts, repairs, or service supplied by a motor
1 8 vehicle dealer.

1 9 EXPLANATION
1 10 This bill prohibits a motor vehicle manufacturer,
1 11 distributor, or importer, or an agent or representative of a
1 12 motor vehicle manufacturer, distributor, or importer, from
1 13 compensating motor vehicle dealers at different rates for the
1 14 same warranty parts, repairs, or service supplied by a motor
1 15 vehicle dealer.

LSB 2321YH (3) 84
dea/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House File 337 - Introduced

HOUSE FILE

BY PETERSEN, OLDSON,
WOLFE, KRESSIG,
HANSON, KEARNS,
HEDDENS, M. SMITH,
BERRY, THEDE,
STECKMAN, MASCHER,
ABDUL=SAMAD, GASKILL,
H. MILLER, LENSING,
WESSEL=KROESCHELL,
WITTNEBEN, KELLEY,
HUNTER, SWAIM,
T. OLSON, KAJTAZOVIC,
and HALL

A BILL FOR

1 An Act modifying provisions relating to the regulation of
2 delayed deposit services businesses, making penalties
3 applicable, and including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2411YH (5) 84
rn/sc



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House File 337 - Introduced continued

PAG LIN

1 1 Section 1. Section 533D.9, subsection 2, paragraph b, Code
1 2 2011, is amended to read as follows:

1 3 b. The annual percentage rate as computed pursuant to the
1 4 federal Truth in Lending Act. The annual percentage rate
1 5 shall not exceed thirty-six percent, as computed pursuant to
1 6 the federal Truth in Lending Act, unless a licensee makes
1 7 an election and submits to the indebtedness limitations and
1 8 electronic database reporting requirements specified in section
1 9 533D.10A.

1 10 Sec. 2. Section 533D.9, subsection 2, Code 2011, is amended
1 11 by adding the following new paragraph:

1 12 NEW PARAGRAPH. e. That the licensee cannot initiate debt
1 13 collection procedures, civil court proceedings, or arbitration
1 14 to collect an unpaid check unless the licensee has provided
1 15 the maker of the check the opportunity to repay the obligation
1 16 without any additional charges, other than the penalty provided
1 17 in paragraph "d" of this subsection, in biweekly payments of
1 18 not more than ten percent of the face of the check until the
1 19 debt is paid in full. Additionally, that during this repayment
1 20 period the licensee may not transfer or sell the debt owing on
1 21 the unpaid check, and the loan shall not be considered to be
1 22 in default. Further, that the maker of the check's failure
1 23 to make a biweekly payment under this paragraph shall place
1 24 the loan in default and the licensee may, after proper notice,
1 25 exercise rights against the maker under the law.

1 26 Sec. 3. Section 533D.10, subsection 1, Code 2011, is amended
1 27 to read as follows:

- 1 28 1. A licensee shall not do any of the following:
1 29 a. Hold from any one maker more than two checks at any one
1 30 time.
1 31 b. Hold from any one maker a check or checks in an aggregate
1 32 face amount of more than five hundred dollars at any one time.
1 33 c. Hold or agree to hold a check for ~~more~~ less than
1 34 thirty-one fourteen days.
1 35 d. Require the maker to receive payment by a method which



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House File 337 - Introduced continued

2 1 causes the maker to pay additional or further fees and charges
2 2 to the licensee or another person.
2 3 e. Repay, refinance, or otherwise consolidate a postdated
2 4 check transaction with the proceeds of another postdated
2 5 check transaction made by the same licensee. A licensee may
2 6 not enter into another delayed deposit services transaction
2 7 with the maker of a check if the licensee presently has a
2 8 transaction outstanding with the maker or if the maker had a
2 9 previous transaction with the licensee within two days of the
2 10 new transaction, unless the licensee has provided the following
2 11 notice both verbally and in writing, and the maker has
2 12 acknowledged receipt of the notice with a signature and date:
2 13 Notice to Borrower
2 14 (1) The licensee may not repay, refinance, or otherwise
2 15 consolidate a postdated check transaction with the proceeds of
2 16 another postdated check transaction made by the same licensee.
2 17 (2) While a licensee may charge a penalty if a check is
2 18 not negotiable on the date agreed upon, the penalty shall not
2 19 exceed fifteen dollars. This penalty shall only be collected
2 20 by the licensee once on a check no matter how long that check
2 21 remains unpaid. This penalty is the only additional charge
2 22 a lender may charge you (the borrower) when a check is not
2 23 negotiable on the date agreed upon.
2 24 (3) If your check is not negotiable on the date agreed upon,
2 25 the licensee must provide you (the borrower) the opportunity
2 26 to repay the obligation without any additional charges, other
2 27 than the penalty described above, in biweekly payments of not
2 28 more than ten percent of the face of the check until the debt is
2 29 paid in full.
2 30 By signing and dating this notice, you acknowledge the
2 31 statements above, but yet still desire to obtain another loan
2 32 with the licensee.
2 33 Borrower(s) signature:Date:
2 34 Borrower(s) signature:Date:
2 35 f. Receive any other charges or fees in addition to the fees



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House File 337 - Introduced continued

3 1 listed in section 533D.9, subsections 1 and 2.

3 2 g. Initiate debt collection procedures, civil court
3 3 proceedings, or civil or private arbitration proceedings to
3 4 collect an unpaid check unless the licensee has provided the
3 5 maker the opportunity to repay the obligation without any
3 6 additional charges, other than the penalty provided in section
3 7 533D.9, subsection 2, paragraph "d", in biweekly payments of not
3 8 more than ten percent of the face of the check until the debt
3 9 is paid in full. During this repayment period the licensee
3 10 may not transfer or sell the debt owing on the unpaid check,
3 11 and the loan shall not be considered to be in default. The
3 12 failure of the maker of the check to make a biweekly payment as
3 13 required shall place the loan in default and the licensee may,
3 14 after proper notice, exercise rights against the maker under
3 15 the law.

3 16 Sec. 4. NEW SECTION. 533D.10A Alternative annual percentage
3 17 rate ==== indebtedness limitation ==== electronic database.

3 18 1. A licensee may elect to impose an annual percentage rate,
3 19 as computed pursuant to the federal Truth in Lending Act, which
3 20 exceeds thirty=six percent by filing with the superintendent a
3 21 written notice of intent. An election pursuant to this section
3 22 shall apply to all delayed deposit services transactions
3 23 entered into by the licensee. A licensee having made an
3 24 election pursuant to this section who desires to discontinue
3 25 imposition of an alternative interest rate and consents
3 26 to imposition of the thirty=six percent annual percentage
3 27 rate otherwise applicable under this chapter, or a licensee
3 28 previously imposing an annual percentage rate not exceeding
3 29 thirty=six percent who desires to make an election pursuant to
3 30 this subsection, may submit a request to the superintendent,
3 31 not more than once a year.

3 32 2. A licensee electing to impose an alternative annual
3 33 percentage rate pursuant to this section shall be prohibited
3 34 from entering into a delayed deposit services transaction which
3 35 will cause the maker of the check, when all other delayed



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House File 337 - Introduced continued

4 1 deposit services transactions entered into with any licensee
4 2 involving the maker of the check are accounted for, and when
4 3 the term of the transaction is aggregated with the other
4 4 transactions, to be indebted for a period exceeding ninety
4 5 days during the preceding twelve-month period. For purposes
4 6 of this paragraph, if the maker of the check has entered
4 7 into more than one delayed deposit services transaction with
4 8 the same or another licensee, and the periods during which
4 9 the transactions are outstanding overlap, each day of each
4 10 respective transaction shall be counted in satisfying the
4 11 ninety-day restriction. For purposes of this subsection, if a
4 12 maker of a check is making biweekly payments during a repayment
4 13 period as provided in section 533D.9, subsection 2, paragraph
4 14 "e", the repayment period shall not be counted in satisfying the
4 15 ninety-day restriction.

4 16 3. a. Each licensee making an election pursuant to this
4 17 section shall, by October 1, 2011, subscribe to, report to, and
4 18 utilize an electronic database tracking service to be developed
4 19 or selected pursuant to rules adopted by the banking division
4 20 of the department of commerce, that permits the licensee to
4 21 determine whether a maker of a check has an outstanding unpaid
4 22 check or debit authorization that is, or reasonably appears to
4 23 be, connected to a delayed deposit services transaction. Each
4 24 licensee shall require a maker of a check to sign a written
4 25 declaration confirming that, pursuant to section 533D.10A,
4 26 subsection 2, the maker of the check is eligible to enter into
4 27 a delayed deposit services transaction.

4 28 b. Records of a licensee and the electronic database
4 29 tracking service shall be subject to review and examination by
4 30 the division to determine whether the licensee is in compliance
4 31 with this section and other applicable provisions of this
4 32 chapter.

4 33 c. Information, records, and documents obtained in the
4 34 performance of the review and examination, including the amount
4 35 of any outstanding unpaid check or debit authorization and



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House File 337 - Introduced continued

5 1 the identity of the maker of the check, are confidential and
5 2 shall not be disclosed by the division and are not subject
5 3 to subpoena. Such information, records, and documents
5 4 do not constitute a public record under chapter 22. The
5 5 superintendent may disclose such information to representatives
5 6 of other state or federal regulatory authorities and
5 7 may release summary complaint information so long as the
5 8 information does not specifically identify the complainant.
5 9 The superintendent may also provide this information to the
5 10 attorney general for purposes of enforcing this chapter.
5 11 Sec. 5. EFFECTIVE DATE. Section 533D.10A, subsection 2, as
5 12 enacted in this Act, takes effect October 1, 2011.

5 13 EXPLANATION

5 14 This bill relates to specified aspects of the regulation of
5 15 delayed deposit services businesses.
5 16 The bill provides that the annual percentage rate applicable
5 17 to delayed deposit services transactions shall not exceed 36
5 18 percent, as computed pursuant to the federal Truth in Lending
5 19 Act, unless a licensee elects to impose an alternative higher
5 20 rate. This is the same percentage rate limitation imposed as
5 21 a restriction or safeguard for military personnel pursuant to
5 22 10 U.S.C. 49 { 987. Such an election shall make requirements
5 23 regarding indebtedness limitations and electronic database
5 24 reporting requirements specified in a subsequent section of the
5 25 bill applicable.
5 26 The bill provides that a licensee must disclose to the maker
5 27 of a check that the licensee cannot initiate debt collection
5 28 procedures, civil court proceedings, or arbitration to collect
5 29 an unpaid check unless the licensee has provided the maker
5 30 of a check the opportunity to repay the obligation without
5 31 any charges, other than the current \$15 penalty, in biweekly
5 32 payments of not more than 10 percent of the face of the check
5 33 until the debt is paid in full. The bill adds that during this
5 34 repayment period the licensee cannot sell or transfer the debt
5 35 owing on the unpaid check and the loan shall not be considered



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House File 337 - Introduced continued

6 1 to be in default. However, if the maker of the check fails
6 2 to honor the repayment obligation, the bill provides that the
6 3 loan shall be placed in default. The bill makes the failure to
6 4 conform with these provisions a prohibited act on the part of
6 5 the licensee, which could subject the licensee to disciplinary
6 6 action as specified in Code section 533D.12.

6 7 Additionally, the bill changes a current provision that
6 8 prohibits a licensee from holding or agreeing to hold a
6 9 check for more than 31 days to a modified provision that the
6 10 licensee cannot hold or agree to hold a check for less than 14
6 11 days. The bill also prohibits a licensee from entering into
6 12 another transaction with the maker of a check who already has
6 13 a transaction outstanding with the licensee or from entering
6 14 into a new transaction within two days of the conclusion
6 15 of the previous transaction, unless the maker acknowledges
6 16 in writing specified restrictions relating to successive
6 17 transactions, applicable penalties, and the opportunity to
6 18 repay the obligation in installments in the event the check is
6 19 not negotiable.

6 20 As previously indicated, the bill authorizes a licensee to
6 21 impose an annual percentage rate which exceeds 36 percent by
6 22 filing with the superintendent of banking a written notice
6 23 of intent. If this election is made, it shall apply to all
6 24 transactions entered into by the licensee. The bill provides
6 25 that a licensee may discontinue imposition of an alternative
6 26 interest rate and consent to imposition of the 36 percent rate
6 27 otherwise applicable, and a licensee previously imposing the
6 28 36 percent rate may elect to impose the alternative rate, by
6 29 submitting a request to the superintendent no more often than
6 30 annually.

6 31 The bill provides that a licensee electing to impose
6 32 an alternative annual percentage rate shall be prohibited
6 33 from entering into a delayed deposit services transaction
6 34 that results in the maker of the check being indebted to
6 35 the licensee, or when aggregated with other delayed deposit



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House File 337 - Introduced continued

7 1 service business licensees, for longer than a 90-day period
7 2 during the preceding 12 months. This provision of the bill
7 3 takes effect October 1, 2011. Further, the bill requires a
7 4 licensee making the election, by October 1, 2011, to subscribe
7 5 to, report to, and utilize an electronic database tracking
7 6 service developed or selected by the banking division of the
7 7 department of commerce to monitor the number of transactions
7 8 entered into by a maker of a check for purposes of complying
7 9 with this provision. The bill states that licensee records and
7 10 the database shall be subject to review and examination by the
7 11 division, and provides that information, records, and documents
7 12 obtained by the division in the performance of such a review or
7 13 examination shall be considered confidential.
7 14 A violation of the bill's provisions will subject a licensee
7 15 to existing penalty provisions in Code chapter 533D, including
7 16 possible license suspension or revocation, a civil penalty in
7 17 an amount not to exceed \$5,000, an administrative fine in an
7 18 amount not to exceed \$5,000, and the criminal penalty of a
7 19 serious misdemeanor punishable by confinement for no more than
7 20 one year and a fine of at least \$315 but not more than \$1,875.
LSB 2411YH (5) 84
rn/sc



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House File 338 - Introduced

HOUSE FILE
BY KAUFMANN

A BILL FOR

1 An Act relating to the criminal offense of homicide by vehicle
2 and making penalties applicable.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2114HT (1) 84

jm/rj



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House File 338 - Introduced continued

PAG LIN

1 1 Section 1. Section 707.6A, subsection 2, paragraph a, Code
1 2 2011, is amended by striking the paragraph and inserting in
1 3 lieu thereof the following:
1 4 a. Driving a motor vehicle while committing an offense
1 5 listed in section 321.482A, if the death of another person
1 6 either directly or indirectly results from the commission of
1 7 the offense listed in section 321.482A.

1 8 EXPLANATION

1 9 This bill relates to the criminal offense of homicide by
1 10 vehicle.

1 11 The bill strikes a provision specifying that an operator of
1 12 a motor vehicle commits homicide by vehicle if the operator
1 13 drives a motor vehicle in a reckless manner with willful or
1 14 wanton disregard for the safety of persons or property and
1 15 unintentionally causes the death of another.

1 16 The bill substitutes for the stricken provision a provision
1 17 that specifies that an operator of a motor vehicle commits
1 18 homicide by vehicle if the operator drives a motor vehicle
1 19 while committing an offense listed in Code section 321.482A
1 20 and the unintentional death of another person directly or
1 21 indirectly results from the commission of the offense listed
1 22 in Code section 321.482A. The offenses listed in Code section
1 23 321.482A include Code sections 321.178(2)(a)(2) (restricted
1 24 licensee using an electronic communication), 321.180B(6)
1 25 (use of electronic devices and equipment), 321.194(1)(c)
1 26 (special minor's licenses and use of electronic communication),
1 27 321.256 (obedience to official traffic-control devices),
1 28 321.257 (official traffic-control signal), 321.275(4) (use
1 29 of traffic lanes), 321.276 (use of electronic communication
1 30 device while driving), 321.297 (driving on right-hand side
1 31 of roadway), 321.298 (meeting and turning to right), 321.299
1 32 (overtaking on the right), 321.302 (overtaking and passing),
1 33 321.303 (limitations on overtaking on the left), 321.304
1 34 (prohibited passing), 321.305 (one-way roadways and rotary
1 35 traffic islands), 321.306 (roadways laned for traffic), 321.307



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House File 338 - Introduced continued

2 1 (following too closely), 321.308 (motor trucks and towed
2 2 vehicles), 321.309(2) (towing ==== convoys), 321.311 (turning at
2 3 intersections), 321.319 (entering intersections from different
2 4 highways), 321.320 (left turns ==== yielding), 321.321 (entering
2 5 through highways), 321.322 (vehicles entering stop or yield
2 6 intersection), 321.323 (moving vehicle backward on highway),
2 7 321.323A (approaching certain stationary vehicles), 321.324
2 8 (operation on approach of emergency vehicles), 321.324A
2 9 (funeral processions), 321.327 (pedestrians' right-of-way),
2 10 321.329 (duty of driver ==== pedestrians crossing or working
2 11 on highways), or 321.333 (duty of drivers regarding blind
2 12 pedestrians).

2 13 A person who violates the bill commits a class "C" felony and
2 14 is subject to suspension of the person's driver's license under
2 15 Code section 321.210D upon being charged, and is subject to
2 16 mandatory revocation of the driver's license under Code section
2 17 321.209 upon conviction.

2 18 A person who commits vehicular homicide under the bill
2 19 is also subject to a 70 percent sentence pursuant to Code
2 20 section 902.12 if the person leaves the scene of an accident in
2 21 violation of Code section 321.261(4).

2 22 A class "C" felony is punishable by confinement for no more
2 23 than 10 years and a fine of at least \$1,000 but not more than
2 24 \$10,000.

LSB 2114HT (1) 84

jm/rj



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 122

HOUSE FILE
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL
BY CHAIRPERSON MILLER)

A BILL FOR

1 An Act to exclude tests not intended to evaluate the risk
2 of developing a disease from the restrictions on genetic
3 testing contained in the Iowa criminal code.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1731YC (2) 84
je/rj



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 122 continued

PAG LIN

1 1 Section 1. Section 729.6, subsection 1, paragraph e, Code
1 2 2011, is amended to read as follows:
1 3 e. "Genetic testing" means the same as genetic test as
1 4 defined in 29 U.S.C. { 1191b(d)(7). "Genetic testing" does not
1 5 mean routine physical measurement, a routine chemical, blood,
1 6 or urine analysis, a biopsy, an autopsy, or clinical specimen
1 7 obtained solely for the purpose of conducting an immediate
1 8 clinical or diagnostic test to detect an existing disease,
1 9 illness, impairment, or disorder, ~~or~~ a test for drugs or for
1 10 human immunodeficiency virus infections, or a test that is not
1 11 intended to evaluate the risk that the subject of the test will
1 12 develop a disease.

1 13 EXPLANATION
1 14 Current law excludes routine chemical, blood, or urine
1 15 analyses; tests for drugs; tests for human immunodeficiency
1 16 virus; and certain other procedures from the restrictions on
1 17 genetic testing contained in the Iowa criminal code. This bill
1 18 adds tests not intended to evaluate the risk of developing a
1 19 disease to those exclusions.

LSB 1731YC (2) 84

je/rj



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 123

HOUSE FILE
BY (PROPOSED COMMITTEE ON
EDUCATION BILL BY
CHAIRPERSON
FORRISTALL)

A BILL FOR

1 An Act relating to public construction bidding requirements
2 for public school corporation improvements and including
3 applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1383YC (1) 84
md/sc



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 123 continued

PAG LIN

1 1 Section 1. Section 26.9, Code 2011, is amended to read as
1 2 follows:

1 3 26.9 Award of contract.

1 4 1. The contract for the public improvement must be awarded
1 5 to the lowest responsive, responsible bidder. However,
1 6 contracts relating to public utilities or extensions or
1 7 improvements thereof, as described in sections 384.80 through
1 8 384.94, may be awarded by the city as it deems to be in the
1 9 best interests of the city. In no case shall a governmental
1 10 entity that is a public school corporation award or enter into
1 11 a contract for the construction of a public improvement that
1 12 is or includes the new construction of a school building if
1 13 the cost per square foot of the school building, excluding the
1 14 cost of land but including any enhancement of payments, exceeds
1 15 the national average cost per square foot for a similar school
1 16 building, as determined by the state board of education under
1 17 section 256.7, subsection 31. For purposes of this section,
1 18 "school building" means a schoolhouse, attendance center,
1 19 or other building or structure owned by the public school
1 20 corporation and used for instructional purposes or for the
1 21 operation of the public school corporation.

1 22 2. This section shall not be construed to prohibit a
1 23 governmental entity in the award of a contract for a public
1 24 improvement or a governing body of a city utility from
1 25 providing, in the award of a contract for a public improvement,
1 26 an enhancement of payments upon early completion of the public
1 27 improvement if the availability of the enhancement payments is
1 28 included in the notice to bidders, the enhancement payments are
1 29 competitively neutral to potential bidders, the enhancement
1 30 payments are considered as a separate item in the public
1 31 hearing on the award of contract, and the total value of the
1 32 enhancement payments does not exceed ten percent of the value
1 33 of the contract.

1 34 Sec. 2. Section 256.7, Code 2011, is amended by adding the
1 35 following new subsection:



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 123 continued

2 1 NEW SUBSECTION. 31. a. Adopt rules pursuant to chapter
2 2 17A not later than June 30 of each year stating the national
2 3 average cost per square foot of new construction school
2 4 buildings, excluding the cost of land, in several categories
2 5 based on both the number of students served by the school
2 6 building and the level or type of education or activity
2 7 provided in the school building. For purposes of this
2 8 subsection, "school building" means as defined in section 26.9.
2 9 b. The rules adopted under paragraph "a" shall utilize the
2 10 most recent reliable data available to the state board.

2 11 Sec. 3. APPLICABILITY. This Act applies to public projects
2 12 noticed for proposed bids under section 26.7 by a public school
2 13 corporation on or after July 1, 2011.

2 14 EXPLANATION

2 15 This bill amends Code chapter 26 relating to public
2 16 construction bidding requirements by prohibiting a governmental
2 17 entity that is a public school corporation from awarding or
2 18 entering into a contract for the construction of a public
2 19 improvement that is or includes the new construction of a
2 20 school building, as defined in the bill, if the cost per square
2 21 foot of the school building, excluding the cost of land but
2 22 including any enhancement of payments, exceeds the national
2 23 average cost per square foot for a similar school building, as
2 24 determined by the state board of education. The bill requires
2 25 the state board of education to adopt rules not later than
2 26 June 30 of each year stating the national average cost per
2 27 square foot of new construction school buildings, excluding
2 28 the cost of land, in several categories based on the number of
2 29 students served by the school building and the level or type of
2 30 education or activity provided in the school building.

2 31 The bill applies to public projects noticed for proposed
2 32 bids by a public school corporation on or after July 1, 2011.

LSB 1383YC (1) 84

md/sc



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 124

HOUSE FILE
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CHAIRPERSON SODERBERG)

A BILL FOR

1 An Act relating to the permitting, licensing, construction, and
2 operation of nuclear generation facilities.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2351YC (5) 84
rn/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 124 continued

PAG LIN

1 1 Section 1. Section 476.6, subsection 22, Code 2011, is
1 2 amended by adding the following new paragraph:
1 3 NEW PARAGRAPH. d. A rate-regulated electric utility that
1 4 was subject to a revenue sharing settlement agreement with
1 5 regard to its electric base rates as of January 1, 2010, shall
1 6 file an application for ratemaking principles applicable to the
1 7 construction of a nuclear generating facility with the board.
1 8 The application shall comply with the provisions of section
1 9 476.53.
1 10 Sec. 2. Section 476.53, Code 2011, is amended to read as
1 11 follows:
1 12 476.53 Electric generating and transmission facilities.
1 13 1. It is the intent of the general assembly to attract
1 14 the development of electric power generating and transmission
1 15 facilities within the state in sufficient quantity to ensure
1 16 reliable electric service to Iowa consumers and provide
1 17 economic benefits to the state. It is also the intent of the
1 18 general assembly to encourage rate-regulated public utilities
1 19 to consider altering existing electric generating facilities,
1 20 where reasonable, to manage carbon emission intensity in
1 21 order to facilitate the transition to a carbon-constrained
1 22 environment.
1 23 ~~2.~~ a. The general assembly's intent with regard to the
1 24 development of electric power generating and transmission
1 25 facilities, or the significant alteration of an existing
1 26 generating facility, as provided in this subsection ~~4~~, shall be
1 27 implemented in a manner that is cost-effective and compatible
1 28 with the environmental policies of the state, as expressed in
1 29 Title XI.
1 30 b. The general assembly's intent with regard to the
1 31 reliability of electric service to Iowa consumers, as provided
1 32 in this subsection ~~4~~, shall be implemented by considering the
1 33 diversity of the types of fuel used to generate electricity,
1 34 the availability and reliability of fuel supplies, and the
1 35 impact of the volatility of fuel costs.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 124 continued

2 1 2. It is also the intent of the general assembly to
2 2 encourage the prudent development of baseload nuclear
2 3 electric power generation. Nuclear generation has a long-term
2 4 proven record of providing a safe, reliable, and secure
2 5 source of electricity in the United States and offers the
2 6 potential for significant job creation, substantial economic
2 7 development benefits, and the production of electricity at
2 8 significantly reduced levels of regulated air emissions when
2 9 compared to output from other thermal generation sources.
2 10 Further, the general assembly recognizes that meeting
2 11 stringent environmental permit requirements is expensive and
2 12 creates significant cost burdens on customers and employers
2 13 attributable to the imposition of additional comprehensive
2 14 and costly regulations by the United States environmental
2 15 protection agency that dramatically increase costs to
2 16 customers. Finally, the general assembly recognizes that
2 17 development of nuclear electric power generation requires
2 18 significant capital investment and a substantial period of
2 19 time for successful nuclear generation development, siting,
2 20 licensing, and deployment.

2 21 3. a. The board shall specify in advance, by order issued
2 22 after a contested case proceeding, the ratemaking principles
2 23 that will apply ~~when the costs of the electric power generating~~
2 24 ~~facility or alternate energy production facility are included~~
2 25 ~~in regulated electric rates whenever a rate-regulated public~~
2 26 ~~utility does any of the following:~~

2 27 (1) Files an application pursuant to section 476A.3 to
2 28 ~~construct~~ do any of the following in Iowa a:

2 29 (a) Construct a baseload electric power generating facility
2 30 with a nameplate generating capacity equal to or greater than
2 31 three hundred megawatts ~~or a.~~

2 32 (b) Construct a combined-cycle electric power generating
2 33 facility, ~~or an.~~

2 34 (c) Construct an alternate energy production facility as
2 35 defined in section 476.42, ~~or to significantly.~~



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 124 continued

3 1 (d) Significantly alter an existing generating facility.

3 2 (i) For purposes of this subparagraph division (d), a
3 3 significant alteration of an existing generating facility must,
3 4 in order to qualify for establishment of ratemaking principles,
3 5 fall into one of the following categories:

3 6 ~~(a)~~ (A) Conversion of a coal fueled facility into a gas
3 7 fueled facility.

3 8 ~~(b)~~ (B) Addition of carbon capture and storage facilities
3 9 at a coal fueled facility.

3 10 ~~(c)~~ (C) Addition of gas fueled capability to a coal fueled
3 11 facility, in order to convert the facility to one that will
3 12 rely primarily on gas for future generation.

3 13 ~~(d)~~ (D) Addition of a biomass fueled capability to a coal
3 14 fueled facility.

3 15 (ii) With respect to a significant alteration of an existing
3 16 generating facility, an original facility shall not be required
3 17 to be either a baseload or a combined-cycle facility. Only
3 18 the incremental investment undertaken by a utility under

3 19 ~~subparagraph divisions (a), (b), (c), or (d)~~ subdivision (i),
3 20 subparagraph part (A), (B), (C), or (D) shall be eligible to

3 21 apply the ratemaking principles established by the order issued
3 22 pursuant to paragraph "e". ~~Facilities for which advanced~~

~~3 23 ratemaking principles are obtained pursuant to this section~~

~~3 24 shall not be subject to a subsequent board review pursuant to~~

~~3 25 section 476.6, subsection 21 to the extent that the investment~~

~~3 26 has been considered by the board under this section. To the~~

~~3 27 extent an eligible utility has been authorized to make capital~~

~~3 28 investments subject to section 476.6, subsection 21, such~~

~~3 29 investments shall not be eligible for ratemaking principles~~

~~3 30 pursuant to this section.~~

3 31 (2) Expresses its intent to file an application pursuant to

3 32 section 476A.3 to build a nuclear generating facility including

3 33 but not limited to small modular reactor technology, or

3 34 expresses its intent to seek authority pursuant to a combined

3 35 construction and operating license or an early site permit from



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 124 continued

4 1 the United States nuclear regulatory commission.

4 2 ~~(2)~~ (3) Leases or owns in Iowa, in whole or in part, a any
4 3 of the following:

4 4 (a) A new baseload electric power generating facility with
4 5 a nameplate generating capacity equal to or greater than three
4 6 hundred megawatts ~~or a.~~

4 7 (b) A combined-cycle electric power generating facility,
4 8 ~~or a.~~

4 9 (c) A new alternate energy production facility as defined
4 10 in section 476.42.

4 11 (d) A new nuclear generating facility including but not
4 12 limited to small modular reactor technology.

4 13 b. In determining the applicable ratemaking principles, the
4 14 board shall not be limited to traditional ratemaking principles
4 15 or traditional cost recovery mechanisms.

4 16 (1) Among the principles and mechanisms the board may
4 17 consider, the board has the authority to approve ratemaking
4 18 principles proposed by a rate-regulated public utility that
4 19 provide for reasonable restrictions upon the ability of
4 20 the public utility to seek a general increase in electric
4 21 rates under section 476.6 for at least three years after the
4 22 generating facility begins providing service to Iowa customers.

4 23 (2) In determining the applicable ratemaking principles for
4 24 a nuclear generating facility or for a license or permit from
4 25 the United States nuclear regulatory commission, a ratemaking
4 26 principles order issued by the board shall incorporate all of
4 27 the following:

4 28 (a) Enable the utility to recover upon issuance of the
4 29 order, through a rider pursuant to a tariff filing, a return
4 30 on, and a return of all prudent costs associated with, the
4 31 permitting, licensing, and construction of a nuclear generating
4 32 facility. The amount of such cost recovery from utility
4 33 customers shall be reduced by the amount of any funding of such
4 34 costs borne by the United States department of energy or any
4 35 other governmental entity, and costs recovered from any joint



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 124 continued

5 1 owners of the nuclear generating facility. A determination of
5 2 all prudent costs recoverable pursuant to this subparagraph
5 3 division shall be made and the level and rate of the recovery
5 4 of such charges reset annually to reflect the level of
5 5 reasonable costs related to pursuit of United States nuclear
5 6 regulatory commission authority or construction costs expected
5 7 to be incurred in the next twelve months. A determination
5 8 shall also be made of any adjustment required to balance the
5 9 preceding period's actual expenditures and financing costs
5 10 with what had been projected and included in costs recoverable
5 11 for the preceding period. If applicable, the utility shall
5 12 report to the board annually the budgeted and actual costs as
5 13 compared to the estimated total in-service cost of the nuclear
5 14 generating facility that was presented in the last annual
5 15 filing, as projected through the expected in-service date of
5 16 the nuclear generating facility. Following issuance of the
5 17 board's ratemaking principles order, the utility shall file an
5 18 application with the board on an annual basis providing such
5 19 information, with the understanding that some cost components
5 20 may be higher than estimated and other cost components may be
5 21 lower. Each annual proceeding shall be completed by the board
5 22 within ninety days from the date of filing the application.
5 23 The complete methodology for determination of prudent costs
5 24 shall be addressed as a ratemaking principle. All United
5 25 States nuclear regulatory commission authority costs are
5 26 to be recovered over a period not to exceed the estimated
5 27 construction period for a nuclear generating facility as
5 28 determined by the board. All nuclear generating facility
5 29 construction costs are to be recovered over a period not
5 30 to exceed the sum of the estimated construction period for
5 31 a nuclear unit, plus its useful life as determined by the
5 32 board. A utility's commencement of cost collection shall
5 33 begin promptly after completion of the ratemaking principles
5 34 proceeding, allowing for such additional time as may be needed
5 35 by the board to review a compliance rider tariff filing.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 124 continued

6 1 (b) Enable the utility to recover in rates all prudently
6 2 incurred expenses and costs, including but not limited to
6 3 ongoing operations and maintenance costs, decommissioning
6 4 funding and site restoration costs, and taxes for such a new
6 5 nuclear generating facility.

6 6 (c) Base the allowed debt and equity return on a capital
6 7 structure calculated using the average of the utility's
6 8 actual thirteen monthly balances for long-term debt, preferred
6 9 stock, and common equity. The long-term debt and preferred
6 10 stock thirteen-month balances shall include adjustments for
6 11 thirteen-month balances of unamortized discount, premium,
6 12 expense, and any gain or loss on reacquired securities. The
6 13 costs of long-term debt and preferred stock shall reflect
6 14 the actual embedded interest and dividend rate for each
6 15 issue as well as any annual amortization of unamortized
6 16 discount, premium, expense, and any gain or loss on reacquired
6 17 securities. The costs of common equity shall reflect the
6 18 risks to which the investor's capital is exposed and not the
6 19 investor's source of funds, and the investor-required cost of
6 20 capital of the rate-regulated utility, and neither directly
6 21 nor indirectly include additional debt of the rate-regulated
6 22 utility's parent or other affiliates in the rate-regulated
6 23 utility's capital structure or cost of service.

6 24 (d) Allow the utility to recover all prudent
6 25 preconstruction and construction costs incurred if the
6 26 utility elects not to complete or is precluded from completing
6 27 construction of the nuclear generating facility. Costs
6 28 determined to be prudent in prior annual proceedings shall not
6 29 subsequently be redetermined to be imprudent. The utility
6 30 shall recover such costs over a period equal to the period
6 31 during which the costs were incurred or five years, whichever
6 32 is longer, in a manner to be determined by the board.

6 33 (e) Allow the utility to recover the net book value of
6 34 any generating facility that the utility commits to retire
6 35 in anticipation of the operation of a new nuclear generating



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 124 continued

7 1 facility. The board shall allow for the recovery of a return
7 2 on, and a return of the book value of, the retired generating
7 3 facility over a period not greater than the remaining useful
7 4 life of the facility prior to a determination to retire the
7 5 facility.

7 6 c. In determining the applicable ratemaking principles, the
7 7 board shall make the following findings:

7 8 (1) The rate-regulated public utility has in effect a
7 9 board-approved energy efficiency plan as required under section
7 10 476.6, subsection 16.

7 11 (2) ~~The~~ Except for an application for ratemaking principles
7 12 subject to paragraph "a", subparagraph (2), the rate-regulated
7 13 public utility has demonstrated to the board that the public
7 14 utility has considered other sources for long-term electric
7 15 supply and that the facility or lease is reasonable when
7 16 compared to other feasible alternative sources of supply. The
~~7 17 rate-regulated public utility may satisfy the requirements of~~
~~7 18 this subparagraph through a competitive bidding process, under~~
~~7 19 rules adopted by the board, that demonstrate the facility or~~
~~7 20 lease is a reasonable alternative to meet its electric supply~~
~~7 21 needs.~~

7 22 d. The applicable ratemaking principles shall be determined
7 23 in a contested case proceeding, which proceeding may be
7 24 combined with the proceeding for issuance of a certificate
7 25 conducted pursuant to chapter 476A.

7 26 e. The order setting forth the applicable ratemaking
7 27 principles shall be issued prior to the commencement of
7 28 construction or lease of the facility.

7 29 f. Following issuance of the order, the rate-regulated
7 30 public utility shall have the option of proceeding according to
7 31 either of the following:

7 32 (1) Withdrawing its application for a certificate pursuant
7 33 to chapter 476A or withdrawing its ratemaking principles
7 34 application.

7 35 (2) Proceeding with the construction or lease of the



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 124 continued

8 1 facility or efforts to pursue United States nuclear regulatory
8 2 commission authority.

8 3 g. Notwithstanding any provision of this chapter to the
8 4 contrary, the ratemaking principles established by the order
8 5 issued pursuant to paragraph "e" shall be binding with regard
8 6 to the specific electric power generating facility in any
8 7 subsequent rate proceeding.

8 8 h. Any judicial action directly or indirectly resulting
8 9 in a modification of the board's ratemaking principles order
8 10 shall be applied prospectively only. No refunds shall be made
8 11 of revenues previously collected, unless the board determines
8 12 such revenues to be in excess of the costs incurred or to be
8 13 incurred by the utility. With respect to financial commitments
8 14 made prior to any judicial action directly or indirectly
8 15 resulting in a modification of the board's ratemaking
8 16 principles order, the utility shall recover such costs under a
8 17 cancellation costs ratemaking principle.

8 18 4. The utilities board and the consumer advocate may employ
8 19 additional temporary staff, or may contract for professional
8 20 services with persons who are not state employees, as the
8 21 board and the consumer advocate deem necessary to perform
8 22 required functions as provided in this section, including but
8 23 not limited to review of power purchase contracts, review of
8 24 emission plans and budgets, and review of ratemaking principles
8 25 proposed for construction or lease of a new generating
8 26 facility, including a new nuclear generating facility or United
8 27 States nuclear regulatory commission authority. Beginning
8 28 July 1, 2002, there is appropriated out of any funds in the
8 29 state treasury not otherwise appropriated, such sums as may
8 30 be necessary to enable the board and the consumer advocate to
8 31 hire additional staff and contract for services under this
8 32 section. The costs of the additional staff and services shall
8 33 be assessed to the utilities pursuant to the procedure in
8 34 section 476.10 and section 475A.6.

8 35 5. Facilities for which advanced ratemaking principles are



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 124 continued

9 1 obtained pursuant to this section shall not be subject to a
9 2 subsequent board review pursuant to section 476.6, subsection
9 3 21, to the extent that the investment has been considered
9 4 by the board under this section. To the extent an eligible
9 5 utility has been authorized to make capital investments subject
9 6 to section 476.6, subsection 21, such investments shall not be
9 7 eligible for ratemaking principles pursuant to this section.

9 8 Sec. 3. ELECTRIC UTILITY RATE INCREASES ==== MITIGATION
9 9 STUDY. The utilities board of the utilities division of the
9 10 department of commerce shall conduct a study to identify
9 11 the potential impact to customer electric utility rates
9 12 resulting from recent federal regulations adopted by the United
9 13 States environmental protection agency, and strategies to
9 14 mitigate this impact. The study shall be undertaken with the
9 15 involvement of rate-regulated electric public utilities and
9 16 other stakeholders identified by the board. The board shall
9 17 submit a report regarding the results of the study by January
9 18 1, 2012.

9 19 EXPLANATION

9 20 This bill relates to the permitting, licensing,
9 21 construction, and operation of nuclear generation facilities.

9 22 The bill provides that it is the intent of the general
9 23 assembly to encourage the prudent development of baseload
9 24 nuclear electric power generation, noting that nuclear
9 25 generation has a long-term proven record of providing a safe,
9 26 reliable, and secure source of electricity, and offers the
9 27 potential for significant job creation, substantial economic
9 28 development benefits, and the production of electricity at
9 29 significantly reduced levels of regulated air emissions when
9 30 compared to output from other thermal generation sources.
9 31 The bill provides that the general assembly also recognizes
9 32 that meeting stringent environmental permit requirements is
9 33 expensive and creates significant cost burdens on customers
9 34 and employers attributable to the imposition of additional
9 35 comprehensive and costly regulations by the United States



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 124 continued

10 1 environmental protection agency that dramatically increase
10 2 costs to customers. The bill provides that the general
10 3 assembly additionally recognizes that development of nuclear
10 4 electric power generation requires significant capital
10 5 investment and a substantial period of time for successful
10 6 nuclear generation development, siting, licensing, and
10 7 deployment.

10 8 The bill requires a rate-regulated electric utility that
10 9 was subject to a revenue sharing settlement agreement with
10 10 regard to its electric base rates as of January 1, 2010, to
10 11 file an application for ratemaking principles applicable to the
10 12 construction of a nuclear generating facility with the Iowa
10 13 utilities board, and that the application shall comply with the
10 14 provisions of Code section 476.53.

10 15 The bill makes significant modifications to Code section
10 16 476.53 consistent with the potential construction of a nuclear
10 17 generating facility. The bill provides that the board shall
10 18 specify in advance the ratemaking principles that will apply
10 19 when a rate-regulated public utility expresses its intent to
10 20 file an application pursuant to Code section 476A.3 to build a
10 21 nuclear generating facility, including but not limited to small
10 22 modular reactor technology, or expresses its intent to seek
10 23 authority pursuant to a combined construction and operating
10 24 license or an early site permit from the United States nuclear
10 25 regulatory commission, or leases or owns in whole or in part
10 26 such a facility.

10 27 The bill provides that in determining the applicable
10 28 ratemaking principles for a nuclear generating facility or for
10 29 a license or permit from the United States nuclear regulatory
10 30 commission, a ratemaking principles order issued by the
10 31 board shall incorporate several components. The bill states
10 32 that after the order is issued, the utility may recover from
10 33 utility customers a return on, and return of all prudent costs
10 34 associated with, the permitting, licensing, and construction of
10 35 a facility, reduced by the amount of any funding of such costs



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 124 continued

11 1 borne by the United States department of energy or any other
11 2 governmental entity, and costs recovered from any joint owners
11 3 of the nuclear generating facility. The bill provides that
11 4 the determination of prudent costs and the level and rate of
11 5 the recovery of charges shall be reset annually to reflect the
11 6 level of reasonable costs related to pursuit of United States
11 7 nuclear regulatory commission authority or construction costs
11 8 expected to be incurred by the utility in the next 12 months.
11 9 A determination shall also be made of any adjustment required
11 10 to balance the preceding period's actual expenditures and
11 11 financing costs with what had been projected and included in
11 12 costs recoverable for the preceding period. The bill directs
11 13 a utility, if applicable, to report to the board annually the
11 14 budgeted and actual costs as compared to the estimated total
11 15 in-service cost of the nuclear generating facility that was
11 16 presented in the last annual filing, as projected through the
11 17 expected in-service date of the nuclear generating facility.
11 18 The bill provides that after the order is issued, a utility
11 19 shall file an application with the board on an annual basis
11 20 providing the budgeted versus actual cost information, and that
11 21 each annual proceeding shall be completed by the board within
11 22 90 days from the date of filing the application.
11 23 The bill states that all United States nuclear regulatory
11 24 commission authority costs are to be recovered over a period
11 25 not to exceed the estimated construction period for a nuclear
11 26 generating facility as determined by the board, and that all
11 27 nuclear generating facility construction costs are to be
11 28 recovered over a period not to exceed the sum of the estimated
11 29 construction period for a nuclear unit, plus its useful life as
11 30 determined by the board. The bill also states that a utility's
11 31 commencement of cost collection shall begin promptly after
11 32 completion of the ratemaking principles proceeding, allowing
11 33 for such additional time as may be needed by the board to
11 34 review a compliance rider tariff filing.
11 35 The bill provides that the order shall additionally enable



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 124 continued

12 1 the utility to recover in rates all prudently incurred expenses
12 2 and costs, including but not limited to ongoing operations and
12 3 maintenance costs, decommissioning funding and site restoration
12 4 costs, and taxes for a new nuclear generating facility.
12 5 Further, the order shall base the allowed debt and equity
12 6 return on a capital structure calculated using the average
12 7 of the utility's actual 13 monthly balances for long-term
12 8 debt, preferred stock, and common equity, including specified
12 9 adjustments. The bill states that the costs of long-term
12 10 debt and preferred stock shall reflect the actual embedded
12 11 interest and dividend rate for each issue as well as any annual
12 12 amortization of unamortized discount, premium, expense, and any
12 13 gain or loss on reacquired securities, and that the cost of
12 14 common equity shall reflect the risks to which the investor's
12 15 capital is exposed and not the investor's source of funds, and
12 16 the investor-required cost of capital of the rate-regulated
12 17 utility, and shall neither directly nor indirectly include
12 18 additional debt of the rate-regulated utility's parent or other
12 19 affiliates in the rate-regulated utility's capital structure
12 20 or cost of service.

12 21 The bill provides that the order shall also allow a utility
12 22 to recover all prudent preconstruction and construction costs
12 23 incurred if the utility elects not to complete or is precluded
12 24 from completing construction of the nuclear generating
12 25 facility, recovered over a period equal to the period during
12 26 which the costs were incurred or five years, whichever is
12 27 longer, and in a manner to be determined by the board. The
12 28 bill states that the order shall further allow the utility to
12 29 recover the net book value of any generating facility that the
12 30 utility commits to retire in anticipation of the operation of
12 31 a new nuclear generating facility, and that the board shall
12 32 allow for the recovery of a return on, and return of the book
12 33 value of, the retired generating facility over a period not
12 34 greater than the remaining useful life of the facility prior to
12 35 a determination to retire the facility.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 124 continued

13 1 The bill exempts a rate=regulated public utility applying
13 2 for ratemaking principles with regard to a nuclear generating
13 3 facility from requirements that a utility must demonstrate to
13 4 the board that it has considered other sources for long=term
13 5 electric supply and that the facility or a lease of a facility
13 6 is reasonable when compared to other feasible alternative
13 7 sources of supply, and removes a provision applicable with
13 8 regard to any application that a utility may satisfy these
13 9 requirements.

13 10 The bill provides that any judicial action directly
13 11 or indirectly resulting in a modification of the board's
13 12 ratemaking principles order shall be applied prospectively
13 13 only, and that no refunds shall be made of revenues previously
13 14 collected, unless the board determines such revenues to be in
13 15 excess of the costs incurred or to be incurred by the utility.

13 16 The bill directs the board to conduct a study to identify
13 17 the potential impact to customer electric utility rates
13 18 resulting from recent federal regulations adopted by the United
13 19 States environmental protection agency, and strategies to
13 20 mitigate this impact. The study shall be undertaken with the
13 21 involvement of rate=regulated electric public utilities and
13 22 other stakeholders identified by the board. The bill requires
13 23 the board to submit a report regarding the results of the study
13 24 by January 1, 2012.

13 25 The bill makes additional conforming changes and relocation
13 26 of specified provisions consistent with expanding applicable
13 27 ratemaking principles in connection with a nuclear generating
13 28 facility.

LSB 2351YC (5) 84

rn/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125

HOUSE FILE
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CHAIRPERSON SODERBERG)

A BILL FOR

1 An Act relating to various matters under the purview of the
2 insurance division of the department of commerce.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2660YC (3) 84
av/sc



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

PAG LIN

1 1 Section 1. Section 502.604, subsections 2 and 4, Code 2011,
1 2 are amended to read as follows:

1 3 2. Summary process. An order under subsection 1 is
1 4 effective on the date of issuance. Upon issuance of the order,
1 5 the administrator shall promptly serve each person subject to
1 6 the order with a copy of the order and a notice that the order
1 7 has been entered. The order must include a statement of any
1 8 restitution order, civil penalty, or costs of investigation
1 9 the administrator will seek, a statement of the reasons for
1 10 the order, and notice that, within thirty days after receipt
1 11 of a request in a record from the person, the matter will be
1 12 scheduled for a hearing. If a person subject to the order does
1 13 not request a hearing and none is ordered by the administrator
1 14 within thirty days after the date of service of the order,
1 15 the order, including an order for restitution, the imposition
1 16 of a civil penalty, or a requirement for payment of costs of
1 17 investigation sought in the order, becomes final as to that
1 18 person by operation of law. If a hearing is requested or
1 19 ordered, the administrator, after notice of and opportunity
1 20 for hearing to each person subject to the order, may modify or
1 21 vacate the order or extend it until final determination.

1 22 4. Civil penalty ~~==== restitution ==== corrective action.~~ In
1 23 a final order under subsection 3, the administrator may
1 24 impose a civil penalty up to an amount not to exceed a
1 25 maximum of five thousand dollars for a single violation or
1 26 five hundred thousand dollars for more than one violation,
1 27 order restitution, or take other corrective action as the
1 28 administrator deems necessary and appropriate to accomplish
1 29 compliance with the laws of the state relating to all
1 30 securities business transacted in the state.

1 31 Sec. 2. Section 505.8, subsections 1 and 10, Code 2011, are
1 32 amended to read as follows:

1 33 1. The commissioner of insurance shall be the head of the
1 34 division, and shall have general control, supervision, and
1 35 direction over all insurance business transacted in the state,



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

2 1 and shall enforce all the laws of the state relating to ~~such~~
~~2 2~~ federal and state insurance business transacted in the state.
2 3 10. The commissioner may, after a hearing conducted
2 4 pursuant to chapter 17A, assess fines or penalties, assess
~~2 5~~ costs of an investigation or proceeding, order restitution,
2 6 or take other corrective action as the commissioner deems
2 7 necessary and appropriate to accomplish compliance with the
2 8 laws of the state relating to all insurance business transacted
2 9 in the state.
2 10 Sec. 3. Section 505.8, Code 2011, is amended by adding the
2 11 following new subsection:
2 12 NEW SUBSECTION. 19. The commissioner may adopt
2 13 administrative rules pursuant to chapter 17A as necessary to
2 14 effectuate the insurance provisions of the federal Patient
2 15 Protection and Affordable Care Act of 2010, or other applicable
2 16 federal laws.
2 17 Sec. 4. Section 505.18, subsection 2, unnumbered paragraph
2 18 1, Code 2011, is amended to read as follows:
2 19 The commissioner in collaboration with the consumer advocate
2 20 shall prepare and deliver a report to the governor and to the
2 21 general assembly no later than November 15 of each year that
2 22 provides findings regarding health spending costs for health
2 23 insurance ~~plans~~ carriers in the state for the previous ~~fiscal~~
~~2 24~~ calendar year. The commissioner may contract with outside
2 25 vendors or entities to assist in providing the information
2 26 contained in the annual report. The report shall provide, at a
2 27 minimum, the following information:
2 28 Sec. 5. Section 505.18, subsection 2, paragraph d, Code
2 29 2011, is amended to read as follows:
2 30 d. A ranking and quantification of those factors that result
2 31 in higher costs and those factors that result in lower costs
2 32 for each health insurance ~~plan offered~~ carrier in the state.
2 33 Sec. 6. Section 505.19, subsection 3, Code 2011, is amended
2 34 to read as follows:
2 35 3. The consumer advocate shall solicit public comments on



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

3 1 each proposed health insurance rate increase application if
3 2 the increase exceeds the average annual health spending growth
3 3 rate as provided in subsection 1, and shall post without delay
3 4 during the normal business hours of the division, all comments
3 5 received on the insurance division's internet site prior to
3 6 approval or disapproval of the proposed rate increase by the
3 7 commissioner.

3 8 Sec. 7. Section 507E.8, Code 2011, is amended to read as
3 9 follows:

3 10 507E.8 ~~Peace~~ Law enforcement officer status.

3 11 1. Bureau investigators shall have the power and status
3 12 of ~~peace~~ law enforcement officers who by the nature of their
3 13 duties may be required to perform the duties of a peace officer
3 14 when making arrests for criminal violations established as a
3 15 result of their investigations pursuant to this chapter.

3 16 2. The general laws applicable to arrests by ~~peace~~ law
3 17 enforcement officers of the state also apply to bureau
3 18 investigators. Bureau investigators shall have the power
3 19 to execute arrest warrants and search warrants for the
3 20 same criminal violations, serve subpoenas issued for the
3 21 examination, investigation, and trial of all offenses
3 22 identified through their investigations, and arrest upon
3 23 probable cause without warrant a person found in the act of
3 24 committing a violation of the provisions of this chapter.

3 25 Sec. 8. Section 508C.5, Code 2011, is amended by adding the
3 26 following new subsections:

3 27 NEW SUBSECTION. 2A. "Authorized assessment", or the
3 28 term "authorized" when used in the context of an assessment,
3 29 means that a resolution has been passed by the board of
3 30 directors of the association whereby an assessment will be
3 31 called immediately or in the future from member insurers for
3 32 a specified amount. An assessment is authorized when the
3 33 resolution is passed.

3 34 NEW SUBSECTION. 2B. "Benefit plan" means a specific
3 35 employee, union, or association of natural persons benefit



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

4 1 plan.

4 2 NEW SUBSECTION. 2C. "Called assessment", or the term
4 3 "called" when used in the context of an assessment, means that
4 4 a notice has been issued by the association to member insurers
4 5 requiring that an authorized assessment be paid within the time
4 6 frame set forth within the notice. An authorized assessment
4 7 becomes a called assessment when notice is mailed by the
4 8 association to member insurers.

4 9 Sec. 9. Section 508C.5, subsection 5, Code 2011, is amended
4 10 to read as follows:

4 11 5. "Covered policy" means a policy or contract ~~within the~~
~~4 12 scope of this chapter as or a portion of a policy or contract~~
4 13 for which coverage is provided under section 508C.3.

4 14 Sec. 10. Section 508C.5, Code 2011, is amended by adding the
4 15 following new subsections:

4 16 NEW SUBSECTION. 12A. "Plan sponsor" means any of the
4 17 following:

4 18 a. The employer in the case of a benefit plan established or
4 19 maintained by a single employer.

4 20 b. The employee organization in the case of a benefit plan
4 21 established or maintained by an employee organization.

4 22 c. In the case of a benefit plan established or maintained
4 23 by two or more employers or jointly by one or more employers
4 24 and one or more employee organizations, the association,
4 25 committee, joint board of trustees, or other similar group of
4 26 representatives of the parties who establish or maintain the
4 27 benefit plan.

4 28 NEW SUBSECTION. 13A. "Principal place of business" of a
4 29 plan sponsor or a person other than a natural person means the
4 30 single state in which the natural persons who establish policy
4 31 for the direction, control, and coordination of the operations
4 32 of the entity as a whole primarily exercise that function as
4 33 determined pursuant to section 508C.8A.

4 34 NEW SUBSECTION. 13B. "Receivership court" means a court in
4 35 an insolvent or impaired insurer's state having jurisdiction



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

5 1 over the conservation, rehabilitation, or liquidation of the
5 2 insurer.
5 3 Sec. 11. Section 508C.5, subsection 14, Code 2011, is
5 4 amended to read as follows:
5 5 14. "Resident" means a person to whom a contractual
5 6 obligation is owed and who resides in a state on the date of
5 7 entry of a court order that determines a member insurer is an
5 8 impaired insurer or a court order that determines a member
5 9 insurer is an insolvent insurer, ~~whichever occurs first~~. A
5 10 person may be a resident of only one state, which in the case of
5 11 a person other than a natural person shall be the state of that
5 12 person's principal place of business. A citizen of the United
5 13 States who is a resident of a foreign country, or is a resident
5 14 of a United States possession, territory, or protectorate that
5 15 does not have an association similar to the association created
5 16 by this chapter, shall be deemed a resident of the state or
5 17 domicile of the insurer that issued the policy or contract.
5 18 Sec. 12. NEW SECTION. 508C.8A Principal place of business
5 19 ===== determination.
5 20 1. The principal place of business of a plan sponsor or a
5 21 person other than a natural person shall be determined by the
5 22 association in its reasonable judgment by considering all of
5 23 the following factors:
5 24 a. The state in which the primary executive and
5 25 administrative headquarters of the entity is located.
5 26 b. The state in which the principal office of the chief
5 27 executive officer of the entity is located.
5 28 c. The state in which the board of directors or similar
5 29 governing person or persons of the entity conducts the majority
5 30 of its meetings.
5 31 d. The state in which the executive or management committee
5 32 of the board of directors or similar governing person or
5 33 persons of the entity conducts the majority of its meetings.
5 34 e. The state from which the management of the overall
5 35 operations of the entity is directed.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

6 1 2. In the case of a benefit plan sponsored by affiliated
6 2 companies comprising a consolidated corporation, the principal
6 3 place of business of the entity shall be deemed to be the state
6 4 in which the holding company or controlling affiliate has its
6 5 principal place of business as determined by the association
6 6 using the factors enumerated in subsection 1. However, if more
6 7 than fifty percent of the participants in the benefit plan are
6 8 employed in a single state, that state shall be determined to
6 9 be the principal place of business of the entity.

6 10 3. In the case of a benefit plan established or maintained
6 11 by two or more employers, or jointly by one or more employers
6 12 and one or more employee organizations, the principal place
6 13 of business of the entity shall be deemed to be the principal
6 14 place of business of the association, committee, joint board
6 15 of trustees, or other similar group of representatives of
6 16 the parties who establish or maintain the benefit plan. In
6 17 lieu of a specific or clear designation of the principal
6 18 place of business of the entity under this subsection, the
6 19 principal place of business of the entity shall be deemed to
6 20 be the principal place of business of the employer or employee
6 21 organization that has the largest investment in the benefit
6 22 plan in question.

6 23 Sec. 13. Section 508C.9, subsections 2 through 6, Code 2011,
6 24 are amended to read as follows:

6 25 2. There are two classes of assessments as follows:

6 26 a. Class A assessments shall be ~~made~~ authorized and called
6 27 for the purpose of meeting administrative and legal costs and
6 28 other general expenses and examinations conducted under section
~~6 29 508C.12, subsection 5,~~ Class A assessments may be authorized
6 30 and called whether or not related to a particular impaired or
6 31 insolvent insurer.

6 32 b. Class B assessments shall be ~~made~~ authorized and called
6 33 to the extent necessary to carry out the powers and duties of
6 34 the association under section 508C.8 with regard to an impaired
6 35 domestic insurer or an insolvent domestic, foreign, or alien



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

7 1 insurer.

7 2 3. a. The amount of a class A assessment shall be

7 3 determined by the board ~~and to the extent that class A~~

~~7 4 assessments do not exceed one hundred dollars per company~~

~~7 5 in any one calendar year may be made on a per capita basis~~

~~7 6 and may be authorized and called on a pro rata or non=pro~~

7 7 rata basis. If pro rata, the board may provide that the

7 8 assessment be credited against future class B assessments.

7 9 The total of all non=pro rata assessments shall not exceed

7 10 three hundred dollars per member insurer in any one calendar

7 11 year. The amount of a class B assessment shall be allocated

7 12 for assessment purposes among the accounts ~~as the liabilities~~

~~7 13 and expenses of the association, either experienced or~~

~~7 14 reasonably expected, are attributable to those accounts, all~~

~~7 15 as determined by the association and on as equitable a basis~~

~~7 16 as is reasonably practical pursuant to an allocation formula~~

7 17 which may be based on the premiums or reserves of the impaired

7 18 or insolvent insurer or on any other standard deemed by the

7 19 board in its sole discretion as being fair and reasonable under

7 20 the circumstances.

7 21 b. ~~Class A assessments in excess of one hundred dollars~~

~~7 22 per company per calendar year and class B assessments against~~

7 23 member insurers for each account shall be in the proportion

7 24 that the average of the aggregate premiums received on business

7 25 in this state by each assessed member insurer on policies or

7 26 contracts ~~related to that~~ covered by each account for the three

7 27 most recent calendar years for which information is available,

7 28 preceding the year in which the insurer became ~~impaired or~~

7 29 insolvent, ~~is~~ or, in the case of an assessment with respect to

7 30 an impaired insurer, the three most recent calendar years for

7 31 which information is available preceding the year in which the

7 32 insurer became impaired, bears to the average of the aggregate

7 33 premiums received on business in this state for those calendar

7 34 years by all assessed member insurers ~~on policies related to~~

~~7 35 that account for the three most recent calendar years for which~~



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

~~House Study Bill 125 continued~~

~~8 1 information is available preceding the assessment.~~
8 2 c. Assessments for funds to meet the requirements of the
8 3 association with respect to an impaired or insolvent insurer
8 4 shall not be ~~made~~ authorized or called until necessary to
8 5 implement the purposes of this chapter. Classification
8 6 of assessments under ~~this~~ this subsection 2 and computation
8 7 of assessments under this subsection shall be made with
8 8 a reasonable degree of accuracy, recognizing that exact
8 9 determinations may not always be possible. The association
8 10 shall notify each member insurer of its anticipated pro rata
8 11 share of an authorized assessment not yet called within one
8 12 hundred eighty days after the assessment is authorized.
8 13 4. The association may abate or defer, in whole or in part,
8 14 the assessment of a member insurer if, in the opinion of the
8 15 board, payment of the assessment would endanger the ability of
8 16 the member insurer to fulfill its contractual obligations. If
8 17 an assessment against a member insurer is abated or deferred,
8 18 in whole or in part, the amount by which the assessment is
8 19 abated or deferred may be assessed against the other member
8 20 insurers in a manner consistent with the basis for assessments
8 21 set forth in this section. Once the conditions that caused
8 22 an abatement or deferral have been removed or rectified, the
8 23 member insurer shall pay all assessments that were abated
8 24 or deferred pursuant to a repayment plan approved by the
8 25 association.
8 26 5. a. (1) ~~The~~ Subject to the provisions of subparagraph
8 27 (2) of this paragraph "a", the total of all assessments upon
~~8 28~~ authorized by the association with respect to a member insurer
8 29 for each ~~account~~ of the accounts established pursuant to
8 30 section 508C.6, and designated as the health insurance account,
8 31 the life insurance account, the annuity account, and the
8 32 unallocated annuity contract account, shall not in any one
8 33 calendar year exceed two percent of ~~the average of the that~~
8 34 member insurer's average annual premiums received in this state
8 35 on the policies and contracts covered by the account during



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

9 1 the three ~~most recent~~ calendar years ~~for which information is~~
~~9 2 available~~, preceding the year in which the insurer becomes
9 3 impaired or insolvent, ~~on the policies related to that account.~~

9 4 (2) ~~However, if~~ If two or more assessments are authorized
9 5 in one calendar year with respect to insurers that become
9 6 impaired or insolvent in different calendar years, the average
9 7 annual premiums for purposes of the aggregate assessment
9 8 percentage limitation referred to in subparagraph (1) of this
9 9 paragraph "a" shall be equal~~7~~ and limited~~7~~ to the higher of the
9 10 three-year average annual premiums for the applicable account
9 11 as calculated pursuant to this section.

9 12 (3) If the maximum assessment ~~for an account~~, together
9 13 with the other assets of the association in the account,
9 14 does not provide in ~~any~~ one year in ~~the~~ either account an
9 15 amount sufficient to carry out the responsibilities of the
9 16 association, the necessary additional funds shall be assessed
9 17 for the account in succeeding years as soon as permitted by
9 18 this chapter.

9 19 b. The board may provide in its plan of operation a method
9 20 of allocating funds among claims, whether relating to one
9 21 or more impaired or insolvent insurers, when the maximum
9 22 assessment will be insufficient to cover anticipated claims.

9 23 ~~b.~~ c. If the maximum assessment under paragraph "a" for any
~~9 24 account, other than the health insurance account, either the~~
9 25 life insurance account, the annuity account, or the unallocated
9 26 annuity contract account in one year does not provide an amount
9 27 sufficient to carry out the responsibilities of the association
9 28 in any succeeding year, the board, pursuant to subsection 3,
9 29 paragraph "a" "b", shall assess access any of the other said
9 30 accounts for the necessary additional amount and allocate the
~~9 31 amount for assessment among the accounts, other than the health~~
~~9 32 insurance account, in the following sequence: from the life~~
~~9 33 insurance account, to the annuity account, to the unallocated~~
~~9 34 annuity contract account; from the annuity account, to the~~
~~9 35 unallocated annuity contract account, to the life insurance~~



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

~~House Study Bill 125 continued~~

~~10 1 account; from the unallocated annuity contract account, to the
10 2 annuity account, to the life insurance account; provided that
10 3 no amount shall be allocated to an account for assessment until
10 4 the maximum amount has been allocated to the preceding account,
10 5 subject to the maximum assessments stated in paragraph "a" of
10 6 this subsection.~~

10 7 6. By an equitable method as established in the plan
10 8 of operation, the board may refund to member insurers, in
10 9 proportion to the contribution of each insurer to that account,
10 10 the amount by which the assets of the account, including assets
10 11 accruing from assignment, subrogation, net realized gains, and
10 12 income from investments, exceed the amount the board finds is
10 13 necessary to carry out during the coming year the obligations
10 14 of the association with regard to that account. A reasonable
10 15 amount may be retained in any account to provide funds for the
10 16 continuing expenses of the association and for future ~~losses if~~
~~10 17 refunds are impractical claims.~~

10 18 Sec. 14. Section 508C.9, Code 2011, is amended by adding the
10 19 following new subsections:

10 20 NEW SUBSECTION. 9. a. A member insurer that wishes to
10 21 protest all or part of an assessment shall pay when due the
10 22 full amount of the assessment as set forth in the notice
10 23 provided by the association. The payment shall be made
10 24 available to meet association obligations during the pendency
10 25 of the protest or any subsequent appeal. The payment shall
10 26 be accompanied by a statement in writing that the payment is
10 27 made under protest and setting forth a brief statement of the
10 28 grounds for the protest.

10 29 b. Within sixty days following the payment of an assessment
10 30 under protest by a member insurer, the association shall
10 31 either notify the protesting member insurer in writing of
10 32 its determination with respect to the protest or notify the
10 33 protesting member insurer that additional time is required to
10 34 resolve the issues raised by the protest.

10 35 c. Within thirty days after a final decision has been made,



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

11 1 the association shall notify the protesting member insurer in
11 2 writing of that final decision. Within sixty days of receipt
11 3 of notice of the final decision, the protesting member insurer
11 4 may appeal that final decision to the commissioner.

11 5 d. As an alternative to rendering a final decision with
11 6 respect to a protest of an assessment, the association may
11 7 refer the protest to the commissioner for a final decision,
11 8 with or without a recommendation from the association.

11 9 e. If a protest or subsequent appeal of an assessment is
11 10 upheld in favor of the protesting member insurer, the amount
11 11 paid in error or the excess shall be refunded to the member
11 12 insurer. Interest on a refund due a protesting member insurer
11 13 shall be paid at the rate actually earned by the association
11 14 during the pendency of the protest or any subsequent appeal.

11 15 NEW SUBSECTION. 10. The association may request
11 16 information from member insurers in order to aid in the
11 17 exercise of the association's power under this section, and the
11 18 member insurers shall promptly comply with such a request.

11 19 Sec. 15. Section 508C.11, subsection 1, paragraph c, Code
11 20 2011, is amended by striking the paragraph.

11 21 Sec. 16. Section 508C.11, subsection 3, Code 2011, is
11 22 amended to read as follows:

11 23 3. ~~As~~ A final action of the board of directors or the
11 24 association may be appealed to the commissioner by a member
11 25 insurer if the appeal is taken within ~~thirty~~ sixty days of the
11 26 member insurer's receipt of notice of the final action being
11 27 appealed. A final action or order of the commissioner is
11 28 subject to judicial review pursuant to chapter 17A in a court
11 29 of competent jurisdiction.

11 30 Sec. 17. Section 508C.12, subsection 1, paragraphs b
11 31 through d, Code 2011, are amended to read as follows:

11 32 b. Report to the board of directors when the commissioner
11 33 has taken any of the actions set forth in paragraph "a" or has
11 34 received a report from any other commissioner indicating that a
~~11 35 member insurer is impaired or insolvent~~ such action has been



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

12 1 taken in another state. Reports to the board of directors
12 2 shall contain all significant details of the action taken or
12 3 the report received from another commissioner.
12 4 c. Report to the board of directors when there is reasonable
12 5 cause to believe from an examination, whether completed or in
12 6 process, of a member ~~company~~ insurer that the ~~company~~ insurer
12 7 may be an impaired or insolvent insurer.
12 8 d. Furnish to the board of directors the national
12 9 association of insurance commissioners' ~~early warning tests.~~
~~12 10 The insurance regulatory information system ratios, and~~
12 11 listing of insurers not included in the ratios, developed
12 12 by the national association of insurance commissioners, and
12 13 the board may use the information in carrying out its duties
12 14 and responsibilities under this section. The report and the
12 15 information contained in the report shall be kept confidential
12 16 by the board of directors until such time as it is made public
12 17 by the commissioner or other lawful authority.
12 18 Sec. 18. Section 508C.12, subsection 2, Code 2011, is
12 19 amended to read as follows:
12 20 2. The commissioner may seek the advice and recommendations
12 21 of the board of directors concerning any matter affecting
12 22 the commissioner's duties and responsibilities regarding the
12 23 financial condition of member ~~companies~~ insurers and companies
12 24 seeking admission to transact insurance business in this state.
12 25 Sec. 19. Section 508C.12, subsection 7, Code 2011, is
12 26 amended by striking the subsection.
12 27 Sec. 20. Section 508C.16, Code 2011, is amended to read as
12 28 follows:
12 29 508C.16 Immunity ==== indemnification.
12 30 1. A member insurer and its agents and employees, the
12 31 association and its agents and employees, members of the board
12 32 of directors, and the commissioner and the commissioner's
12 33 representatives are not liable for any action taken by them
12 34 or omission by them while acting within the scope of their
12 35 employment and in the performance of their powers and duties



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

13 1 under this chapter and such immunity granted under this section
13 2 shall extend to their participation in any organization of one
13 3 or more state associations of similar purposes and to that
13 4 organization and its agents and employees.

13 5 2. Sections 490.850 through 490.859 apply to the
13 6 association.

13 7 Sec. 21. Section 508C.17, Code 2011, is amended to read as
13 8 follows:

13 9 508C.17 Stay of proceedings ===== reopening default judgments.

13 10 Proceedings in which the insolvent insurer is a party in a
13 11 court in this state shall be stayed ~~sixty~~ one hundred eighty
13 12 days from the date an order of liquidation, rehabilitation,
13 13 or conservation is final to permit proper legal action by the
13 14 association on matters germane to its powers or duties. The
13 15 association may apply to have a judgment under a decision,
13 16 order, verdict, or finding based on default, set aside by the
13 17 same court that entered the judgment, and shall be permitted to
13 18 defend against the suit on the merits.

13 19 Sec. 22. Section 508C.18, Code 2011, is amended to read as
13 20 follows:

13 21 508C.18 Prohibited advertisements.

13 22 A person, including an insurer, agent or affiliate of an
13 23 insurer, shall not make, publish, disseminate, circulate, or
13 24 place before the public, or cause directly or indirectly, to
13 25 be made, published, disseminated, circulated, or placed before
13 26 the public in a newspaper, magazine, or other publication,
13 27 or in the form of a notice, circular, pamphlet, letter, or
13 28 poster, or over a radio station or television station, or in
13 29 any other way, an advertisement, announcement, or statement,
13 30 written or oral, which uses the existence of the insurance

13 31 guaranty association of this state for the purpose of sales,
13 32 solicitation, or inducement to purchase any form of insurance
13 33 covered by this chapter. However, this section does not apply
13 34 to the association or any other entity which does not sell or
13 35 solicit insurance.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

14 1 Sec. 23. NEW SECTION. 508C.18A Notice to policyholders =====
14 2 summary of chapter and disclosure.
14 3 1. a. Within one hundred eighty days after enactment of
14 4 this section, the association shall prepare a summary document
14 5 describing the general purposes and current provisions of
14 6 this chapter and containing a disclosure in compliance with
14 7 subsection 2. This summary document shall be submitted to the
14 8 commissioner for approval. The approved summary document and
14 9 disclosure shall be delivered to the owner of an insurance
14 10 policy or contract as provided in this section.
14 11 b. This subsection is repealed July 1, 2012.
14 12 2. a. On or after March 1, 2012, an insurer shall not
14 13 deliver an insurance policy or contract in Iowa to the owner
14 14 of the policy or contract unless a summary document describing
14 15 the general purposes and current provisions of this chapter
14 16 and containing a disclosure in compliance with subsection 3 is
14 17 delivered to the policy or contract owner at the same time.
14 18 b. The summary document shall also be available upon request
14 19 by an insurance policy or contract owner.
14 20 c. The distribution, delivery, contents, or interpretation
14 21 of this summary document does not guarantee that either
14 22 the insurance policy or contract or the owner of the policy
14 23 or contract is covered in the event of the impairment or
14 24 insolvency of a member insurer.
14 25 d. The summary document shall be revised by the association
14 26 and approved by the commissioner as amendments to this chapter
14 27 may require. Failure to receive a summary document does not
14 28 give the insurance policy or contract owner, certificate
14 29 holder, or insured any greater rights than those stated in this
14 30 chapter.
14 31 3. The summary document prepared pursuant to this section
14 32 shall contain a clear and conspicuous disclosure on its face.
14 33 The commissioner shall establish the form and content of the
14 34 disclosure which shall do all of the following:
14 35 a. State the name and address of the association and the



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

15 1 Iowa insurance division.
15 2 b. Prominently warn the insurance policy or contract owner
15 3 that the association may not cover the policy or contract or,
15 4 if coverage is available, it will be subject to substantial
15 5 limitations and exclusions and conditioned on continued
15 6 residence in this state.
15 7 c. State the types of insurance policies and contracts for
15 8 which the association will provide coverage.
15 9 d. State that the insurer and its agents are prohibited by
15 10 law from using the existence of the association for the purpose
15 11 of sales, solicitation, or inducement to purchase any form of
15 12 insurance.
15 13 e. State that the insurance policy or contract owner should
15 14 not rely on coverage from the association when selecting an
15 15 insurer.
15 16 f. Explain rights available and procedures for filing a
15 17 complaint to allege a violation of any provisions of this
15 18 chapter.
15 19 g. Provide other information as directed by the
15 20 commissioner, including but not limited to sources for
15 21 information about the financial condition of an insurer
15 22 provided that the information is not proprietary and is subject
15 23 to disclosure under chapter 22.
15 24 4. A member insurer shall retain evidence of compliance with
15 25 the provisions of this section for as long as the insurance
15 26 policy or contract for which the notice is given remains in
15 27 effect.
15 28 Sec. 24. Section 511.8, subsection 16, Code 2011, is amended
15 29 by adding the following new paragraph:
15 30 NEW PARAGRAPH. h. Financial instruments used in hedging
15 31 transactions, and securities pledged as collateral for
15 32 financial instruments used in highly effective hedging
15 33 transactions, eligible for inclusion in the legal reserve under
15 34 subsection 22 may be made a part of the deposit by filing a
15 35 verified statement of the financial instruments or securities



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

16 1 pursuant to the terms and conditions of the applicable hedging
16 2 transaction agreement or of the applicable collateral agreement
16 3 or other credit support agreement.
16 4 Sec. 25. Section 511.8, subsection 22, Code 2011, is amended
16 5 by adding the following new paragraph:
16 6 NEW PARAGRAPH. i. Securities held in the legal reserve of
16 7 a life insurance company or association pledged as collateral
16 8 for financial instruments used in highly effective hedging
16 9 transactions as defined in the national association of
16 10 insurance commissioners' Statement of Statutory Accounting
16 11 Principles No. 86 shall continue to be eligible for inclusion
16 12 on the legal reserve of the life insurance company or
16 13 association subject to all of the following:
16 14 (1) The life insurance company or association does not
16 15 include the financial instruments used in highly effective
16 16 hedging transactions for which the securities are pledged as
16 17 collateral in the legal reserve of the life insurance company
16 18 or association, provided, however, that this subparagraph
16 19 shall not exclude securities pledged to a counterparty,
16 20 clearing organization, or clearinghouse on an upfront basis
16 21 in the form of initial margin, independent amount, or other
16 22 securities pledged as a precondition of entering into financial
16 23 instruments used in highly effective hedging transactions from
16 24 inclusion in the legal reserve of the life insurance company
16 25 or association.
16 26 (2) Securities pledged as collateral for financial
16 27 instruments used in highly effective hedging transactions are
16 28 not eligible in excess of ten percent of the legal reserve of
16 29 the life insurance company or association, less any financial
16 30 instruments used in hedging transactions held in the legal
16 31 reserve under this subsection.
16 32 (3) Securities pledged to a counterparty, clearing
16 33 organization, or clearinghouse on an upfront basis in
16 34 the form of initial margin, independent amount, or other
16 35 securities pledged as a precondition of entering into financial



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

17 1 instruments used in highly effective hedging transactions are
17 2 not eligible in excess of one percent of the legal reserve of
17 3 the life insurance company or association.
17 4 Sec. 26. Section 514C.18, subsection 1, paragraph a, Code
17 5 2011, is amended by striking the paragraph and inserting in
17 6 lieu thereof the following:
17 7 a. Equipment and supplies.
17 8 Sec. 27. Section 515.125, subsection 1, Code 2011, is
17 9 amended to read as follows:
17 10 1. Unless otherwise provided in section 515.127, 515.128,
17 11 515.129, 515.129A, 515.129B, or 515.129C, a policy or contract
17 12 of insurance provided for in this chapter shall not be
17 13 forfeited, suspended, or canceled except by notice to the
17 14 insured as provided in this chapter. A notice of cancellation
17 15 is not effective unless mailed or delivered by the insurer to
17 16 the named insured at least thirty days before the effective
17 17 date of cancellation or, where cancellation is for nonpayment
17 18 of a premium, assessment, or installment provided for in the
17 19 policy, or in a note or contract for the payment thereof, at
17 20 least ten days prior to the date of cancellation. The notice
17 21 may be made in person, or by sending by mail a letter addressed
17 22 to the insured at the insured's address as given in or upon
17 23 the policy, anything in the policy, application, or a separate
17 24 agreement to the contrary notwithstanding.
17 25 Sec. 28. Section 515.126, Code 2011, is amended to read as
17 26 follows:
17 27 515.126 Cancellation of policy ==== notice to insured or
17 28 mortgagee.
17 29 1. Unless otherwise provided in section 515.127 ~~or~~,
17 30 515.128, 515.129, 515.129A, 515.129B, or 515.129C, at any time
17 31 after the maturity of a premium, assessment, or installment
17 32 provided for in the policy, or a note or contract for the
17 33 payment thereof, or after the suspension, forfeiture, or
17 34 cancellation of a policy or contract of insurance, the insured
17 35 may pay to the company the customary short rates and costs of



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

18 1 action, if one has been commenced or judgment rendered thereon,
18 2 and may, if the insured so elects, have the policy and all
18 3 contracts or obligations connected with the policy, whether
18 4 in judgment or otherwise, canceled, and all such policy and
18 5 contracts shall be void; and in case of suspension, forfeiture,
18 6 or cancellation of a policy or contract of insurance, the
18 7 insured is not liable for a greater amount than the short
18 8 rates earned at the date of the suspension, forfeiture, or
18 9 cancellation and the costs of action provided for in this
18 10 section.

18 11 2. If the policy is canceled by the insurance company,
18 12 the insurer may retain only the pro rata premium, and if the
18 13 initial cash premium, or any part of the premium, has not been
18 14 paid, the policy may be canceled by the insurance company by
18 15 giving notice to the insured as provided in section 515.125
18 16 and ten days' notice to the mortgagee, or other person to whom
18 17 the policy is made payable, if any, without tendering any
18 18 part of the premium, anything to the contrary in the policy
18 19 notwithstanding.

18 20 Sec. 29. Section 515D.5, subsection 1, Code 2011, is amended
18 21 to read as follows:

18 22 1. a. Notwithstanding the provisions of sections
18 23 ~~515.125 through 515.127, 515.126, and 515.129A~~, a notice of
18 24 cancellation of a policy shall not be effective unless mailed
18 25 or delivered by the insurer to the named insured at least
18 26 thirty days prior to the effective date of cancellation,
18 27 or, where the cancellation is for nonpayment of premium
18 28 notwithstanding the provisions of sections 515.125 and ~~515.127~~
~~18 29 515.126~~, at least ten days prior to the date of cancellation.
18 30 A post office department certificate of mailing to the named
18 31 insured at the address shown in the policy shall be proof
18 32 of receipt of such mailing. Unless the reason accompanies
18 33 the notice of cancellation, the notice shall state that upon
18 34 written request of the named insured, mailed or delivered
18 35 to the insurer not less than fifteen days prior to the



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

19 1 date of cancellation, the insurer will state the reason for
19 2 cancellation together with notification of the right to a
19 3 hearing before the commissioner within fifteen days as provided
19 4 in this chapter.

19 5 b. When the reason does not accompany the notice of
19 6 cancellation, the insurer shall, upon receipt of a timely
19 7 request by the named insured, state in writing the reason
19 8 for cancellation. A statement of reason shall be mailed or
19 9 delivered to the named insured within five days after receipt
19 10 of a request.

19 11 Sec. 30. Section 515D.7, subsection 1, Code 2011, is amended
19 12 to read as follows:

19 13 1. Notwithstanding the provisions of sections 515.125
19 14 ~~through 515.128~~, 515.129B, and 515.129C, an insurer shall
19 15 not fail to renew a policy except by notice to the insured
19 16 as provided in this chapter. A notice of intention not to
19 17 renew shall not be effective unless mailed or delivered by the
19 18 insurer to the named insured at least thirty days prior to
19 19 the expiration date of the policy. A post office department
19 20 certificate of mailing to the named insured at the address
19 21 shown in the policy shall be proof of receipt of such mailing.
19 22 Unless the reason accompanies the notice of intent not to
19 23 renew, the notice shall state that, upon written request of the
19 24 named insured, mailed or delivered to the insurer not less than
19 25 thirty days prior to the expiration date of the policy, the
19 26 insurer will state the reason for nonrenewal.

19 27 Sec. 31. Section 518C.3, subsection 4, paragraph b,
19 28 subparagraph (3), Code 2011, is amended to read as follows:

19 29 (3) A fee or other amount due an relating to goods and
19 30 services sought by or on behalf of an attorney, adjuster, or
19 31 witness as a fee for services rendered to, or other provider of
19 32 goods or services retained by the insolvent insurer or by an
19 33 insured prior to the date the insurer was declared insolvent.

19 34 Sec. 32. Section 518C.3, subsection 4, paragraph b, Code
19 35 2011, is amended by adding the following new subparagraphs:



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

20 1 NEW SUBPARAGRAPH. (4A) A fee or other amount sought by or
20 2 on behalf of an attorney, adjuster, witness, or other provider
20 3 of goods or services retained by the insured or claimant
20 4 in connection with the assertion of any claim, covered or
20 5 otherwise, against the association.

20 6 NEW SUBPARAGRAPH. (4B) A claim filed with the association
20 7 or with a liquidator for protection afforded under the
20 8 insured's policy or contract for incurred but not reported
20 9 losses or expenses.

20 10 Sec. 33. Section 518C.5, Code 2011, is amended to read as
20 11 follows:

20 12 518C.5 Board of directors.

20 13 1. The board of directors of the association shall
20 14 consist of the officers and directors of the mutual insurance
20 15 association of Iowa or its successor association, but only
20 16 if such officers and directors are employed by a corporation
20 17 organized as a county mutual insurance association pursuant to
20 18 chapter 518 or a state mutual insurance association pursuant to
20 19 chapter 518A.

20 20 2. An officer and director of the mutual insurance
20 21 association of Iowa shall serve in the same capacity on the
20 22 association board as the officer or director serves the mutual
20 23 insurance association of Iowa or its successor association, but
20 24 only if the officer and director is employed by a corporation
20 25 organized as a county mutual insurance association pursuant to
20 26 chapter 518 or a state mutual insurance association pursuant to
20 27 chapter 518A.

20 28 Sec. 34. Section 518C.6, subsection 1, paragraph a,
20 29 subparagraph (2), subparagraph division (b), Code 2011, is
20 30 amended to read as follows:

20 31 (b) An amount not exceeding the lesser of the policy
20 32 limits or ~~three~~ five hundred thousand dollars per claim for
20 33 all covered claims for all damages arising out of any one or a
20 34 series of accidents, occurrences, or incidents, regardless of
20 35 the number of persons making claims or the number of applicable



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

21 1 policies.

21 2 Sec. 35. Section 518C.15, Code 2011, is amended to read as
21 3 follows:

21 4 518C.15 Immunity.

21 5 ~~Liability~~ There shall be no liability on the part of, and
21 6 a cause of action of any nature shall not arise against, any
21 7 member insurer, the association, or its agents or employees,
21 8 the board of directors, any committee established for the
21 9 purpose of administering the affairs of the association, or any
21 10 person serving as an alternate or substitute representative
21 11 director of the association, or the commissioner, or the
21 12 commissioner's representatives, for any reasonable action taken
21 13 or any failure to act by them in the performance of their
21 14 duties and execution of powers as provided for under this
21 15 chapter.

21 16 Sec. 36. Section 521.1, subsection 4, Code 2011, is amended
21 17 to read as follows:

21 18 4. "Company" means a company or association organized under
21 19 chapter 508, ~~511~~ 514B, 515, 518, 518A, or 520, and includes a
21 20 mutual insurance holding company organized pursuant to section
21 21 521A.14.

21 22 Sec. 37. Section 521.2, subsection 1, Code 2011, is amended
21 23 to read as follows:

21 24 1. One or more domestic mutual insurance companies
21 25 organized under chapter 491 may merge or consolidate with a
21 26 domestic or foreign mutual insurance company as provided in
21 27 this chapter. ~~Sections 491.102 through 491.105 shall not be~~
21 28 ~~applicable to a merger or consolidation of a domestic mutual~~
21 29 ~~insurance company pursuant to this chapter.~~

21 30 Sec. 38. Section 521.2, Code 2011, is amended by adding the
21 31 following new subsections:

21 32 NEW SUBSECTION. 5. One or more foreign or domestic stock
21 33 insurance companies may merge into a domestic mutual insurance
21 34 company organized under chapter 491 as provided in this
21 35 chapter.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

22 1 NEW SUBSECTION. 6. One or more domestic health maintenance
22 2 organizations or limited service organizations formed under
22 3 chapter 514B may merge into a domestic insurance company
22 4 organized under chapter 490 or chapter 491 as provided in this
22 5 chapter.

22 6 NEW SUBSECTION. 7. Sections 491.102 through 491.105 shall
22 7 not be applicable to a merger or consolidation of a domestic
22 8 mutual insurance company pursuant to this chapter.

22 9 Sec. 39. Section 521E.3, subsection 1, paragraph a,
22 10 unnumbered paragraph 1, Code 2011, is amended to read as
22 11 follows:

22 12 The filing of a risk-based capital report by an insurer which
22 13 indicates ~~either~~ any of the following:

22 14 Sec. 40. Section 521E.3, subsection 1, paragraph a, Code
22 15 2011, is amended by adding the following new subparagraph:

22 16 NEW SUBPARAGRAPH. (3) For a property and casualty insurer,
22 17 the insurer's total adjusted capital is greater than or equal
22 18 to its company-action-level risk-based capital but less than
22 19 the product of its authorized-control-level risk-based capital
22 20 and three and triggers the trend test determined in accordance
22 21 with the trend test calculation included in the property and
22 22 casualty risk-based capital instructions.

22 23 Sec. 41. Section 521F.4, subsection 1, Code 2011, is amended
22 24 to read as follows:

22 25 1. "Company-action-level event" means any of the following:

22 26 a. The filing of a risk-based capital report by a health
22 27 organization which indicates that the health organization's
22 28 total adjusted capital is greater than or equal to its
22 29 regulatory-action-level risk-based capital but less than its
22 30 company-action-level risk-based capital.

22 31 b. The filing of a risk-based capital report by a health
22 32 organization which indicates that the health organization has
22 33 total adjusted capital which is greater than or equal to its
22 34 company-action-level risk-based capital but less than the
22 35 product of its authorized-control-level risk-based capital and



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

23 1 three and triggers the trend test determined in accordance with
23 2 the trend test calculations included in the health risk-based
23 3 capital instructions.

23 4 ~~b.~~ c. Notification by the commissioner to a health
23 5 organization of an adjusted risk-based capital report that
23 6 indicates an event in paragraph "a" or "b", provided the health
23 7 organization does not challenge the adjusted risk-based capital
23 8 report and request a hearing pursuant to section 521F.8.
23 9 ~~c.~~ d. If a hearing is requested pursuant to section 521F.8,
23 10 notification by the commissioner to the health organization
23 11 after the hearing that the commissioner has rejected the health
23 12 organization's challenge of the adjusted risk-based capital
23 13 report indicating the event in paragraph "a" or "b".

23 14 Sec. 42. Section 522B.11, Code 2011, is amended by adding
23 15 the following new subsection:

23 16 NEW SUBSECTION. 7. a. Unless an insurance producer
23 17 holds oneself out as an insurance specialist, consultant, or
23 18 counselor and receives compensation for consultation and advice
23 19 apart from commissions paid by an insurer, the duties and
23 20 responsibilities of an insurance producer are limited to those
23 21 duties and responsibilities set forth in Sandbulte v. Farm
23 22 Bureau Mut. Ins. Co., 343 N.W.2d 457 (Iowa 1984).

23 23 b. The general assembly declares that the holding of
23 24 Langwith v. Am. Nat'l Gen. Ins. Co., ___ N.W.2d ___, (No.
23 25 08=0778) (Iowa 2010) is abrogated to the extent that it
23 26 overrules Sandbulte and imposes higher or greater duties and
23 27 responsibilities on insurance producers than those set forth
23 28 in Sandbulte.

23 29 Sec. 43. Section 523A.206, subsection 1, Code 2011, is
23 30 amended to read as follows:

23 31 1. The commissioner may conduct an examination under
23 32 this chapter of any seller as often as the commissioner
23 33 deems appropriate. If a seller has a trust arrangement, the
23 34 commissioner shall conduct an examination of such seller doing
23 35 business in this state not less than once every ~~three~~ five



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

24 1 years unless the seller has provided to the commissioner, on
24 2 an annual basis, a certified copy of an audit conducted by an
24 3 independent certified public accountant verifying compliance
24 4 with this chapter. The commissioner may require an audit of
24 5 a seller, or other person by a certified public accountant
24 6 to verify compliance with the requirements of this chapter,
24 7 including rules adopted and orders issued pursuant to this
24 8 chapter.

24 9 Sec. 44. Section 523I.213A, subsection 1, Code 2011, is
24 10 amended to read as follows:

24 11 1. The commissioner or the commissioner's designee may
24 12 conduct an examination under this chapter of any cemetery as
24 13 often as the commissioner deems appropriate. If a cemetery
24 14 has a trust arrangement, the commissioner shall conduct an
24 15 examination not less than once every ~~three~~ five years.

24 16 EXPLANATION

24 17 This bill relates to various matters under the purview of the
24 18 insurance division of the department of commerce.

24 19 UNIFORM SECURITIES ACT. Code section 502.604 is amended
24 20 to allow the administrator of the securities and regulated
24 21 industries bureau of the insurance division of the department
24 22 of commerce to order restitution or take other corrective
24 23 action as deemed necessary to accomplish compliance with the
24 24 state's securities laws.

24 25 INSURANCE DIVISION. Code section 505.8 is amended to
24 26 provide that the commissioner of insurance shall enforce
24 27 all state laws relating to both federal and state insurance
24 28 business transacted in the state and to allow the commissioner
24 29 to assess the costs of an investigation or proceeding after an
24 30 administrative hearing. The commissioner is also authorized to
24 31 adopt administrative rules and emergency rules pursuant to Code
24 32 chapter 17A as necessary to effectuate the insurance provisions
24 33 of the federal Patient Protection and Affordable Care Act of
24 34 2010, or other applicable federal laws.

24 35 Code section 505.18 is amended to specify that the



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

25 1 commissioner's duty in preparing a report for the governor and
25 2 the general assembly should include findings regarding health
25 3 spending costs for health insurance carriers in the state, not
25 4 health insurance plans.
25 5 Code section 505.19 is amended to provide that public
25 6 comments received concerning proposed health insurance rate
25 7 increases will be posted without delay during the normal
25 8 business hours of the insurance division.
25 9 INSURANCE FRAUD. Code section 507E.8 is amended to provide
25 10 that securities and regulated industries bureau investigators
25 11 have the power and status of law enforcement officers who by
25 12 the nature of their duties may be required to perform the
25 13 duties of a peace officer.
25 14 IOWA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION. Code
25 15 section 508C.5 is amended to add definitions of "authorized
25 16 assessment", "benefit plan", "called assessment", "plan
25 17 sponsor", "principal place of business", and "receivership
25 18 court" and to amend the definition of "covered policy" and
25 19 "resident" for purposes of the Code chapter.
25 20 New Code section 508C.8A specifies the factors an
25 21 association must consider in determining what constitutes the
25 22 principal business of a plan sponsor or a person other than a
25 23 natural person.
25 24 Code section 508C.9(2) is amended to require that the
25 25 association must now "authorize" and "call" class A assessments
25 26 for the purpose of meeting administrative and legal costs
25 27 of the association and class B assessments for otherwise
25 28 carrying out the powers and duties of the association. As
25 29 newly defined, an "authorized assessment" means that the
25 30 board of directors of the association has passed a resolution
25 31 authorizing the assessment and a "called assessment" means that
25 32 a notice has been issued to member insurers requiring that an
25 33 authorized assessment be paid within the time set forth in the
25 34 notice.
25 35 Code section 508C.9(3) is amended to provide that class



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

26 1 A assessments may be authorized and called on a pro rata or
26 2 non=pro rata basis. Pro rata assessments may be credited
26 3 against future class B assessments and the total of all non=pro
26 4 rata assessments cannot exceed \$300 per member insurer in any
26 5 one calendar year. Class B assessments are determined pursuant
26 6 to an allocation formula which may be based on the premiums
26 7 or reserves of the impaired or insolvent insurer or any other
26 8 standard deemed fair and reasonable by the board. Class B
26 9 assessments for each account maintained by the association are
26 10 made in the proportion each assessed member insurer's premiums
26 11 bear to premiums received by all assessed member insurers. The
26 12 association is required to notify each member insurer of its
26 13 anticipated pro rata share of an assessment within 180 days
26 14 after the assessment is authorized.

26 15 Code section 508C.9(4) is amended to provide that if the
26 16 association abates or defers the assessment of a member
26 17 insurer, the assessment shall be paid by the insurer once the
26 18 conditions that caused the abatement or deferral are removed
26 19 pursuant to a payment plan approved by the association.

26 20 Code section 508C.9(5) is amended to change the calculation
26 21 method for assessments of member insurers with respect to
26 22 the health insurance account, the life insurance account,
26 23 the annuity account, and the unallocated annuity contract
26 24 account. The board is also authorized to provide in its plan
26 25 of operation a method of allocating funds among claims relating
26 26 to one or more impaired or insolvent insurers when the maximum
26 27 assessment will be insufficient to cover anticipated claims.
26 28 If the maximum assessment under the life insurance account, the
26 29 annuity account, or the unallocated annuity contract account is
26 30 insufficient, the board shall access the other said accounts
26 31 for the necessary amount subject to the maximum assessments
26 32 allowed.

26 33 Code section 508C.9(6) is amended to allow the board to
26 34 refund to member insurers amounts the board finds are not
26 35 necessary to carry out the obligations of the association



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 125 continued

27 1 with regard to an account that includes assets accruing from
27 2 assignment, subrogation, net realized gains, and income from
27 3 investments.
27 4 New Code section 508C.9(9) provides a procedure for a member
27 5 insurer to protest and appeal an assessment.
27 6 New Code section 508C.9(10) allows the association to
27 7 request information from member insurers in order to aid in the
27 8 exercise of the association's power.
27 9 Code section 508C.11(1) is amended to strike a provision
27 10 requiring the commissioner to be appointed as the liquidator
27 11 or rehabilitator in a liquidation or rehabilitation proceeding
27 12 involving a domestic insurer.
27 13 Code section 508C.11(3) is amended to provide that a final
27 14 action of the board or the association may be appealed to the
27 15 commissioner by a member insurer within 60, instead of 30, days
27 16 of the insurer's receipt of notice of the final action.
27 17 Code section 508C.12 is amended to require the commissioner
27 18 to report to the board upon receiving notice that certain
27 19 actions have been taken against a member insurer in another
27 20 state and to provide the board with the national association
27 21 of insurance commissioners' insurance regulatory information
27 22 system ratios, and listing of insurers not included in the
27 23 ratios, developed for use by the board in carrying out its
27 24 duties and responsibilities in preventing insolvencies.
27 25 Code section 508C.12(7), which required the board to prepare
27 26 a report to the commissioner at the conclusion of an insurer
27 27 insolvency in which the association was obligated to pay
27 28 claims, is stricken.
27 29 Code section 508C.16 is amended to provide that immunity and
27 30 indemnification provisions that apply to member insurers, the
27 31 association, the board of directors, the commissioner, and any
27 32 of their agents, employees, and representatives for actions or
27 33 omissions made by them in performing their powers and duties
27 34 under Code chapter 508C, are extended to their participation in
27 35 any organization of one or more similar state associations and



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 125 continued

28 1 to that organization and its agents and employees.
28 2 Code section 508C.17 is amended to allow a stay of court
28 3 proceedings in which an insolvent insurer is a party from
28 4 180 instead of 60 days from the date of a final order of
28 5 liquidation, rehabilitation, or conservation to permit legal
28 6 action by the association.
28 7 Code section 508C.18 is amended to specify that persons,
28 8 including insurers and their agents, are prohibited from making
28 9 written or oral advertisements that use the existence of the
28 10 insurance guaranty association to sell insurance.
28 11 New Code section 508C.18A requires the association within
28 12 180 days after enactment of this Code section to prepare a
28 13 summary document describing the general purposes and current
28 14 provisions of Code chapter 508C and containing a disclosure
28 15 with specified information about the coverage provided by the
28 16 association. On or after March 1, 2012, an insurer shall not
28 17 deliver an insurance policy or contract in Iowa to the owner of
28 18 the policy or contract unless the summary document is delivered
28 19 at the same time.
28 20 LIFE INSURANCE COMPANIES AND ASSOCIATIONS. Code section
28 21 511.8(16)(h) is added to provide that financial instruments
28 22 used in hedging transactions and securities pledged as
28 23 collateral for financial instruments used in highly effective
28 24 hedging transactions are eligible for inclusion in the legal
28 25 reserve of an insurance company or association under Code
28 26 section 511.8(22). A corollary provision is added in Code
28 27 section 511.8(22)(i) to provide that securities held in the
28 28 legal reserve of a life insurance company or association
28 29 pledged as collateral for financial instruments used in highly
28 30 effective hedging transactions as defined in the national
28 31 association of insurance commissioners' Statement of Statutory
28 32 Accounting Principles continue to be eligible for inclusion in
28 33 the legal reserve subject to specified conditions.
28 34 SPECIAL HEALTH AND ACCIDENT INSURANCE COVERAGES. Code
28 35 section 514C.18, requiring health insurance coverage for the



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

29 1 treatment of diabetes, is amended to delete a reference to
29 2 specific testing supplies for home monitoring of the disease
29 3 and instead add a more general reference to coverage of
29 4 equipment and supplies.
29 5 INSURANCE OTHER THAN LIFE. Code chapter 515 has several
29 6 provisions which relate to the duties of insurers when
29 7 forfeiting, suspending, canceling or nonrenewing commercial
29 8 and personal line policies or contracts of insurance. Code
29 9 sections 515.125 and 515.126 which contain general provisions
29 10 concerning those duties are amended to specify that more
29 11 specific provisions enacted in 2010 concerning personal lines
29 12 of insurance take precedence over these more general provisions
29 13 if they are inconsistent with one another.
29 14 AUTOMOBILE INSURANCE CANCELLATION. Code chapter 515D
29 15 contains provisions which relate specifically to the
29 16 cancellation of personal automobile insurance. Code sections
29 17 515D.5 and 515D.7 are amended to provide that the provisions
29 18 of Code chapter 515D take precedence over those relating to
29 19 the cancellation of personal lines insurance contained in
29 20 Code chapter 515 concerning the cancellation or nonrenewal of
29 21 personal automobile insurance.
29 22 COUNTY AND STATE MUTUAL INSURANCE GUARANTY ASSOCIATION.
29 23 Code section 518C.3(4)(b)(3) is amended to specify that a
29 24 covered claim for which the guaranty association provides
29 25 coverage does not include a fee or other amount relating to
29 26 goods or services sought by on behalf of any provider of goods
29 27 or services retained by an insolvent insurer or by an insured
29 28 prior to the date the insurer was declared insolvent.
29 29 Code section 518C.3(4)(b) is also amended to provide
29 30 that a covered claim does not include a fee or other amount
29 31 sought by or on behalf of an attorney, adjuster, witness, or
29 32 other provider of goods or services retained by an insured or
29 33 claimant in connection with the assertion of a claim against
29 34 the association.
29 35 Code section 518C.5 is amended to provide that the board



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 125 continued

30 1 of directors of the guaranty association consists of the
30 2 officers and directors of the mutual insurance association of
30 3 Iowa or its successor only if those people are employed by a
30 4 corporation organized as a county mutual insurance association
30 5 pursuant to Code chapter 518 or a state mutual insurance
30 6 association pursuant to Code chapter 518A.

30 7 Code section 518C.6(1)(a)(2)(b) is amended to provide
30 8 that the association is obligated to pay certain claims not
30 9 exceeding the lesser of the policy limits or \$500,000, instead
30 10 of \$300,000, per claim or claims arising out of any one or a
30 11 series of occurrences.

30 12 Code section 518C.15 is amended to expand the immunity
30 13 provisions pertaining to the association to include any
30 14 committee established for the purpose of administering
30 15 the affairs of the association or any person serving as
30 16 an alternate or substitute representative director of the
30 17 association for any actions taken or any failure to act in the
30 18 performance of their duties.

30 19 CONSOLIDATION, MERGERS, AND REINSURANCE. Code section
30 20 521.1(4) is amended to provide that a company subject to the
30 21 consolidation, merger, and reinsurance provisions of Code
30 22 chapter 521 includes a health maintenance organization or
30 23 limited service organization organized pursuant to Code chapter
30 24 514B.

30 25 Code section 521.2 is amended to provide that one or more
30 26 foreign or domestic stock insurance companies may merge into a
30 27 domestic mutual insurance company organized under Code chapter
30 28 491 and one or more domestic health maintenance organizations
30 29 or limited service organizations formed under Code chapter
30 30 514B may merge into a domestic insurance company organized
30 31 under Code chapter 490 or 491. In addition, certain provisions
30 32 relating to merger or consolidation in Code chapter 491 are not
30 33 applicable to the merger or consolidation of a domestic mutual
30 34 insurance company pursuant to this chapter.

30 35 RISK=BASED CAPITAL REQUIREMENTS FOR INSURERS. Code section



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 125 continued

31 1 521E.3(1)(a) is amended to add another situation which
31 2 constitutes a company=action=level event for an insurer when
31 3 included in the filing of a risk=based capital report by the
31 4 insurer.

31 5 RISK=BASED CAPITAL REQUIREMENTS FOR HEALTH ORGANIZATIONS.

31 6 Code section 521F.4(1) is amended to add another situation
31 7 which constitutes a company=action=level event for a health
31 8 organization when included in the filing of a risk=based
31 9 capital report by the health organization.

31 10 INSURANCE PRODUCERS. New Code section 522B.11(7) provides
31 11 that unless an insurance producer holds oneself out as an
31 12 insurance specialist, consultant, or counselor and receives
31 13 compensation for consultation and advice apart from commissions
31 14 paid by an insurer, the duties and responsibilities of an
31 15 insurance producer are limited to those set forth in a case
31 16 entitled Sandbulte v. Farm Bureau Mut. Ins. Co. decided by the
31 17 Iowa Supreme Court in 1984.

31 18 The bill further provides that the new subsection abrogates
31 19 the holding of a case entitled Langwith v. Am. Nat'l Gen. Ins.
31 20 Co. decided by the Iowa Supreme Court on December 30, 2010, to
31 21 the extent that case overrules the Sandbulte case and imposes
31 22 higher or greater duties and responsibilities on insurance
31 23 producers than those set forth in the earlier case.

31 24 CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES. Code
31 25 section 523A.206(1) is amended to require the commissioner
31 26 to conduct examinations of sellers of cemetery and funeral
31 27 merchandise, and funeral services every five years, instead of
31 28 every three years.

31 29 CEMETERY REGULATION. Code section 523I.213A(1) is amended
31 30 to require the commissioner to conduct an examination of a
31 31 cemetery every five years, instead of every three years.

LSB 2660YC (3) 84

av/sc



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 126

HOUSE FILE
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CHAIRPERSON SODERBERG)

A BILL FOR

1 An Act relating to the licensing and regulation of real estate
2 brokers and salespersons.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2631YC (3) 84
rn/rj



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 126 continued

PAG LIN

1 1 Section 1. Section 543B.29, subsection 4, Code 2011, is
1 2 amended to read as follows:
1 3 4. A real estate broker's or salesperson's license shall be
1 4 revoked following three violations of this section or section
1 5 543B.34 within a ~~three-year~~ five-year period.
1 6 Sec. 2. Section 543B.33, Code 2011, is amended to read as
1 7 follows:
1 8 543B.33 Salespersons ===== change of employment.
1 9 When any real estate salesperson is discharged or terminates
1 10 employment with the real estate broker by whom the salesperson
1 11 is employed, the real estate broker shall immediately deliver
1 12 or mail ~~by certified mail~~ to the real estate commission the
1 13 real estate salesperson's license on the reverse side of
1 14 which the employing broker shall set out the date and cause
1 15 of termination of employment. The real estate broker at the
1 16 time of mailing the real estate salesperson's license to the
1 17 commission shall address a communication to the last known
1 18 residence address of the real estate salesperson stating that
1 19 the license has been delivered or mailed to the commission.
1 20 A copy of the communication to the real estate salesperson
1 21 shall accompany the license when mailed or delivered to the
1 22 commission. It is unlawful for any real estate salesperson to
1 23 perform any of the acts contemplated by this chapter either
1 24 directly or indirectly under authority of a license from and
1 25 after the date of receipt of the license by the commission.
1 26 The commission shall, upon presentation of evidence by the
1 27 salesperson that the salesperson has been employed by another
1 28 broker, issue another license for the balance of the current
1 29 license period showing each change of employment. A fee as
1 30 determined by the commission shall be charged for the issuance
1 31 of the license. Not more than one license shall be issued to
1 32 any real estate salesperson for the same period of time.
1 33 Sec. 3. Section 543B.34, unnumbered paragraph 3, Code 2011,
1 34 is amended to read as follows:
1 35 If an investigation pursuant to this section reveals that an



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 126 continued

2 1 unlicensed person has assumed to act in the capacity of a real
2 2 estate broker or real estate salesperson, the commission ~~may~~
~~2 3~~ shall issue a cease and desist order, and ~~may~~ shall impose a
2 4 civil penalty of up to the greater of ten thousand dollars or
2 5 ten percent of the real estate sale price.
2 6 Sec. 4. Section 543B.56A, Code 2011, is amended to read as
2 7 follows:
2 8 543B.56A Brokerage agreements ===== contents.
2 9 1. The purpose of this section is to promote the protection
2 10 of the public by establishing minimum standards reasonably
2 11 expected by the public in reliance upon the professional work
2 12 product of real estate licensees. The reliance of the public
2 13 and business community on sound professional opinions and
2 14 assistance imposes on real estate licensees certain obligations
2 15 both to their clients and to the public. The purpose of
2 16 this section is also to assist in ensuring that licensees'
2 17 obligations are met including licensees' exercising sound
2 18 independent business judgment, striving to continuously improve
2 19 professional business skills and knowledge in the industry,
2 20 promoting sound and informative real estate reporting, and
2 21 exercising the highest fiduciary duties to clients and the
2 22 public.
2 23 2. A brokerage agreement shall specify that the broker
2 24 shall, at a minimum, do all of the following:
2 25 ~~1.~~ a. Accept delivery of and present to the client offers
2 26 and counteroffers to buy, sell, rent, lease, or exchange the
2 27 client's property or the property the client seeks to purchase
2 28 or lease.
2 29 ~~2.~~ b. Assist the client in developing, communicating,
2 30 negotiating, and presenting offers or counteroffers until a
2 31 rental agreement, lease, exchange agreement, offer to buy or
2 32 sell, or purchase agreement is signed and all contingencies are
2 33 satisfied or waived and the transaction is completed.
2 34 ~~3.~~ c. Answer the client's questions relating to
2 35 the brokerage agreements, listing agreements, offers,



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 126 continued

3 1 counteroffers, notices, and contingencies.
3 2 4. d. Provide prospective buyers access to listed
3 3 properties.

3 4 EXPLANATION

3 5 This bill makes specified modifications to provisions
3 6 relating to the licensing and regulation of real estate brokers
3 7 and salespersons.

3 8 The bill changes a provision currently providing that a real
3 9 estate broker's or salesperson's license shall be suspended
3 10 or revoked following three violations described in Code
3 11 section 543B.29, which specifies conditions for suspension or
3 12 revocation, during a three-year period, to a five-year period.
3 13 The bill deletes a requirement that a real estate broker mail
3 14 by certified mail to the real estate commission the license of
3 15 a discharged or terminated salesperson employed by the broker,
3 16 with the result that only regular mail is required. The bill
3 17 changes a current provision that the real estate commission,
3 18 upon determining that an unlicensed person has acted in the
3 19 capacity of a real estate broker or real estate salesperson,
3 20 may issue a cease and desist order or impose a specified civil
3 21 penalty, to a requirement that the commission shall issue an
3 22 order and impose a penalty.

3 23 Additionally, the bill adds to Code section 543B.56A,
3 24 relating to the contents of brokerage agreements, a provision
3 25 specifying that the purpose of the Code section is to promote
3 26 the protection of the public by establishing minimum standards
3 27 for the professional work product of licensees, and to assist
3 28 ensuring specified licensee obligations are met.

LSB 2631YC (3) 84

rn/rj



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 127

HOUSE FILE
BY (PROPOSED COMMITTEE ON
PUBLIC SAFETY BILL BY
CHAIRPERSON BAUDLER)

A BILL FOR

1 An Act relating to possession under the criminal law.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2672HC (2) 84
jm/rj



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 127 continued

PAG LIN

1 1 Section 1. Section 124.101, Code 2011, is amended by adding
1 2 the following new subsection:

1 3 NEW SUBSECTION. 25A. "Possess" or "possession" means as
1 4 defined in section 702.13A.

1 5 Sec. 2. Section 124A.2, Code 2011, is amended by adding the
1 6 following new subsection:

1 7 NEW SUBSECTION. 5. "Possess" means the same as defined in
1 8 section 702.13A.

1 9 Sec. 3. NEW SECTION. 702.13A Possession.

1 10 "Possess" or "possession" means having knowledge of the
1 11 presence and nature of an object or substance and having either
1 12 actual or constructive possession of the object or substance.
1 13 Possession may be sole or joint. A person may be in possession
1 14 of an object or substance without having a proprietary interest
1 15 in the object or substance or a right to possess the object or
1 16 substance.

1 17 1. A person has "actual possession" when a person has direct
1 18 physical control of an object or substance on the person or
1 19 within reach and convenient control.

1 20 2. A person has "constructive possession" when a person is
1 21 not in actual possession, but has knowledge of the presence
1 22 and nature of an object or substance and has the power and
1 23 intent to exercise control over the object or substance, either
1 24 directly or through another person. Constructive possession
1 25 may be inferred, and no further proof of knowledge or intent
1 26 is required, when an object or substance is found in a place
1 27 exclusively accessible to the person. When a person does
1 28 not have exclusive access to the place where the object or
1 29 substance is found, a trier of fact may determine a person's
1 30 knowledge and intent from the totality of the circumstances,
1 31 including the person's proximity to the object or substance,
1 32 the person's access to the area where it is found, whether it
1 33 is in plain view, any incriminating statements or actions by
1 34 the person, whether the object or substance is found in or near
1 35 the person's belongings, and any other relevant circumstances.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 127 continued

2 1 In the context of possession of controlled substances, a trier
2 2 of fact may also consider the person's possession of drug
2 3 paraphernalia and evidence of recent drug use by the person and
2 4 any other relevant circumstances.

2 5 EXPLANATION

2 6 This bill defines the term "possess" or "possession" for
2 7 purposes of a criminal case to mean having knowledge of the
2 8 presence and nature of an object or substance and having either
2 9 actual or constructive possession of the object or substance.
2 10 Possession may be sole or joint. Under the bill, a person may
2 11 be in possession of an object or substance without having a
2 12 proprietary interest in the object or substance or a right to
2 13 possess the object or substance.

2 14 The bill defines "actual possession" to mean when a person
2 15 has direct physical control of an object or substance on the
2 16 person or within reach and convenient control of the person.

2 17 The bill defines "constructive possession" to mean when a
2 18 person is not in actual possession, but has knowledge of the
2 19 presence and nature of an object or substance and has the power
2 20 and intent to exercise control over the object or substance,
2 21 either directly or through another person. Constructive
2 22 possession may be inferred, and no further proof of knowledge
2 23 or intent is required, when an object or substance is found
2 24 in a place exclusively accessible to the person. The bill
2 25 provides that when a person does not have exclusive access
2 26 to the place where the object or substance is found, a trier
2 27 of fact may determine a person's knowledge and intent from
2 28 the totality of the circumstances, including the person's
2 29 proximity to the object or substance, the person's access to
2 30 the area where it is found, whether it is in plain view, any
2 31 incriminating statements or actions by the person, whether
2 32 the object or substance is found in or near the person's
2 33 belongings, and any other relevant circumstances. In the
2 34 context of possession of controlled substances, a trier of fact
2 35 may also consider the person's possession of drug paraphernalia



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 127 continued

- 3 1 and evidence of recent drug use by the person and any other
- 3 2 relevant circumstances.

LSB 2672HC (2) 84

jm/rj



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 128

HOUSE FILE
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CHAIRPERSON SODERBERG)

A BILL FOR

1 An Act establishing regulations to permit access to surplus
2 lines insurance in this state, and providing civil and
3 criminal penalties, coordinating provisions, and repeals,
4 and including effective date provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1311YC (2) 84
av/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 128 continued

PAG LIN

1 1 DIVISION I
1 2 SURPLUS LINES INSURANCE
1 3 Section 1. NEW SECTION. 515I.1 Purpose.
1 4 1. The purposes of this division are to do all of the
1 5 following:
1 6 a. Establish a system of regulation which will permit
1 7 orderly access to surplus lines insurance in this state.
1 8 b. Encourage admitted insurers to make new and innovative
1 9 types of insurance available to consumers in this state.
1 10 c. Protect persons seeking insurance in this state.
1 11 d. Permit surplus lines insurance to be placed with
1 12 reputable and financially sound nonadmitted insurers.
1 13 e. Provide a system through which persons may independently
1 14 procure surplus lines insurance.
1 15 f. Protect revenues of this state.
1 16 g. Foster a national system of regulation of surplus
1 17 lines insurance by collaborating with other state insurance
1 18 commissioners.
1 19 h. Provide a system which subjects surplus lines insurance
1 20 activities in this state to the jurisdiction of the insurance
1 21 commissioner and state and federal courts in suits by or on
1 22 behalf of the state.
1 23 2. This division shall be liberally construed to promote
1 24 these purposes.
1 25 Sec. 2. NEW SECTION. 515I.2 Definitions.
1 26 As used in this chapter, unless the context otherwise
1 27 requires:
1 28 1. "Admitted insurer" means an insurer licensed to do
1 29 insurance business in this state.
1 30 2. "Affiliate" means, with respect to an insurer, any entity
1 31 that controls, is controlled by, or is under common control
1 32 with the insurer.
1 33 3. "Affiliated group" means any group of entities that are
1 34 affiliates.
1 35 4. "Commercial insurance" means insurance for businesses or



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 128 continued

- 2 1 professionals.
- 2 2 5. "Commissioner" means the commissioner of insurance, or
2 3 the commissioner's designees.
- 2 4 6. "Control" means either of the following:
- 2 5 a. That an entity directly or indirectly, or acting through
2 6 one or more other persons, owns, controls, or has the power
2 7 to vote twenty-five percent or more of any class of voting
2 8 securities of another entity.
- 2 9 b. That an entity controls in any manner the election of a
2 10 majority of the directors or trustees of another entity.
- 2 11 7. "Eligible surplus lines insurer" means a nonadmitted
2 12 insurer that has filed an application with the commissioner
2 13 and been approved for placement of surplus lines insurance and
2 14 appears on the Iowa listing of nonadmitted companies.
- 2 15 8. "Exempt commercial purchaser" means any person purchasing
2 16 commercial insurance that, at the time of placement, meets all
2 17 of the following requirements:
- 2 18 a. The person employs or retains a qualified risk manager to
2 19 negotiate insurance coverage.
- 2 20 b. The person has paid aggregate nationwide commercial
2 21 property and casualty insurance premiums in excess of one
2 22 hundred thousand dollars in the immediately preceding twelve
2 23 months.
- 2 24 c. The person meets at least one of the following criteria:
- 2 25 (1) The person possesses a net worth in excess of twenty
2 26 million dollars except that beginning on January 1, 2015, and
2 27 on January 1 every five years thereafter, this amount shall be
2 28 adjusted to reflect the percentage change in the consumer price
2 29 index for all urban consumers for the most recent available
2 30 five-year period published by the United States department of
2 31 labor, bureau of labor statistics.
- 2 32 (2) The person generates annual revenues in excess of fifty
2 33 million dollars except that beginning on January 1, 2015, and
2 34 on January 1 every five years thereafter, this amount shall be
2 35 adjusted to reflect the percentage change in the consumer price



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 128 continued

3 1 index for all urban consumers for the most recent available
3 2 five=year period published by the United States department of
3 3 labor, bureau of labor statistics.
3 4 (3) The person employs more than five hundred full=time or
3 5 full=time equivalent employees per individual insured or is a
3 6 member of an affiliated group employing more than one thousand
3 7 employees in the aggregate.
3 8 (4) The person is a nonprofit organization or public entity
3 9 generating annual budgeted expenditures of at least thirty
3 10 million dollars except that beginning on January 1, 2015, and
3 11 on January 1 every five years thereafter, this amount shall be
3 12 adjusted to reflect the percentage change in the consumer price
3 13 index for all urban consumers for the most recent available
3 14 five=year period published by the United States department of
3 15 labor, bureau of labor statistics.
3 16 (5) The person is a municipality with a population in excess
3 17 of fifty thousand persons.
3 18 9. "Home state" means:
3 19 a. Except as provided in paragraph "b", with respect to an
3 20 insured either of the following:
3 21 (1) The state in which an insured maintains its principal
3 22 place of business or, in the case of an individual, the
3 23 individual's principal residence.
3 24 (2) If one hundred percent of the insured risk is located
3 25 out of the state described in subparagraph (1), the state to
3 26 which the greatest percentage of the insured's taxable premium
3 27 for that insurance policy or contract is allocated.
3 28 b. If more than one insured from an affiliated group is a
3 29 named insured on a single surplus lines insurance policy or
3 30 contract, the home state, as determined pursuant to paragraph
3 31 "a", subparagraph (1), of the member of the affiliated group
3 32 that has the largest percentage of premium attributed to it
3 33 under such insurance policy or contract.
3 34 10. "Independently procured insurance" means insurance
3 35 obtained by a person directly from a nonadmitted insurer.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 128 continued

- 4 1 11. "Insurer" means the same as defined in section 507.1,
4 2 subsection 2.
- 4 3 12. "Nonadmitted insurer" means an insurer not licensed to
4 4 do insurance business in this state.
- 4 5 13. "Person" means the same as defined in section 507.1,
4 6 subsection 2.
- 4 7 14. "Placement" or "placed" means that an eligible surplus
4 8 lines insurer has accepted a premium and issued an insurance
4 9 policy or contract for a particular risk.
- 4 10 15. "Premium tax" means the tax imposed by the state on
4 11 a contract of insurance equal to the applicable percent, as
4 12 provided in section 432.1.
- 4 13 16. "Qualified risk manager" means a person who meets all
4 14 of the following requirements:
- 4 15 a. The person is an employee of, or third party consultant
4 16 retained by a commercial insurance policyholder.
- 4 17 b. The person provides skilled services in loss prevention,
4 18 loss reduction, or risk and insurance coverage analysis, and
4 19 purchase of insurance.
- 4 20 c. The person meets one of the following requirements:
- 4 21 (1) The person has a bachelor's degree from an accredited
4 22 college or university in risk management, business
4 23 administration, finance, economics, or any other field
4 24 determined by the commissioner to demonstrate minimum
4 25 competence in risk management; and meets both of the following
4 26 requirements:
- 4 27 (a) Has three years of experience in risk financing, claims
4 28 administration, loss prevention, risk and insurance coverage
4 29 analysis, or purchasing commercial lines of insurance.
- 4 30 (b) Has one of the following designations:
- 4 31 (i) Chartered property and casualty underwriter.
- 4 32 (ii) Associate in risk management.
- 4 33 (iii) Certified risk manager.
- 4 34 (iv) Risk and insurance management society fellow.
- 4 35 (v) Any other designation, certification, or license



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 128 continued

- 5 1 determined by the commissioner to demonstrate minimum
5 2 competency in risk management.
- 5 3 (2) The person has at least seven years of experience in
5 4 risk financing, claims administration, loss prevention, risk
5 5 and insurance coverage analysis, or purchasing commercial lines
5 6 of insurance; and has any one of the designations specified in
5 7 subparagraph (1), subparagraph division (b).
- 5 8 (3) The person has at least ten years of experience in risk
5 9 financing, claims administration, loss prevention, risk and
5 10 insurance coverage analysis, or purchasing commercial lines of
5 11 insurance.
- 5 12 (4) The person has a graduate degree from an accredited
5 13 college or university in risk management, business
5 14 administration, finance, economics, or any other field
5 15 determined by the commissioner to demonstrate minimum
5 16 competence in risk management.
- 5 17 17. "Surplus lines insurance" means any property and
5 18 casualty insurance in this state on properties, risks, or
5 19 exposures, located or to be performed in this state, that is
5 20 placed through a surplus lines insurance producer with an
5 21 eligible surplus lines insurer. For purposes of this chapter
5 22 only, "surplus lines insurance" also includes disability
5 23 insurance that is in excess of policy limits available from an
5 24 admitted insurer.
- 5 25 18. "Surplus lines insurance producer" means a person
5 26 licensed pursuant to chapter 522B to sell, solicit, or
5 27 negotiate surplus lines insurance.
- 5 28 Sec. 3. NEW SECTION. 515I.3 Placement of surplus lines
5 29 insurance business with nonadmitted insurers.
- 5 30 1. Surplus lines insurance may be placed by a surplus lines
5 31 insurance producer with a nonadmitted insurer only if all of
5 32 the following requirements are met:
- 5 33 a. The proposed nonadmitted insurer is an eligible surplus
5 34 lines insurer.
- 5 35 b. The proposed nonadmitted insurer is authorized to write



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 128 continued

6 1 the type of insurance sought in this state in its domiciliary
6 2 jurisdiction.

6 3 c. Unless otherwise exempt from this requirement, after a
6 4 diligent search the full amount or type of insurance cannot be
6 5 obtained from an admitted insurer.

6 6 d. All other requirements of this chapter are met.

6 7 2. a. In addition to the full amount of gross premiums
6 8 charged by the nonadmitted insurer for the insurance on which
6 9 a premium tax is imposed, a surplus lines insurance producer
6 10 shall collect and pay to the state of Iowa in a manner and
6 11 pursuant to a schedule as directed by the commissioner as
6 12 provided in section 515I.5, subsection 6, the appropriate
6 13 amount of premium tax as provided in section 432.1 for surplus
6 14 lines insurance. The commissioner shall adopt rules to specify
6 15 the use of credits or deductions that may be applied to the
6 16 premium tax.

6 17 b. If the surplus lines insurance covers properties, risks,
6 18 or exposures located or to be performed both in and outside of
6 19 this state, the surplus lines insurance producer shall allocate
6 20 the premium tax among the various states according to the
6 21 methods set forth in division II of this chapter.

6 22 c. The tax on any portion of the premium unearned at the
6 23 termination of the surplus lines insurance that has been
6 24 credited by the state shall be returned to the policyholder
6 25 directly by the surplus lines insurance producer. The surplus
6 26 lines insurance producer is prohibited from rebating, for any
6 27 reason, any part of the tax.

6 28 3. This section shall not apply to a person properly
6 29 licensed as an insurance producer, who, for a fee and pursuant
6 30 to a written agreement, is engaged solely to offer advice,
6 31 counsel, opinion, or service to an insured with respect to
6 32 the benefits, advantages, or disadvantages promised under
6 33 any proposed or in-force policy of insurance if the person
6 34 does not, directly or indirectly, participate in the sale,
6 35 solicitation, or negotiation of insurance on behalf of the



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 128 continued

7 1 insured.
7 2 4. Insurance placed under this section shall be valid and
7 3 enforceable as to all parties.
7 4 Sec. 4. NEW SECTION. 515I.4 Requirements for eligible
7 5 surplus lines insurers.
7 6 1. When this state is the home state of the insured, a
7 7 nonadmitted insurer shall not place any surplus lines insurance
7 8 business in this state unless the insurer has been approved
7 9 for such activity by the commissioner. A nonadmitted insurer
7 10 seeking to qualify as an eligible surplus lines insurer shall
7 11 submit a request to so qualify in a form and format as directed
7 12 by the commissioner which demonstrates all of the following:
7 13 a. Capital and surplus or its equivalent under the laws of
7 14 the insurer's domiciliary jurisdiction which equals the greater
7 15 of either of the following:
7 16 (1) The minimum capital and surplus requirements under the
7 17 laws of this state.
7 18 (2) Fifteen million dollars.
7 19 b. If the nonadmitted insurer is not domiciled in a state or
7 20 territory of the United States, verification of the insurer's
7 21 listing on the national association of insurance commissioners
7 22 quarterly listing of alien insurers as maintained by the
7 23 national association of insurance commissioners international
7 24 insurers department.
7 25 c. Evidence that the nonadmitted insurer is in good standing
7 26 with its domiciliary regulator.
7 27 2. The commissioner may waive the requirements of this
7 28 section or set specific requirements on a case-by-case
7 29 basis upon an affirmative finding of acceptability by
7 30 the commissioner that the placement of insurance with the
7 31 nonadmitted insurer is necessary and will not be detrimental
7 32 to the public and to policyholders. In determining whether
7 33 business may be placed with a nonadmitted insurer, the
7 34 commissioner shall consider all of the following:
7 35 a. The interests of the public and policyholders.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 128 continued

- 8 1 b. The length of time the insurer has been licensed to
8 2 do insurance business in its domiciliary jurisdiction and
8 3 elsewhere.
- 8 4 c. The unavailability of particular coverages from other
8 5 admitted insurers or eligible surplus lines insurers in this
8 6 state.
- 8 7 d. The size of the nonadmitted insurer as measured by
8 8 the insurer's assets, capital and surplus, reserves, premium
8 9 writings, insurance in force, or other appropriate criteria.
- 8 10 e. The kinds of business the nonadmitted insurer writes, the
8 11 insurer's net exposure, and the extent to which the insurer's
8 12 business is diversified among several lines of insurance and
8 13 geographic locations.
- 8 14 f. The past and projected trend in the size of the
8 15 nonadmitted insurer's capital and surplus considering such
8 16 factors as premium growth, operating history, loss and expense
8 17 ratios, or other appropriate criteria.
- 8 18 3. Eligible surplus lines insurers shall not be required to
8 19 file or seek approval of their forms and rates.
- 8 20 Sec. 5. NEW SECTION. 515I.5 Duties of surplus lines
8 21 insurance producers.
- 8 22 1. A surplus lines insurance producer shall not issue
8 23 or deliver any evidence of insurance or purport to insure
8 24 or represent that insurance will be or has been written by
8 25 an eligible surplus lines insurer, unless the producer has
8 26 authority from the insurer to bind the risk to be insured, or
8 27 has received information from the insurer in the regular course
8 28 of business that the coverage has been granted.
- 8 29 2. Upon placement of surplus lines insurance, the surplus
8 30 lines insurance producer shall promptly deliver to the insured
8 31 the policy or contract, or if the policy or contract is not
8 32 then available, a certificate cover note, binder, or other
8 33 evidence of insurance. The certificate cover note, binder,
8 34 or other evidence of insurance shall contain information as
8 35 specified by the commissioner by rule.



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 128 continued

9 1 3. As soon as is reasonably possible after the placement
9 2 of the insurance, the surplus lines insurance producer shall
9 3 deliver a copy of the policy or contract or, if not available,
9 4 a certificate of insurance to the insured to replace any
9 5 evidence of insurance previously issued. Each policy or
9 6 contract or certificate of insurance shall contain or have
9 7 attached a complete record of all policy or contract insuring
9 8 agreements, conditions, exclusions, clauses, endorsements, or
9 9 any other material facts that would regularly be included in
9 10 the policy or contract.

9 11 4. If, after delivery of any evidence of insurance, there
9 12 is any change in the identity of the eligible surplus lines
9 13 insurer, or the proportion of the risk assumed by such insurer,
9 14 or any other material change in coverage as stated in the
9 15 original evidence of insurance, or in any other material change
9 16 as to the insurance coverage so evidenced, the surplus lines
9 17 insurance producer shall promptly issue and deliver to the
9 18 insured an appropriate substitute for, or endorsement of the
9 19 original document, accurately showing the current status of
9 20 the coverage and the surplus lines insurer responsible for the
9 21 coverage.

9 22 5. Each surplus lines insurance producer shall keep a
9 23 full and true record of each surplus lines insurance policy
9 24 or contract placed by an eligible surplus lines insurer and
9 25 issued or delivered by that person which covers risks wholly
9 26 or partly located or to be performed in this state. These
9 27 records and any other records deemed reasonably necessary by
9 28 the commissioner shall be made available to the commissioner
9 29 for examination upon request. Records shall be maintained for
9 30 a period of not less than five years following termination of
9 31 the surplus lines insurance policy or contract.

9 32 6. A surplus lines insurance producer shall file a report
9 33 and remit all premium taxes due to this state for all surplus
9 34 lines insurance placed by an eligible surplus lines insurer and
9 35 issued or delivered by that person during the reporting period



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 128 continued

10 1 established by the commissioner. The specific requirements
10 2 for the timing of and content of the report and the manner of
10 3 filing shall be specified by the commissioner by rule. If
10 4 the commissioner elects to participate in a clearinghouse as
10 5 described in division II of this chapter, each surplus lines
10 6 insurance producer shall file reports and remit premium taxes
10 7 according to the guidelines of the clearinghouse.
10 8 Sec. 6. NEW SECTION. 515I.6 Actions against eligible
10 9 surplus lines insurers.
10 10 An eligible surplus lines insurer may be sued upon a cause of
10 11 action arising in this state under a surplus lines insurance
10 12 policy or contract placed by the insurer or upon evidence of
10 13 insurance placed by the insurer and issued or delivered in
10 14 this state by a surplus lines insurance producer. A policy
10 15 or contract issued by an eligible surplus lines insurer shall
10 16 contain a provision stating the substance of this section and
10 17 designating the person upon whom service of process can be made
10 18 on behalf of the insurer.
10 19 Sec. 7. NEW SECTION. 515I.7 Effect of payment to surplus
10 20 lines insurance producer.
10 21 A payment of premium to a surplus lines insurance producer
10 22 acting for a person other than the producer in procuring,
10 23 continuing, or renewing any policy or contract of surplus lines
10 24 insurance procured under this chapter shall be deemed to be
10 25 payment to the eligible surplus lines insurer, notwithstanding
10 26 any other conditions or stipulations that are inserted in the
10 27 policy or contract of insurance.
10 28 Sec. 8. NEW SECTION. 515I.8 Referrals to surplus lines
10 29 insurance producers.
10 30 A surplus lines insurance producer may accept referrals
10 31 to place surplus lines insurance from any other licensed
10 32 insurance producer and the surplus lines insurance producer may
10 33 compensate the referring insurance producer for the referral.
10 34 Sec. 9. NEW SECTION. 515I.9 Exempt commercial purchasers.
10 35 A surplus lines insurance producer seeking to procure or



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 128 continued

11 1 place surplus lines insurance in this state for an exempt
11 2 commercial purchaser is not required to make a diligent search
11 3 to determine whether the full amount or type of insurance
11 4 sought by such exempt commercial purchaser can be obtained from
11 5 an admitted insurer if both of the following requirements are
11 6 met:

11 7 1. The surplus lines insurance producer has disclosed
11 8 to the exempt commercial purchaser that such insurance may
11 9 be available from an admitted insurer that may provide the
11 10 purchaser with greater protection and with more regulatory
11 11 oversight.

11 12 2. The exempt commercial purchaser has subsequently
11 13 requested in writing that the surplus lines insurance producer
11 14 place such insurance with an eligible surplus lines insurer.

11 15 Sec. 10. NEW SECTION. 515I.10 Independently procured
11 16 surplus lines insurance ==== premium tax ==== penalty.

11 17 1. A person who directly procures, continues, or renews a
11 18 surplus lines insurance policy or contract independently and
11 19 without using a surplus lines insurance producer on properties,
11 20 risks, or exposures located or to be performed in whole or in
11 21 part in this state shall file a written report regarding the
11 22 transaction with the commissioner, in a manner and method as
11 23 directed by the commissioner by rule.

11 24 2. Each person who has independently procured a surplus
11 25 lines insurance policy or contract shall pay a premium tax at
11 26 a rate appropriate to the amount of premium tax equal to the
11 27 applicable percent, as provided in section 432.1. The tax
11 28 shall be remitted via a method and schedule and in a manner as
11 29 directed by the commissioner by rule.

11 30 3. If an independently procured surplus lines insurance
11 31 policy or contract covers properties, risks, or exposures
11 32 only partially located or to be performed in this state, the
11 33 tax payable shall be computed on the portion of the premium
11 34 properly attributable to the properties, risks, or exposures
11 35 located or to be performed in this state. If the commissioner



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 128 continued

12 1 has elected to participate in a clearinghouse as described in
12 2 division II of this chapter, reports and premium tax payments
12 3 shall be remitted according to clearinghouse procedures.

12 4 4. If the information provided to the commissioner is
12 5 insufficient to substantiate the method of computation, or if
12 6 the commissioner determines that the method of computation is
12 7 incorrect, the commissioner shall determine the equitable and
12 8 appropriate amount of tax due to this state. In making such a
12 9 determination, the commissioner shall consider any available
12 10 relevant information.

12 11 5. The commissioner may assess a penalty of one percent of
12 12 the delinquent amount of taxes owed per month as specified in
12 13 section 507A.9.

12 14 Sec. 11. NEW SECTION. 515I.11 Violations and penalties.

12 15 1. The commissioner may declare a surplus lines insurer
12 16 ineligible to place surplus lines insurance in the state if at
12 17 any time the commissioner has reason to believe that a surplus
12 18 lines insurer meets any of the following conditions:

12 19 a. Is in unsound financial condition or has acted in an
12 20 untrustworthy manner.

12 21 b. No longer meets the standards set forth in this chapter.

12 22 c. Has willfully violated the laws of this state.

12 23 d. Does not conduct its claims settlement practices in a
12 24 fair and reasonable manner.

12 25 e. Has committed an unfair or deceptive insurance trade
12 26 practice under chapter 507B.

12 27 2. The commissioner may suspend, revoke, or refuse to renew
12 28 the license of a surplus lines insurance producer or impose any
12 29 sanction or penalty allowed under chapter 507B after notice and
12 30 hearing for one or more of the following grounds:

12 31 a. Removal of the resident surplus lines insurance
12 32 producer's principal place of business from this state without
12 33 notice to the commissioner.

12 34 b. Removal of the resident surplus lines insurance
12 35 producer's office accounts and records from this state during



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 128 continued

13 1 the period for which the accounts and records are required to
13 2 be maintained.
13 3 c. Closure of the surplus lines insurance producer's
13 4 office for a period of more than thirty business days, unless
13 5 permission is granted by the commissioner.
13 6 d. Failure to file required reports with the commissioner
13 7 or the commissioner's designee.
13 8 e. Failure to remit surplus lines insurance premium taxes to
13 9 this state as directed by the commissioner.
13 10 f. Violating any provision of this chapter.
13 11 g. For any cause for which an insurance producer license
13 12 could be denied, revoked, or suspended, or renewal refused or a
13 13 civil penalty imposed under chapter 522B.
13 14 3. The commissioner may initiate an administrative
13 15 proceeding against a surplus lines insurance producer for the
13 16 collection of unpaid premium taxes. The commissioner may
13 17 assess a penalty of one percent of the delinquent amount of
13 18 taxes owed per month as specified in section 507A.9 and any
13 19 other penalties allowed by law.
13 20 4. A person that represents or aids a nonadmitted insurer
13 21 in violation of this chapter shall be subject to criminal
13 22 penalties as set forth in section 507A.10.
13 23 Sec. 12. NEW SECTION. 515I.12 Cease and desist orders ====
13 24 civil and criminal penalties.
13 25 1. Upon a determination by the commissioner, after a
13 26 hearing conducted pursuant to chapter 17A, that a surplus lines
13 27 insurance producer, an eligible surplus lines insurer, or a
13 28 nonadmitted insurer has violated a provision of this chapter,
13 29 the commissioner shall reduce the findings of the hearing to
13 30 writing and deliver a copy of the findings to the producer
13 31 or insurer. The commissioner may issue an order requiring
13 32 the producer or insurer to cease and desist from engaging in
13 33 the conduct resulting in the violation and may assess a civil
13 34 penalty of not more than fifty thousand dollars against the
13 35 producer or insurer.



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 128 continued

14 1 2. a. Upon a determination by the commissioner that a
14 2 surplus lines insurance producer, an eligible surplus lines
14 3 insurer, or a nonadmitted insurer has engaged, is engaging,
14 4 or is about to engage in any act or practice constituting a
14 5 violation of this chapter or a rule adopted or order issued
14 6 under this chapter, the commissioner may issue a summary order,
14 7 including a brief statement of findings of fact, conclusions
14 8 of law, and policy reasons for the decision, and directing the
14 9 producer or insurer to cease and desist from engaging in the
14 10 act or practice or to take other affirmative action as is in
14 11 the judgment of the commissioner necessary to comply with the
14 12 requirements of this chapter.

14 13 b. A surplus lines insurance producer, an eligible surplus
14 14 lines insurer, or a nonadmitted insurer to whom a summary order
14 15 has been issued under this subsection may contest the order by
14 16 filing a request for a contested case proceeding and hearing as
14 17 provided in chapter 17A and in accordance with rules adopted by
14 18 the commissioner. However, the producer or insurer shall have
14 19 at least thirty days from the date that the order is issued in
14 20 order to file the request. Section 17A.18A is inapplicable to
14 21 a summary order issued under this subsection. If a hearing
14 22 is not timely requested, the summary order becomes final by
14 23 operation of law. The order shall remain effective from the
14 24 date of issuance until the date the order becomes final by
14 25 operation of law or is overturned by a presiding officer or
14 26 court following a request for hearing.

14 27 c. A surplus lines insurance producer, an eligible surplus
14 28 lines insurer, or a nonadmitted insurer violating a summary
14 29 order issued under this subsection shall be deemed in contempt
14 30 of that order. The commissioner may petition the district
14 31 court to enforce the order as certified by the commissioner.
14 32 The district court shall find the producer or insurer in
14 33 contempt of the order if the court finds after hearing that
14 34 the producer or insurer is not in compliance with the order.
14 35 The court may assess a civil penalty against the producer or



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 128 continued

15 1 insurer and may issue further orders as it deems appropriate.

15 2 3. A person acting as a surplus lines insurance producer,
15 3 an eligible surplus lines insurer, or nonadmitted insurer who
15 4 willfully violates any provision of this chapter, or any rule
15 5 adopted or order issued under this chapter, is guilty of a
15 6 class "D" felony.

15 7 4. A person acting as a surplus lines insurance producer,
15 8 an eligible surplus lines insurer, or nonadmitted insurer who
15 9 willfully violates any provision of this chapter, or any rule
15 10 adopted or order issued under this chapter, when such violation
15 11 results in a loss of more than ten thousand dollars, is guilty
15 12 of a class "C" felony.

15 13 5. The commissioner may refer such evidence as is available
15 14 concerning violations of this chapter or of any rule adopted
15 15 or order issued under this chapter, or of the failure of a
15 16 person to comply with the licensing requirements of chapter
15 17 522B, to the attorney general or the proper county attorney who
15 18 may, with or without such reference, institute the appropriate
15 19 criminal proceedings under this chapter.

15 20 6. This chapter does not limit the power of the state to
15 21 punish any person for any conduct that constitutes a crime
15 22 under any other statute.

15 23 Sec. 13. NEW SECTION. 515I.13 Insurance policy or contract
15 24 remains valid.

15 25 A policy or contract of insurance issued or delivered by an
15 26 eligible surplus lines insurer or a nonadmitted insurer which
15 27 is otherwise valid and contains a condition or provision not
15 28 in compliance with the requirements of this chapter is not
15 29 thereby rendered invalid but shall be construed and applied in
15 30 accordance with the conditions and provisions which would have
15 31 applied had the policy or contract been issued or delivered in
15 32 full compliance with this chapter.

15 33 Sec. 14. NEW SECTION. 515I.14 Severability.

15 34 If any provision of this chapter, or the application of the
15 35 provision of this chapter to any person or circumstance, is



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 128 continued

16 1 held invalid, the remainder of the chapter and the application
16 2 of the provision to persons or circumstances other than those
16 3 as to which it is held invalid, shall not be affected by that
16 4 holding.

16 5 Sec. 15. NEW SECTION. 515I.31 Purpose.

16 6 1. The purpose of this division is to establish a mechanism
16 7 by which a surplus lines insurance producer or insured shall
16 8 allocate premiums and pay premium taxes where placement of
16 9 surplus lines insurance covers properties, risks, or exposures
16 10 located or to be performed in multiple states.

16 11 2. This division shall be liberally construed and applied
16 12 to promote its underlying purposes which include all of the
16 13 following:

16 14 a. To require a surplus lines insurance producer or an
16 15 insured, under certain circumstances, to collect the entire
16 16 amount of premium tax due on a multistate risk as assessed
16 17 by all impacted states where a placement of surplus lines
16 18 insurance covers properties, risks, or exposures located or to
16 19 be performed in more than one state.

16 20 b. To facilitate payment of surplus lines insurance premium
16 21 taxes on surplus lines insurance placed through surplus lines
16 22 insurance producers on risks located or to be performed solely
16 23 in this state.

16 24 c. To facilitate payment of premium taxes by an insured
16 25 that has independently procured surplus lines insurance in this
16 26 state for a single state or multistate risk.

16 27 d. To allow for the imposition of a filing fee by a
16 28 clearinghouse.

16 29 Sec. 16. NEW SECTION. 515I.32 Participation in a
16 30 clearinghouse.

16 31 1. The commissioner is authorized to participate in a
16 32 national clearinghouse to facilitate the filing of reports and
16 33 collection of surplus lines insurance premium taxes for insured
16 34 risks located solely in this state or in multiple states.
16 35 Any such clearinghouse shall be maintained by the national



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 128 continued

17 1 association of insurance commissioners or its affiliates or
17 2 subsidiaries, or an entity endorsed by the association.
17 3 2. Pursuant to the federal Dodd=Frank Wall Street Reform
17 4 and Consumer Protection Act, Pub. L. No. 111=203, also known as
17 5 the Nonadmitted and Reinsurance Reform Act, the commissioner is
17 6 authorized to collect or require the collection of the entire
17 7 amount of premium taxes due to all states for a multistate risk
17 8 which is partially located or to be performed in this state and
17 9 the remittance of surplus lines insurance premium tax payments
17 10 to a clearinghouse as described in subsection 1 for delivery to
17 11 another state, that are attributable to properties, risks, or
17 12 exposures located or to be performed in that state.
17 13 3. The commissioner is authorized to impose reasonable
17 14 filing fees for reports and tax payments made through
17 15 the clearinghouse to defray the costs of operation of the
17 16 clearinghouse.
17 17 Sec. 17. NEW SECTION. 515I.33 Collection and allocation of
17 18 surplus lines insurance premium taxes on multistate risks.
17 19 1. In determining the amount of surplus lines insurance
17 20 premiums taxable in this state, all premiums written, procured,
17 21 or received in this state for such insurance shall be presumed
17 22 to be written on properties, risks, or exposures located or
17 23 to be performed in this state unless a report is filed by the
17 24 surplus lines insurance producer or insured which indicates
17 25 that the risk includes properties, risks, or exposures located
17 26 or to be performed in more than one state.
17 27 2. If a surplus lines insurance policy or contract covers
17 28 properties, risks, or exposures located or to be performed
17 29 in more than one state, the premium tax to be paid to the
17 30 commissioner of each state shall be computed on that portion
17 31 of the policy or contract premium that is attributable to
17 32 properties, risks, or exposures located or to be performed in
17 33 each state. The surplus lines insurance producer or insured
17 34 shall determine the amount of premium taxes due by allocating
17 35 the total premium among the states according to a method



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 128 continued

18 1 specified by the commissioner by rule. If the information
18 2 provided by the surplus lines insurance producer or insured is
18 3 insufficient to substantiate the method of allocation used, or
18 4 if the commissioner determines that the method of allocation
18 5 used is incorrect, the commissioner shall determine the
18 6 equitable and appropriate amount of tax due to this state. In
18 7 making such a determination, the commissioner shall consider
18 8 any available relevant information.

18 9 Sec. 18. NEW SECTION. 515I.34 Rulemaking authority.
18 10 The commissioner shall adopt rules pursuant to chapter 17A
18 11 to implement the purposes of this chapter.

DIVISION II

COORDINATING PROVISIONS

18 13
18 14 Sec. 19. Section 507A.4, subsection 1, Code 2011, is amended
18 15 to read as follows:

18 16 1. The lawful transaction of surplus lines insurance as
18 17 permitted by ~~sections 515.120 through 515.122~~ chapter 515I.

18 18 Sec. 20. Section 515E.9, Code 2011, is amended to read as
18 19 follows:

18 20 515E.9 Purchasing group restrictions.

18 21 A purchasing group shall not purchase insurance from an
18 22 insurer not admitted in this state unless the purchase is
18 23 effected through a duly licensed ~~agent or broker~~ insurance
18 24 producer acting pursuant to ~~sections 515.120 through~~
18 25 ~~515.122~~ chapter 515I.

18 26 Sec. 21. Section 522B.6, subsection 2, paragraph g, Code
18 27 2011, is amended to read as follows:

18 28 g. Excess and surplus lines insurance provided by certain
18 29 nonadmitted insurers pursuant to ~~section 515.120~~ chapter 515I.

18 30 Sec. 22. REPEAL. Sections 515.120 through 515.122, Code
18 31 2011, are repealed.

18 32 Sec. 23. CODE EDITOR'S DIRECTIVE. The Code editor is
18 33 directed to designate sections 515I.1 through 515I.30 as
18 34 division I of chapter 515I captioned as "Surplus lines
18 35 insurance" and to designate sections 515I.31 through 515I.34 as



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 128 continued

19 1 division II of chapter 515I captioned as "Allocation of premium
19 2 tax on multistate risks".

19 3 Sec. 24. EFFECTIVE UPON ENACTMENT. This Act, being deemed
19 4 of immediate importance, takes effect upon enactment.

19 5 EXPLANATION

19 6 This bill establishes new regulations to permit increased
19 7 access to surplus lines insurance in the state, allows the
19 8 allocation of premiums and payment of premium taxes on such
19 9 insurance that is written on multistate risks, allows the
19 10 commissioner of insurance to participate in a national
19 11 clearinghouse in regards to the sale of such insurance, and
19 12 contains penalties, coordinating provisions, repeals, and
19 13 effective date provisions.

19 14 The bill creates new Code chapter 515I which is divided into
19 15 division I and division II. Division I of Code chapter 515I
19 16 contains regulations that permit the sale of surplus lines
19 17 insurance in the state by insurers who are not licensed to
19 18 do insurance business in the state. Such insurers shall be
19 19 listed as eligible surplus lines insurers if they meet the
19 20 requirements of the Code chapter and are approved to sell such
19 21 insurance by the commissioner of insurance.

19 22 Surplus lines insurance producers that are licensed pursuant
19 23 to Code chapter 522B to sell, solicit, or negotiate surplus
19 24 lines insurance are also subject to new regulations and must
19 25 file reports and remit premium taxes to the state for all
19 26 surplus lines insurance sold or delivered by the producer, as
19 27 required by the commissioner by rule. A payment of premium to
19 28 a producer is deemed to be payment to the insurer.

19 29 Surplus lines insurance producers may sell insurance issued
19 30 by an insurer that is not admitted to do business in this
19 31 state if the insurer is an eligible surplus lines insurer, the
19 32 insurer is authorized to write the type of insurance being sold
19 33 in its domiciliary jurisdiction, and a diligent search by the
19 34 producer indicates that the type of insurance being sold cannot
19 35 be obtained from an insurer admitted to do insurance business



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 128 continued

20 1 in this state. Surplus lines insurance producers may sell
20 2 commercial surplus lines insurance, without determining whether
20 3 the coverage is available from an insurer admitted to do
20 4 business in the state, to certain exempt commercial purchasers
20 5 that employ qualified risk managers to negotiate the coverage
20 6 and meet certain financial and size parameters.

20 7 A person who procures surplus lines insurance independently
20 8 without using the services of a surplus lines insurance
20 9 producer is required to file a written report about the
20 10 transaction and pay the appropriate premium taxes that are due
20 11 in the manner that is required by the commissioner by rule. If
20 12 the independently procured insurance policy or contract covers
20 13 properties, risks, or exposures located or to be performed in
20 14 multiple states, the tax payable is computed on the portion of
20 15 the premium attributable to the properties, risks, or exposures
20 16 in this state. Delinquent taxes shall be increased by a
20 17 penalty of 1 percent per month of the delinquent amount.

20 18 The commissioner may declare a nonadmitted insurer
20 19 ineligible to place surplus lines insurance in the state if
20 20 the commissioner believes that the insurer is in an unsound
20 21 financial condition or has acted in an untrustworthy manner;
20 22 no longer meets the requirements of Code chapter 515I; has
20 23 willfully violated Iowa law; does not conduct its claims
20 24 settlement practices in a fair and reasonable manner; or has
20 25 committed an unfair or deceptive trade practice under Code
20 26 chapter 507B.

20 27 The commissioner may also suspend, revoke, or refuse to
20 28 renew the license of a surplus lines insurance producer or
20 29 impose any penalty under Code chapter 507B for specified
20 30 reasons. The commissioner may initiate an administrative
20 31 proceeding against a surplus lines insurance producer for
20 32 the collection of unpaid premium taxes and assess a penalty
20 33 of 1 percent per month of the delinquent amount. A person
20 34 who represents or aids a nonadmitted insurer in violation of
20 35 the new Code chapter is subject to criminal penalties. Upon



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 128 continued

21 1 a determination by the commissioner that a surplus lines
21 2 producer, an eligible surplus lines insurance insurer, or
21 3 a nonadmitted insurer is violating or about to violate the
21 4 provisions of Code chapter 515I, the commissioner may issue a
21 5 summary order directing the producer or insurer to cease and
21 6 desist, and may impose civil penalties.

21 7 Willful violation of the provisions of the Code chapter by
21 8 a surplus lines insurance producer, an eligible surplus lines
21 9 insurer, or a nonadmitted insurer is punishable as a class "D"
21 10 felony. A class "D" felony is punishable by confinement for
21 11 no more than five years and a fine of at least \$750 but not
21 12 more than \$7,500. Such a willful violation that results in a
21 13 loss of more than \$10,000 is punishable as a class "C" felony.
21 14 A class "C" felony is punishable by confinement for no more
21 15 than 10 years and a fine of at least \$1,000 but not more than
21 16 \$10,000.

21 17 A policy or contract issued by an eligible surplus lines
21 18 insurer or a nonadmitted insurer which is otherwise valid
21 19 and contains a condition or provision not in compliance with
21 20 the requirements of Code chapter 515I shall be construed in
21 21 accordance with the conditions and provisions which would have
21 22 applied if the policy or contract had been issued or delivered
21 23 in compliance with the Code chapter. Also, if a provision of
21 24 the chapter is held invalid as to a person or circumstance, the
21 25 rest of the Code chapter shall be valid as to other persons or
21 26 circumstances.

21 27 Division II of new Code chapter 515I establishes a
21 28 mechanism for a surplus lines insurance producer or insured
21 29 to allocate premiums and pay premium taxes where the surplus
21 30 lines insurance covers properties, risk, or exposures that
21 31 are located or to be performed in multiple states. The
21 32 commissioner is authorized to participate in a national
21 33 clearinghouse maintained or endorsed by the national
21 34 association of insurance commissioners to facilitate the filing
21 35 of reports and collection of surplus lines insurance premium



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 128 continued

22 1 taxes for insured properties, risks, or exposures located
22 2 solely in this state or in multiple states. The commissioner
22 3 can collect or require the collection of the entire amount of
22 4 premium taxes due to all states and the remittance of those
22 5 payments to the clearinghouse. The commissioner can also
22 6 impose filing fees for reports and tax payments made through
22 7 the clearinghouse to defray its costs of operation.
22 8 In determining the amount of surplus lines insurance
22 9 premiums that are taxable in this state, it is presumed that
22 10 all premiums written, procured, or received in this state are
22 11 for properties, risks, or exposures located or to be performed
22 12 in this state unless a surplus lines insurance producer or
22 13 insured files a report indicating otherwise. If so, the
22 14 premium tax payable to the commissioner shall be computed
22 15 on that portion of the premium that is attributable to the
22 16 properties, risk, or exposures in this state according to a
22 17 method specified by the commissioner.
22 18 The commissioner shall adopt rules pursuant to Code chapter
22 19 17A to implement the purposes of the new Code chapter.
22 20 The bill repeals several provisions currently contained in
22 21 Code chapter 515 which relate to the sale of surplus lines
22 22 insurance in the state. Code sections 507A.4(1) and 515E.9 are
22 23 amended to reflect this repeal and the enactment of new Code
22 24 chapter 515I.
22 25 The bill is effective upon enactment.

LSB 1311YC (2) 84

av/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 129

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

A BILL FOR

1 An Act relating to the percentage of actual value at which
2 certain classifications of property are assessed for
3 property tax purposes and including future repeal and
4 applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2311XL (13) 84
md/sc



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 129 continued

PAG LIN

1 1 Section 1. Section 441.21, subsection 5, Code 2011, is
1 2 amended to read as follows:
1 3 5. a. For valuations established as of January 1, 1979,
1 4 ~~commercial property and industrial property, excluding~~
1 5 properties referred to in section 427A.1, subsection 8, shall
1 6 be assessed as a percentage of the actual value ~~of each class~~
~~1 7 of property.~~ The percentage shall be determined ~~for each~~
~~1 8 class of property~~ by the director of revenue for the state in
1 9 accordance with the provisions of this section. For valuations
1 10 established as of January 1, 1979, the percentage shall be
1 11 the quotient of the dividend and divisor as defined in this
1 12 section. The dividend ~~for each class of property~~ shall be the
1 13 total actual valuation ~~for each class of property~~ established
1 14 for 1978, plus six percent of the amount so determined. The
1 15 divisor ~~for each class of property~~ shall be the valuation
1 16 ~~for each class of property~~ established for 1978, as reported
1 17 by the assessors on the abstracts of assessment for 1978,
1 18 plus the amount of value added to the total actual value by
1 19 the revaluation of existing properties in 1979 as equalized
1 20 by the director of revenue pursuant to section 441.49. For
1 21 valuations established as of January 1, 1979, property valued
1 22 by the department of revenue pursuant to chapters 428, 433,
1 23 437, and 438 shall be considered as one class of property and
1 24 shall be assessed as a percentage of its actual value. The
1 25 percentage shall be determined by the director of revenue in
1 26 accordance with the provisions of this section. For valuations
1 27 established as of January 1, 1979, the percentage shall be
1 28 the quotient of the dividend and divisor as defined in this
1 29 section. The dividend shall be the total actual valuation
1 30 established for 1978 by the department of revenue, plus ten
1 31 percent of the amount so determined. The divisor for property
1 32 valued by the department of revenue pursuant to chapters 428,
1 33 433, 437, and 438 shall be the valuation established for 1978,
1 34 plus the amount of value added to the total actual value by
1 35 the revaluation of the property by the department of revenue



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 129 continued

2 1 as of January 1, 1979. For valuations established as of
2 2 January 1, 1980, ~~commercial property and~~ industrial property,
2 3 excluding properties referred to in section 427A.1, subsection
2 4 8, shall be assessed at a percentage of the actual value ~~of~~
~~2 5 each class of property.~~ The percentage shall be determined
2 6 ~~for each class of property~~ by the director of revenue for the
2 7 state in accordance with the provisions of this section. For
2 8 valuations established as of January 1, 1980, the percentage
2 9 shall be the quotient of the dividend and divisor as defined in
2 10 this section. The dividend ~~for each class of property~~ shall
2 11 be the dividend as determined ~~for each class of property~~ for
2 12 valuations established as of January 1, 1979, adjusted by the
2 13 product obtained by multiplying the percentage determined
2 14 for that year by the amount of any additions or deletions to
2 15 actual value, excluding those resulting from the revaluation
2 16 of existing properties, as reported by the assessors on the
2 17 abstracts of assessment for 1979, plus four percent of the
2 18 amount so determined. The divisor ~~for each class of property~~
2 19 shall be the total actual value of all such property in 1979,
2 20 as equalized by the director of revenue pursuant to section
2 21 441.49, plus the amount of value added to the total actual
2 22 value by the revaluation of existing properties in 1980. The
2 23 director shall utilize information reported on the abstracts of
2 24 assessment submitted pursuant to section 441.45 in determining
2 25 such percentage. For valuations established as of January 1,
2 26 1980, property valued by the department of revenue pursuant
2 27 to chapters 428, 433, 437, and 438 shall be assessed at a
2 28 percentage of its actual value. The percentage shall be
2 29 determined by the director of revenue in accordance with the
2 30 provisions of this section. For valuations established as of
2 31 January 1, 1980, the percentage shall be the quotient of the
2 32 dividend and divisor as defined in this section. The dividend
2 33 shall be the total actual valuation established for 1979 by
2 34 the department of revenue, plus eight percent of the amount so
2 35 determined. The divisor for property valued by the department



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 129 continued

3 1 of revenue pursuant to chapters 428, 433, 437, and 438 shall be
3 2 the valuation established for 1979, plus the amount of value
3 3 added to the total actual value by the revaluation of the
3 4 property by the department of revenue as of January 1, 1980.
3 5 For valuations established as of January 1, 1981, and each
3 6 year thereafter, the percentage of actual value as equalized
3 7 by the director of revenue as provided in section 441.49 at
3 8 which ~~commercial property~~ and industrial property, excluding
3 9 properties referred to in section 427A.1, subsection 8, shall
3 10 be assessed shall be calculated in accordance with the methods
3 11 provided herein, except that any references to six percent
3 12 in this subsection shall be four percent. For valuations
3 13 established as of January 1, 1981, and each year thereafter,
3 14 the percentage of actual value at which property valued by
3 15 the department of revenue pursuant to chapters 428, 433, 437,
3 16 and 438 shall be assessed shall be calculated in accordance
3 17 with the methods provided herein, except that any references
3 18 to ten percent in this subsection shall be eight percent.
3 19 Beginning with valuations established as of January 1, 1979,
3 20 and each year thereafter, property valued by the department of
3 21 revenue pursuant to chapter 434 shall also be assessed at a
3 22 percentage of its actual value which percentage shall be equal
3 23 to the percentage determined by the director of revenue for
3 24 ~~commercial property~~, industrial property, or property valued by
3 25 the department of revenue pursuant to chapters 428, 433, 437,
3 26 and 438, whichever is lowest.
3 27 b. For valuations established on or after January 1, 2012,
3 28 but before January 1, 2016, commercial property that is not
3 29 new commercial property as defined in paragraph "c", excluding
3 30 properties referred to in section 427A.1, subsection 8, shall
3 31 be assessed as a percentage of the actual value, as determined
3 32 in this paragraph.
3 33 (1) For valuations established for the assessment year
3 34 beginning January 1, 2012, the percentage of actual value as
3 35 equalized by the director of revenue as provided in section



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 129 continued

4 1 441.49 at which commercial property that is not new commercial
4 2 property shall be assessed shall be ninety=two percent.
4 3 (2) For valuations established for the assessment year
4 4 beginning January 1, 2013, the percentage of actual value as
4 5 equalized by the director of revenue as provided in section
4 6 441.49 at which commercial property that is not new commercial
4 7 property shall be assessed shall be eighty=four percent.
4 8 (3) For valuations established for the assessment year
4 9 beginning January 1, 2014, the percentage of actual value as
4 10 equalized by the director of revenue as provided in section
4 11 441.49 at which commercial property that is not new commercial
4 12 property shall be assessed shall be seventy=six percent.
4 13 (4) For valuations established for the assessment year
4 14 beginning January 1, 2015, the percentage of actual value as
4 15 equalized by the director of revenue as provided in section
4 16 441.49 at which commercial property that is not new commercial
4 17 property shall be assessed shall be sixty=eight percent.
4 18 c. (1) For valuations established on or after January 1,
4 19 2012, but before January 1, 2016, new commercial property,
4 20 excluding properties referred to in section 427A.1, subsection
4 21 8, shall be assessed as a percentage of the actual value as
4 22 determined in this paragraph "c".
4 23 (2) For valuations established for assessment years
4 24 beginning on or after January 1, 2012, but before January
4 25 1, 2016, the percentage of actual value as equalized by the
4 26 director of revenue as provided in section 441.49 at which
4 27 commercial property that is new commercial property shall be
4 28 assessed shall be sixty percent.
4 29 (3) For purposes of this section, "new commercial property"
4 30 means a parcel of real estate containing no buildings
4 31 or structures on or after July 1, 2011, upon which the
4 32 construction of buildings or structures is commenced after
4 33 July 1, 2011, and that, but for this paragraph, would be
4 34 assessed under paragraph "b". "New commercial property" shall
4 35 be considered a subclassification of commercial property for



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 129 continued

5 1 the assessment years beginning on or after January 1, 2012, but
5 2 before January 1, 2016.

5 3 d. (1) For valuations established on or after January 1,
5 4 2016, commercial property, excluding properties referred to in
5 5 section 427A.1, subsection 8, shall be assessed as a percentage
5 6 of the actual value as determined in this paragraph "d".

5 7 (2) For valuations established for the assessment year
5 8 beginning January 1, 2016, and each assessment year thereafter,
5 9 the percentage of actual value as equalized by the director
5 10 of revenue as provided in section 441.49 at which commercial
5 11 property shall be assessed shall be sixty percent.

5 12 Sec. 2. Section 441.21, subsections 9 and 10, Code 2011, are
5 13 amended to read as follows:

5 14 9. Not later than November 1, 1979, and November 1 of
5 15 each subsequent year, the director shall certify to the
5 16 county auditor of each county the percentages of actual
5 17 value at which residential property, agricultural property,
5 18 commercial property, new commercial property, industrial
5 19 property, and property valued by the department of revenue
5 20 pursuant to chapters 428, 433, 434, 437, and 438 in each
5 21 assessing jurisdiction in the county shall be assessed for
5 22 taxation. The county auditor shall proceed to determine the
5 23 assessed values of agricultural property, residential property,
5 24 commercial property, new commercial property, industrial
5 25 property, and property valued by the department of revenue
5 26 pursuant to chapters 428, 433, 434, 437, and 438 by applying
5 27 such percentages to the current actual value of such property,
5 28 as reported to the county auditor by the assessor, and the
5 29 assessed values so determined shall be the taxable values of
5 30 such properties upon which the levy shall be made.

5 31 10. The percentage of actual value computed by the
5 32 director for agricultural property, residential property,
5 33 commercial property, new commercial property, industrial
5 34 property, and property valued by the department of revenue
5 35 pursuant to chapters 428, 433, 434, 437, and 438 and used to



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 129 continued

6 1 determine assessed values of those classes of property does not
6 2 constitute a rule as defined in section 17A.2, subsection 11.

6 3 Sec. 3. FUTURE REPEAL.

6 4 1. The section of this Act amending section 441.21,
6 5 subsections 9 and 10, is repealed effective January 1, 2016,
6 6 and the Code editor shall remove the language added to section
6 7 441.21, subsections 9 and 10, by the repealed section of this
6 8 Act, from the Code.

6 9 2. Section 441.21, subsection 5, paragraphs "b" and "c", as
6 10 enacted in this Act, are repealed effective January 1, 2020,
6 11 and the Code editor shall remove the language of the paragraphs
6 12 from the Code.

6 13 Sec. 4. SAVINGS PROVISION. This Act, pursuant to section
6 14 4.13, does not affect the prior operation of, or prohibit the
6 15 application of, the provisions of section 441.21, Code 2011, or
6 16 rules adopted under chapter 17A to administer section 441.21,
6 17 Code 2011, for assessment years beginning before January 1,
6 18 2012, and for duties, powers, protests, appeals, proceedings,
6 19 actions, or remedies attributable to an assessment year
6 20 beginning before January 1, 2012.

6 21 Sec. 5. APPLICABILITY. This Act applies to property tax
6 22 assessment years beginning on or after January 1, 2012.

6 23 EXPLANATION

6 24 This bill changes the property assessment limitation for
6 25 commercial property and establishes a new commercial property
6 26 subclassification of commercial property for specified
6 27 assessment years.

6 28 The bill establishes a "new commercial property"
6 29 subclassification for assessment years beginning on or after
6 30 January 1, 2012, but before January 1, 2016. "New commercial
6 31 property" is defined in the bill as a parcel of real estate
6 32 containing no buildings or structures on or after July 1,
6 33 2011, upon which the construction of buildings or structures
6 34 is commenced after July 1, 2011, and that, but for the
6 35 subclassification, would be assessed as commercial property.



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 129 continued

7 1 For assessment years beginning on or after January 1, 2012,
7 2 but before January 1, 2016, the percentage of actual value
7 3 at which new commercial property is assessed is 60 percent.
7 4 For assessment years beginning on or after January 1, 2016,
7 5 new commercial property is assessed as all other commercial
7 6 property.
7 7 The bill strikes the methodology in Code section 441.21(5)
7 8 currently used to determine the percentage of actual value
7 9 at which commercial property is assessed for property tax
7 10 purposes. The bill provides that for valuations established
7 11 for the assessment year beginning January 1, 2012, the
7 12 percentage of actual value at which commercial property that
7 13 is not new commercial property shall be assessed shall be
7 14 92 percent. The bill provides that each assessment year
7 15 thereafter the percentage at which commercial property
7 16 that is not new commercial property is assessed is reduced
7 17 by 8 percentage points each year until the percentage is
7 18 60 percent. The bill provides that for the assessment
7 19 year beginning January 1, 2016, and each assessment year
7 20 thereafter, commercial property, including property previously
7 21 subclassified as new commercial property, is assessed at 60
7 22 percent.
7 23 The bill also makes corresponding changes to other
7 24 provisions of Code section 441.21, including removing the
7 25 commercial property valuation limitation from the methodology
7 26 used to determine the percentage at which property valued by
7 27 the department of revenue pursuant to Code chapter 434 (railway
7 28 companies) is assessed.
7 29 The bill includes future repeal provisions relating to the
7 30 temporary subclassification of new commercial property. The
7 31 repeal provisions are effective January 1, 2016, and January
7 32 1, 2020.
7 33 The bill applies to property tax assessment years beginning
7 34 on or after January 1, 2012. The bill pursuant to Code section
7 35 4.13, does not affect the application of the provisions of



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 129 continued

8 1 current Code section 441.21 to assessment years beginning
8 2 before January 1, 2012.
LSB 2311XL (13) 84
md/sc



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 130

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

A BILL FOR

1 An Act relating to and making appropriations to the justice
2 system and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1014XG (10) 84
jm/tm



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 130 continued

PAG LIN

1 1 Section 1. DEPARTMENT OF JUSTICE.

1 2 1. There is appropriated from the general fund of the state

1 3 to the department of justice for the following fiscal years,

1 4 the following amounts, or so much thereof as is necessary, to

1 5 be used for the purposes designated:

1 6 a. For the general office of attorney general for salaries,

1 7 support, maintenance, and miscellaneous purposes, including

1 8 the prosecuting attorneys training program, victim assistance

1 9 grants, office of drug control policy prosecuting attorney

1 10 program, and odometer fraud enforcement:

1 11 FY 2011=2012.....	\$ 7,792,930
1 12 FY 2012=2013.....	\$ 7,792,930

1 13 It is the intent of the general assembly that as a condition

1 14 of receiving the appropriations provided in this lettered

1 15 paragraph, the department of justice shall maintain a record

1 16 of the estimated time incurred representing each agency or

1 17 department.

1 18 b. For victim assistance grants:

1 19 FY 2011=2012.....	\$ 2,876,400
1 20 FY 2012=2013.....	\$ 2,876,400

1 21 The funds appropriated in this lettered paragraph shall

1 22 be used each fiscal year to provide grants to care providers

1 23 providing services to crime victims of domestic abuse or to

1 24 crime victims of rape and sexual assault.

1 25 The balance of the victim compensation fund established

1 26 in section 915.94 may be used each fiscal year to provide

1 27 salary and support for not more than 22.00 FTEs and to provide

1 28 maintenance for the victim compensation functions of the

1 29 department of justice.

1 30 For the fiscal years beginning July 1, 2011, and July 1,

1 31 2012, the department of justice may transfer moneys from the

1 32 victim compensation fund established in section 915.94 to the

1 33 victim assistance grant program.

1 34 c. For legal services for persons in poverty grants as

1 35 provided in section 13.34:



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 130 continued

2 1 FY 2011=2012..... \$ 1,814,831
2 2 FY 2012=2013..... \$ 1,814,831
2 3 2. a. The department of justice, in submitting budget
2 4 estimates for the fiscal year commencing July 1, 2012, pursuant
2 5 to section 8.23, shall include a report of funding from sources
2 6 other than amounts appropriated directly from the general fund
2 7 of the state to the department of justice or to the office of
2 8 consumer advocate. These funding sources shall include but
2 9 are not limited to reimbursements from other state agencies,
2 10 commissions, boards, or similar entities, and reimbursements
2 11 from special funds or internal accounts within the department
2 12 of justice. The department of justice shall also report actual
2 13 reimbursements for the fiscal year commencing July 1, 2010,
2 14 and actual and expected reimbursements for the fiscal year
2 15 commencing July 1, 2011.
2 16 b. The department of justice shall include the report
2 17 required under paragraph "a", as well as information regarding
2 18 any revisions occurring as a result of reimbursements actually
2 19 received or expected at a later date, in a report to the
2 20 co=chairpersons and ranking members of the joint appropriations
2 21 subcommittee on the justice system and the legislative services
2 22 agency. The department of justice shall submit the report on
2 23 or before January 15, 2011.
2 24 3. a. The department of justice, in submitting budget
2 25 estimates for the fiscal year commencing July 1, 2013, pursuant
2 26 to section 8.23, shall include a report of funding from sources
2 27 other than amounts appropriated directly from the general fund
2 28 of the state to the department of justice or to the office of
2 29 consumer advocate. These funding sources shall include but
2 30 are not limited to reimbursements from other state agencies,
2 31 commissions, boards, or similar entities, and reimbursements
2 32 from special funds or internal accounts within the department
2 33 of justice. The department of justice shall also report actual
2 34 reimbursements for the fiscal year commencing July 1, 2011,
2 35 and actual and expected reimbursements for the fiscal year



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 130 continued

3 1 commencing July 1, 2012.

3 2 b. The department of justice shall include the report

3 3 required under paragraph "a", as well as information regarding

3 4 any revisions occurring as a result of reimbursements actually

3 5 received or expected at a later date, in a report to the

3 6 co=chairpersons and ranking members of the joint appropriations

3 7 subcommittee on the justice system and the legislative services

3 8 agency. The department of justice shall submit the report on

3 9 or before January 15, 2012.

3 10 Sec. 2. OFFICE OF CONSUMER ADVOCATE. There is appropriated

3 11 from the general fund of the state to the office of consumer

3 12 advocate of the department of justice for the following

3 13 fiscal years, the following amounts, or so much thereof as is

3 14 necessary, to be used for the purposes designated:

3 15 For salaries, support, maintenance, and miscellaneous

3 16 purposes:

3 17 FY 2011=2012.....	\$ 3,136,163
3 18 FY 2012=2013.....	\$ 3,136,163

3 19 Sec. 3. DEPARTMENT OF CORRECTIONS == FACILITIES.

3 20 1. There is appropriated from the general fund of the

3 21 state to the department of corrections for the following

3 22 fiscal years, the following amounts, or so much thereof as

3 23 is necessary, to be used for operation of adult correctional

3 24 institutions, reimbursement of counties for certain confinement

3 25 costs, and federal prison reimbursement, to be allocated as

3 26 follows:

3 27 a. For the operation of the Fort Madison correctional

3 28 facility, including salaries, support, maintenance, and

3 29 miscellaneous purposes:

3 30 FY 2011=2012.....	\$ 41,031,283
3 31 FY 2012=2013.....	\$ 41,031,283

3 32 b. For the operation of the Anamosa correctional facility,

3 33 including salaries, support, maintenance, and miscellaneous

3 34 purposes:

3 35 FY 2011=2012.....	\$ 31,985,974
------------------------	---------------



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 130 continued

4 1 FY 2012=2013..... \$ 31,985,974
4 2 c. For the operation of the Oakdale correctional facility,
4 3 including salaries, support, maintenance, and miscellaneous
4 4 purposes:
4 5 FY 2011=2012..... \$ 55,600,610
4 6 FY 2012=2013..... \$ 55,600,610
4 7 d. For the operation of the Newton correctional facility,
4 8 including salaries, support, maintenance, and miscellaneous
4 9 purposes:
4 10 FY 2011=2012..... \$ 25,958,757
4 11 FY 2012=2013..... \$ 25,958,757
4 12 e. For the operation of the Mt. Pleasant correctional
4 13 facility, including salaries, support, maintenance, and
4 14 miscellaneous purposes:
4 15 FY 2011=2012..... \$ 25,917,815
4 16 FY 2012=2013..... \$ 25,917,815
4 17 f. For the operation of the Rockwell City correctional
4 18 facility, including salaries, support, maintenance, and
4 19 miscellaneous purposes:
4 20 FY 2011=2012..... \$ 9,316,466
4 21 FY 2012=2013..... \$ 9,316,466
4 22 g. For the operation of the Clarinda correctional facility,
4 23 including salaries, support, maintenance, and miscellaneous
4 24 purposes:
4 25 FY 2011=2012..... \$ 24,639,518
4 26 FY 2012=2013..... \$ 24,639,518
4 27 Moneys received by the department of corrections as
4 28 reimbursement for services provided to the Clarinda youth
4 29 corporation are appropriated each fiscal year to the department
4 30 and shall be used for the purpose of operating the Clarinda
4 31 correctional facility.
4 32 h. For the operation of the Mitchellville correctional
4 33 facility, including salaries, support, maintenance, and
4 34 miscellaneous purposes:
4 35 FY 2011=2012..... \$ 15,615,374



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 130 continued

5 1 FY 2012=2013..... \$ 15,615,374
5 2 i. For the operation of the Fort Dodge correctional
5 3 facility, including salaries, support, maintenance, and
5 4 miscellaneous purposes:
5 5 FY 2011=2012..... \$ 29,062,235
5 6 FY 2012=2013..... \$ 29,062,235
5 7 j. For reimbursement of counties for temporary confinement
5 8 of work release and parole violators, as provided in sections
5 9 901.7, 904.908, and 906.17, and for offenders confined pursuant
5 10 to section 904.513:
5 11 FY 2011=2012..... \$ 775,092
5 12 FY 2012=2013..... \$ 775,092
5 13 k. For federal prison reimbursement, reimbursements for
5 14 out-of-state placements, and miscellaneous contracts:
5 15 FY 2011=2012..... \$ 239,411
5 16 FY 2012=2013..... \$ 239,411
5 17 2. The department of corrections shall use moneys
5 18 appropriated in subsection 1 each fiscal year to continue
5 19 to contract for the services of a Muslim imam and a native
5 20 American spiritual leader.
5 21 Sec. 4. DEPARTMENT OF CORRECTIONS == ADMINISTRATION.
5 22 There is appropriated from the general fund of the state to
5 23 the department of corrections for the following fiscal years,
5 24 the following amounts, or so much thereof as is necessary, to
5 25 be used for the purposes designated:
5 26 1. For general administration, including salaries, support,
5 27 maintenance, employment of an education director to administer
5 28 a centralized education program for the correctional system,
5 29 and miscellaneous purposes:
5 30 FY 2011=2012..... \$ 4,835,542
5 31 FY 2012=2013..... \$ 4,835,542
5 32 a. It is the intent of the general assembly that each
5 33 lease negotiated by the department of corrections with a
5 34 private corporation for the purpose of providing private
5 35 industry employment of inmates in a correctional institution



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 130 continued

6 1 shall prohibit the private corporation from utilizing inmate
6 2 labor for partisan political purposes for any person seeking
6 3 election to public office in this state and that a violation
6 4 of this requirement shall result in a termination of the lease
6 5 agreement.

6 6 b. It is the intent of the general assembly that as
6 7 a condition of receiving the appropriation provided in
6 8 this lettered paragraph each fiscal year the department
6 9 of corrections shall not enter into a lease or contractual
6 10 agreement pursuant to section 904.809 with a private
6 11 corporation for the use of building space for the purpose of
6 12 providing inmate employment without providing that the terms
6 13 of the lease or contract establish safeguards to restrict, to
6 14 the greatest extent feasible, access by inmates working for
6 15 the private corporation to personal identifying information of
6 16 citizens.

6 17 2. For educational programs for inmates at state penal
6 18 institutions:
6 19 FY 2011=2012..... \$ 2,308,109
6 20 FY 2012=2013..... \$ 2,308,109

6 21 a. To maximize the funding for educational programs,
6 22 the department shall establish guidelines and procedures to
6 23 prioritize the availability of educational and vocational
6 24 training for inmates based upon the goal of facilitating an
6 25 inmate's successful release from the correctional institution.

6 26 b. The director of the department of corrections may
6 27 transfer moneys from Iowa prison industries for use in
6 28 educational programs for inmates.

6 29 c. Notwithstanding section 8.33, moneys appropriated in
6 30 this lettered paragraph that remain unobligated or unexpended
6 31 at the close of each fiscal year shall not revert but shall
6 32 remain available for expenditure only for the purpose
6 33 designated in this lettered paragraph until the close of the
6 34 succeeding fiscal year.

6 35 3. For the development of the Iowa corrections offender



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 130 continued

7 1 network (ICON) data system:
 7 2 FY 2011=2012..... \$ 424,364
 7 3 FY 2012=2013..... \$ 424,364
 7 4 4. For offender mental health and substance abuse
 7 5 treatment:
 7 6 FY 2011=2012..... \$ 22,319
 7 7 FY 2012=2013..... \$ 22,319
 7 8 5. For viral hepatitis prevention and treatment:
 7 9 FY 2011=2012..... \$ 167,881
 7 10 FY 2012=2013..... \$ 167,881
 7 11 Sec. 5. JUDICIAL DISTRICT DEPARTMENTS OF CORRECTIONAL
 7 12 SERVICES.
 7 13 1. There is appropriated from the general fund of the
 7 14 state to the department of corrections for the following
 7 15 fiscal years, the following amounts, or so much thereof
 7 16 as is necessary, for salaries, support, maintenance, and
 7 17 miscellaneous purposes, to be allocated as follows:
 7 18 a. For the first judicial district department of
 7 19 correctional services:
 7 20 FY 2011=2012..... \$ 12,020,098
 7 21 FY 2012=2013..... \$ 12,020,098
 7 22 b. For the second judicial district department of
 7 23 correctional services:
 7 24 FY 2011=2012..... \$ 10,336,948
 7 25 FY 2012=2013..... \$ 10,336,948
 7 26 c. For the third judicial district department of
 7 27 correctional services:
 7 28 FY 2011=2012..... \$ 5,599,765
 7 29 FY 2012=2013..... \$ 5,599,765
 7 30 d. For the fourth judicial district department of
 7 31 correctional services:
 7 32 FY 2011=2012..... \$ 5,391,355
 7 33 FY 2012=2013..... \$ 5,391,355
 7 34 e. For the fifth judicial district department of
 7 35 correctional services, including funding for electronic



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 130 continued

8 1 monitoring devices for use on a statewide basis:
8 2 FY 2011=2012..... \$ 18,742,129
8 3 FY 2012=2013..... \$ 18,742,129
8 4 f. For the sixth judicial district department of
8 5 correctional services:
8 6 FY 2011=2012..... \$ 13,112,563
8 7 FY 2012=2013..... \$ 13,112,563
8 8 g. For the seventh judicial district department of
8 9 correctional services:
8 10 FY 2011=2012..... \$ 6,492,814
8 11 FY 2012=2013..... \$ 6,492,814
8 12 h. For the eighth judicial district department of
8 13 correctional services:
8 14 FY 2011=2012..... \$ 6,731,055
8 15 FY 2012=2013..... \$ 6,731,055
8 16 2. Each judicial district department of correctional
8 17 services, within the funding available each fiscal year, shall
8 18 continue programs and plans established within that district
8 19 to provide for intensive supervision, sex offender treatment,
8 20 diversion of low-risk offenders to the least restrictive
8 21 sanction available, job development, and expanded use of
8 22 intermediate criminal sanctions.
8 23 3. Each judicial district department of correctional
8 24 services shall provide alternatives to prison consistent with
8 25 chapter 901B. The alternatives to prison shall ensure public
8 26 safety while providing maximum rehabilitation to the offender.
8 27 A judicial district department of correctional services may
8 28 also establish a day program.
8 29 4. The governor's office of drug control policy shall
8 30 consider federal grants made to the department of corrections
8 31 for the benefit of each of the eight judicial district
8 32 departments of correctional services as local government
8 33 grants, as defined pursuant to federal regulations.
8 34 5. The department of corrections shall continue to contract
8 35 with a judicial district department of correctional services to



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 130 continued

9 1 provide for the rental of electronic monitoring equipment which
9 2 shall be available statewide.

9 3 Sec. 6. DEPARTMENT OF CORRECTIONS == REALLOCATION OF
9 4 APPROPRIATIONS. Notwithstanding section 8.39, within the
9 5 moneys appropriated each fiscal year in this Act to the
9 6 department of corrections, the department may reallocate the
9 7 moneys appropriated and allocated as necessary to best fulfill
9 8 the needs of the correctional institutions, administration
9 9 of the department, and the judicial district departments of
9 10 correctional services. However, in addition to complying with
9 11 the requirements of sections 904.116 and 905.8 and providing
9 12 notice to the legislative services agency, the department
9 13 of corrections shall also provide notice to the department
9 14 of management, prior to the effective date of the revision
9 15 or reallocation of an appropriation made pursuant to this
9 16 section. The department of corrections shall not reallocate an
9 17 appropriation or allocation for the purpose of eliminating any
9 18 program.

9 19 Sec. 7. INTENT == REPORTS.

9 20 1. The department of corrections in cooperation with
9 21 townships, the Iowa cemetery associations, and other nonprofit
9 22 or governmental entities may use inmate labor during the fiscal
9 23 years beginning July 1, 2011, and July 1, 2012, to restore
9 24 or preserve rural cemeteries and historical landmarks. The
9 25 department in cooperation with the counties may also use inmate
9 26 labor to clean up roads, major water sources, and other water
9 27 sources around the state.

9 28 2. Each month the department shall provide a status report
9 29 regarding private=sector employment to the legislative services
9 30 agency during the fiscal years beginning July 1, 2011, and July
9 31 1, 2012. The report shall include the number of offenders
9 32 employed in the private sector, the combined number of hours
9 33 worked by the offenders, the total amount of allowances, and
9 34 the distribution of allowances pursuant to section 904.702,
9 35 including any moneys deposited in the general fund of the



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 130 continued

10 1 state.

10 2 Sec. 8. ELECTRONIC MONITORING REPORTS.

10 3 1. The department of corrections shall submit a report
10 4 on electronic monitoring to the general assembly, to
10 5 the co=chairpersons and the ranking members of the joint
10 6 appropriations subcommittee on the justice system, and to
10 7 the legislative services agency by January 15, 2012. The
10 8 report shall specifically address the number of persons being
10 9 electronically monitored and break down the number of persons
10 10 being electronically monitored by offense committed. The
10 11 report shall also include a comparison of any data from the
10 12 prior fiscal year with the current year.

10 13 2. The department of corrections shall submit a report
10 14 on electronic monitoring to the general assembly, to
10 15 the co=chairpersons and the ranking members of the joint
10 16 appropriations subcommittee on the justice system, and to
10 17 the legislative services agency by January 15, 2013. The
10 18 report shall specifically address the number of persons being
10 19 electronically monitored and break down the number of persons
10 20 being electronically monitored by offense committed. The
10 21 report shall also include a comparison of any data from the
10 22 prior fiscal year with the current year.

10 23 Sec. 9. STATE AGENCY PURCHASES FROM PRISON INDUSTRIES.

10 24 1. As used in this section, unless the context otherwise
10 25 requires, "state agency" means the government of the state
10 26 of Iowa, including but not limited to all executive branch
10 27 departments, agencies, boards, bureaus, and commissions, the
10 28 judicial branch, the general assembly and all legislative
10 29 agencies, institutions within the purview of the state board of
10 30 regents, and any corporation whose primary function is to act
10 31 as an instrumentality of the state.

10 32 2. State agencies are hereby encouraged to purchase
10 33 products from Iowa state industries, as defined in section
10 34 904.802, when purchases are required and the products are
10 35 available from Iowa state industries. State agencies shall



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 130 continued

11 1 obtain bids from Iowa state industries for purchases of office
11 2 furniture during the fiscal years beginning July 1, 2011, and
11 3 July 1, 2012, exceeding \$5,000 or in accordance with applicable
11 4 administrative rules related to purchases for the agency.

11 5 Sec. 10. STATE PUBLIC DEFENDER. There is appropriated
11 6 from the general fund of the state to the office of the state
11 7 public defender of the department of inspections and appeals
11 8 for the following fiscal years, the following amounts, or so
11 9 much thereof as is necessary, to be allocated as follows for
11 10 the purposes designated:

11 11 1. For salaries, support, maintenance, and miscellaneous
11 12 purposes:
11 13 FY 2011=2012..... \$ 24,083,182
11 14 FY 2012=2013..... \$ 24,083,182

11 15 2. For the fees of court-appointed attorneys for indigent
11 16 adults and juveniles, in accordance with section 232.141 and
11 17 chapter 815:
11 18 FY 2011=2012..... \$ 31,680,929
11 19 FY 2012=2013..... \$ 31,680,929

11 20 Sec. 11. IOWA LAW ENFORCEMENT ACADEMY.

11 21 1. There is appropriated from the general fund of the
11 22 state to the Iowa law enforcement academy for the following
11 23 fiscal years, the following amounts, or so much thereof as is
11 24 necessary, to be used for the purposes designated:

11 25 For salaries, support, maintenance, and miscellaneous
11 26 purposes, including jailer training and technical assistance:
11 27 FY 2011=2012..... \$ 868,698
11 28 FY 2012=2013..... \$ 868,698

11 29 It is the intent of the general assembly that the Iowa law
11 30 enforcement academy may provide training of state and local
11 31 law enforcement personnel concerning the recognition of and
11 32 response to persons with Alzheimer's disease.

11 33 The Iowa law enforcement academy may temporarily exceed and
11 34 draw more than the amount appropriated in this subsection in
11 35 either fiscal year and incur a negative cash balance as long



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 130 continued

12 1 as there are receivables equal to or greater than the negative
12 2 balance and the amount appropriated in this subsection in the
12 3 applicable fiscal year is not exceeded at the close of the
12 4 fiscal year.

12 5 2. The Iowa law enforcement academy may select at least
12 6 five automobiles of the department of public safety, division
12 7 of state patrol, prior to turning over the automobiles to
12 8 the department of administrative services to be disposed
12 9 of by public auction, and the Iowa law enforcement academy
12 10 may exchange any automobile owned by the academy for each
12 11 automobile selected if the selected automobile is used in
12 12 training law enforcement officers at the academy. However, any
12 13 automobile exchanged by the academy shall be substituted for
12 14 the selected vehicle of the department of public safety and
12 15 sold by public auction with the receipts being deposited in the
12 16 depreciation fund to the credit of the department of public
12 17 safety, division of state patrol.

12 18 Sec. 12. BOARD OF PAROLE. There is appropriated from
12 19 the general fund of the state to the board of parole for
12 20 the following fiscal years, the following amounts, or so
12 21 much thereof as is necessary, to be used for the purposes
12 22 designated:

12 23 For salaries, support, maintenance, and miscellaneous
12 24 purposes:
12 25 FY 2011=2012..... \$ 1,053,835
12 26 FY 2012=2013..... \$ 1,053,835

12 27 Sec. 13. DEPARTMENT OF PUBLIC DEFENSE. There is
12 28 appropriated from the general fund of the state to the
12 29 department of public defense for the following fiscal years,
12 30 the following amounts, or so much thereof as is necessary, to
12 31 be used for the purposes designated:

12 32 1. MILITARY DIVISION
12 33 For salaries, support, maintenance, and miscellaneous
12 34 purposes:
12 35 FY 2011=2012..... \$ 5,527,042



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 130 continued

13 1 FY 2012=2013..... \$ 5,527,042
 13 2 The military division may temporarily exceed and draw more
 13 3 than the amount appropriated in this subsection in either
 13 4 fiscal year and incur a negative cash balance as long as there
 13 5 are receivables of federal funds equal to or greater than the
 13 6 negative balance and the amount appropriated in this subsection
 13 7 is not exceeded at the close of the fiscal year.
 13 8 2. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION
 13 9 For salaries, support, maintenance, and miscellaneous
 13 10 purposes:
 13 11 FY 2011=2012..... \$ 1,836,878
 13 12 FY 2012=2013..... \$ 1,836,878
 13 13 a. The homeland security and emergency management
 13 14 division may temporarily exceed and draw more than the amount
 13 15 appropriated in this subsection in either fiscal year and incur
 13 16 a negative cash balance as long as there are receivables of
 13 17 federal funds equal to or greater than the negative balance and
 13 18 the amount appropriated in this subsection is not exceeded at
 13 19 the close of the fiscal year.
 13 20 b. It is the intent of the general assembly that the
 13 21 homeland security and emergency management division work in
 13 22 conjunction with the department of public safety, to the extent
 13 23 possible, when gathering and analyzing information related
 13 24 to potential domestic or foreign security threats, and when
 13 25 monitoring such threats.
 13 26 Sec. 14. DEPARTMENT OF PUBLIC SAFETY. There is appropriated
 13 27 from the general fund of the state to the department of public
 13 28 safety for the following fiscal years, the following amounts,
 13 29 or so much thereof as is necessary, to be used for the purposes
 13 30 designated:
 13 31 1. For the department's administrative functions, including
 13 32 the criminal justice information system:
 13 33 FY 2011=2012..... \$ 4,007,075
 13 34 FY 2012=2013..... \$ 4,007,075
 13 35 2. For the division of criminal investigation, including



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 130 continued

14 1 the state's contribution to the peace officers' retirement,
 14 2 accident, and disability system provided in chapter 97A in the
 14 3 amount of the state's normal contribution rate, as defined in
 14 4 section 97A.8, multiplied by the salaries for which the funds
 14 5 are appropriated, to meet federal fund matching requirements:
 14 6 FY 2011=2012..... \$ 12,533,931
 14 7 FY 2012=2013..... \$ 12,533,931
 14 8 3. For the criminalistics laboratory fund created in
 14 9 section 691.9:
 14 10 FY 2011=2012..... \$ 302,345
 14 11 FY 2012=2013..... \$ 302,345
 14 12 4. a. For the division of narcotics enforcement, including
 14 13 the state's contribution to the peace officers' retirement,
 14 14 accident, and disability system provided in chapter 97A in the
 14 15 amount of the state's normal contribution rate, as defined in
 14 16 section 97A.8, multiplied by the salaries for which the funds
 14 17 are appropriated, to meet federal fund matching requirements:
 14 18 FY 2011=2012..... \$ 6,429,884
 14 19 FY 2012=2013..... \$ 6,429,884
 14 20 b. For the division of narcotics enforcement for undercover
 14 21 purchases:
 14 22 FY 2011=2012..... \$ 109,042
 14 23 FY 2012=2013..... \$ 109,042
 14 24 5. For the division of state fire marshal, for fire
 14 25 protection services as provided through the state fire service
 14 26 and emergency response council as created in the department,
 14 27 and for the state's contribution to the peace officers'
 14 28 retirement, accident, and disability system provided in chapter
 14 29 97A in the amount of the state's normal contribution rate, as
 14 30 defined in section 97A.8, multiplied by the salaries for which
 14 31 the funds are appropriated:
 14 32 FY 2011=2012..... \$ 4,298,707
 14 33 FY 2012=2013..... \$ 4,298,707
 14 34 6. For the division of state patrol, for salaries, support,
 14 35 maintenance, workers' compensation costs, and miscellaneous



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 130 continued

15 1 purposes, including the state's contribution to the peace
 15 2 officers' retirement, accident, and disability system provided
 15 3 in chapter 97A in the amount of the state's normal contribution
 15 4 rate, as defined in section 97A.8, multiplied by the salaries
 15 5 for which the funds are appropriated:
 15 6 FY 2011=2012..... \$ 51,903,233
 15 7 FY 2012=2013..... \$ 51,903,233
 15 8 It is the intent of the general assembly that members of the
 15 9 state patrol be assigned to patrol the highways and roads in
 15 10 lieu of assignments for inspecting school buses for the school
 15 11 districts.
 15 12 7. For deposit in the sick leave benefits fund established
 15 13 under section 80.42 for all departmental employees eligible to
 15 14 receive benefits for accrued sick leave under the collective
 15 15 bargaining agreement:
 15 16 FY 2011=2012..... \$ 279,512
 15 17 FY 2012=2013..... \$ 279,512
 15 18 8. For costs associated with the training and equipment
 15 19 needs of volunteer fire fighters:
 15 20 FY 2011=2012..... \$ 575,520
 15 21 FY 2012=2013..... \$ 575,520
 15 22 a. Notwithstanding section 8.33, moneys appropriated in
 15 23 this subsection that remain unencumbered or unobligated at the
 15 24 close of each fiscal year shall not revert but shall remain
 15 25 available for expenditure only for the purpose designated in
 15 26 this subsection until the close of the succeeding fiscal year.
 15 27 b. Notwithstanding section 8.39, within the moneys
 15 28 appropriated in this section for each fiscal year, the
 15 29 department of public safety may reallocate moneys as necessary
 15 30 to best fulfill the needs provided for in the appropriation.
 15 31 However, the department shall not reallocate an appropriation
 15 32 made to the department in this section unless notice of the
 15 33 reallocation is given to the legislative services agency and
 15 34 the department of management prior to the effective date
 15 35 of the reallocation. The notice shall include information



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 130 continued

16 1 regarding the rationale for reallocating the appropriation.
 16 2 The department shall not reallocate an appropriation made in
 16 3 this section for the purpose of eliminating any program.
 16 4 Sec. 15. GAMING ENFORCEMENT.
 16 5 1. There is appropriated from the gaming enforcement
 16 6 revolving fund created in section 80.43 to the department of
 16 7 public safety for the following fiscal years, the following
 16 8 amounts, or so much thereof as is necessary, to be used for the
 16 9 purposes designated:
 16 10 For any direct and indirect support costs for agents
 16 11 and officers of the division of criminal investigation's
 16 12 excursion gambling boat, gambling structure, and racetrack
 16 13 enclosure enforcement activities, including salaries, support,
 16 14 maintenance, and miscellaneous purposes:
 16 15 FY 2011=2012..... \$ 9,836,306
 16 16 FY 2012=2013..... \$ 9,836,306
 16 17 2. For each additional license to conduct gambling games on
 16 18 an excursion gambling boat, gambling structure, or racetrack
 16 19 enclosure issued during the year beginning July 1, 2011,
 16 20 there is appropriated from the gaming enforcement fund to the
 16 21 department of public safety for the fiscal year beginning July
 16 22 1, 2011, and ending June 30, 2012, an additional amount of not
 16 23 more than \$521,000.
 16 24 3. For each additional license to conduct gambling games on
 16 25 an excursion gambling boat, gambling structure, or racetrack
 16 26 enclosure issued during the year beginning July 1, 2012,
 16 27 there is appropriated from the gaming enforcement fund to the
 16 28 department of public safety for the fiscal year beginning July
 16 29 1, 2012, an additional amount of not more than \$521,000.
 16 30 4. The department of public safety, with the approval of
 16 31 the department of management, shall not employ more than two
 16 32 special agents and four gaming enforcement officers for each
 16 33 additional riverboat or gambling structure regulated after July
 16 34 1, 2011, and one special agent for each racing facility which
 16 35 becomes operational during the fiscal year which begins July 1,



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 130 continued

18 1 This bill relates to and makes appropriations to the justice
18 2 system.

18 3 The bill makes appropriations from the general fund of the
18 4 state for FY 2011=2012 and FY 2012=2013 to the departments of
18 5 justice, corrections, public defense, and public safety, and
18 6 the office of consumer advocate, Iowa law enforcement academy,
18 7 office of the state public defender, board of parole, and Iowa
18 8 state civil rights commission.

18 9 The bill appropriates moneys from the gaming enforcement
18 10 fund to the department of public safety for FY 2011=2012 and
18 11 FY 2012=2013.

18 12 The bill also provides that for each additional license to
18 13 conduct gambling games on an excursion gambling boat, gambling
18 14 structure, or racetrack enclosure issued during the fiscal
18 15 year beginning on July 1, 2011, there is appropriated from the
18 16 gaming enforcement fund to the department of public safety for
18 17 the fiscal year beginning July 1, 2011, an additional amount
18 18 of not more than \$521,000. If an additional gaming license to
18 19 conduct gambling games on an excursion gambling boat, gambling
18 20 structure, or racetrack is issued during the fiscal year
18 21 beginning July 1, 2012, the bill also appropriates \$521,000
18 22 from the gaming enforcement fund to the department of public
18 23 safety for the fiscal year beginning July 1, 2012.

LSB 1014XG (10) 84

jm/tm



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

House Study Bill 131

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

A BILL FOR

1 An Act relating to public funding and regulatory matters and
2 making, reducing, and supplementing appropriations for
3 expenditures in the fiscal year beginning July 1, 2010,
4 and including effective date and retroactive applicability
5 provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2233XG (17) 84
jp/tm



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 131 continued

PAG LIN

1	1		
1	2	DIVISION I	
1	3	SUPPLEMENTAL APPROPRIATIONS	
1	4	Section 1. DEPARTMENT OF CORRECTIONS. After applying the	
1	5	reductions made pursuant to 2010 Iowa Acts, chapter 1193,	
1	6	section 27, and any transfers made pursuant to 2010 Iowa Acts,	
1	7	chapter 1193, section 28, to the appropriations made for the	
1	8	following designated purposes, there is appropriated from the	
1	9	general fund of the state to the department of corrections	
1	10	for the fiscal year beginning July 1, 2010, and ending June	
1	11	30, 2011, the following amounts, or so much thereof as is	
1	12	necessary, to supplement the appropriations made for the	
1	13	following designated purposes:	
1	14	1. For the operation of adult correctional institutions in	
1	15	2010 Iowa Acts, chapter 1190, section 3, subsection 1, to be	
1	16	allocated as follows:	
1	17	a. For the operation of the Fort Madison correctional	
1	18	facility in 2010 Iowa Acts, chapter 1190, section 3, subsection	
1	19	1, paragraph "a":	
1	20 \$ 1,920,083	
1	21	b. For the operation of the Anamosa correctional facility	
1	22	in 2010 Iowa Acts, chapter 1190, section 3, subsection 1,	
1	23	paragraph "b":	
1	24 \$ 1,293,060	
1	25	c. For the operation of the Oakdale correctional facility	
1	26	in 2010 Iowa Acts, chapter 1190, section 3, subsection 1,	
1	27	paragraph "c":	
1	28 \$ 2,385,141	
1	29	d. For the operation of the Newton correctional facility	
1	30	in 2010 Iowa Acts, chapter 1190, section 3, subsection 1,	
1	31	paragraph "d":	
1	32 \$ 1,101,460	
1	33	e. For the operation of the Mount Pleasant correctional	
1	34	facility in 2010 Iowa Acts, chapter 1190, section 3, subsection	
1	35	1, paragraph "e":	
	 \$ 1,359,865	



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 131 continued

2 1 f. For the operation of the Rockwell City correctional
 2 2 facility in 2010 Iowa Acts, chapter 1190, section 3, subsection
 2 3 1, paragraph "f":
 2 4 \$ 412,008
 2 5 g. For the operation of the Clarinda correctional facility
 2 6 in 2010 Iowa Acts, chapter 1190, section 3, subsection 1,
 2 7 paragraph "g":
 2 8 \$ 1,180,617
 2 9 h. For the operation of the Mitchellville correctional
 2 10 facility in 2010 Iowa Acts, chapter 1190, section 3, subsection
 2 11 1, paragraph "h":
 2 12 \$ 504,674
 2 13 i. For the operation of the Fort Dodge correctional facility
 2 14 in 2010 Iowa Acts, chapter 1190, section 3, subsection 1,
 2 15 paragraph "i":
 2 16 \$ 1,162,060
 2 17 2. For general administration in 2010 Iowa Acts, chapter
 2 18 1190, section 4:
 2 19 \$ 110,202
 2 20 3. For the judicial district departments of correctional
 2 21 services in 2010 Iowa Acts, chapter 1190, section 5, subsection
 2 22 1, to be allocated as follows:
 2 23 a. For the first judicial district department of
 2 24 correctional services in 2010 Iowa Acts, chapter 1190, section
 2 25 5, subsection 1, paragraph "a":
 2 26 \$ 393,353
 2 27 b. For the second judicial district department of
 2 28 correctional services in 2010 Iowa Acts, chapter 1190, section
 2 29 5, subsection 1, paragraph "b":
 2 30 \$ 360,912
 2 31 c. For the third judicial district department of
 2 32 correctional services in 2010 Iowa Acts, chapter 1190, section
 2 33 5, subsection 1, paragraph "c":
 2 34 \$ 221,743
 2 35 d. For the fourth judicial district department of



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 131 continued

3 1 correctional services in 2010 Iowa Acts, chapter 1190, section
3 2 5, subsection 1, paragraph "d":
3 3 \$ 169,067
3 4 e. For the fifth judicial district department of
3 5 correctional services in 2010 Iowa Acts, chapter 1190, section
3 6 5, subsection 1, paragraph "e":
3 7 \$ 723,637
3 8 f. For the sixth judicial district department of
3 9 correctional services in 2010 Iowa Acts, chapter 1190, section
3 10 5, subsection 1, paragraph "f":
3 11 \$ 460,329
3 12 g. For the seventh judicial district department of
3 13 correctional services in 2010 Iowa Acts, chapter 1190, section
3 14 5, subsection 1, paragraph "g":
3 15 \$ 265,431
3 16 h. For the eighth judicial district department of
3 17 correctional services in 2010 Iowa Acts, chapter 1190, section
3 18 5, subsection 1, paragraph "h":
3 19 \$ 177,991
3 20 Sec. 2. STATE PUBLIC DEFENDER. After applying the
3 21 reductions made pursuant to 2010 Iowa Acts, chapter 1193,
3 22 section 27, and any transfers made pursuant to 2010 Iowa Acts,
3 23 chapter 1193, section 28, to the appropriations made for the
3 24 following designated purposes, there is appropriated from the
3 25 general fund of the state to the office of the state public
3 26 defender of the department of inspections and appeals for the
3 27 fiscal year beginning July 1, 2010, and ending June 30, 2011,
3 28 the following amounts, or so much thereof as is necessary, to
3 29 supplement the appropriations made for the following designated
3 30 purposes:
3 31 1. For the office of the state public defender, in 2010 Iowa
3 32 Acts, chapter 1190, section 10, subsection 1:
3 33 \$ 2,551,500
3 34 2. For the fees of court-appointed attorneys for indigent
3 35 adults and juveniles, in accordance with section 232.141 and



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 131 continued

4 1 chapter 815, in 2010 Iowa Acts, chapter 1190, section 10,
 4 2 subsection 2:
 4 3 \$ 16,000,000
 4 4 Sec. 3. DEPARTMENT OF PUBLIC SAFETY. After applying the
 4 5 reductions made pursuant to 2010 Iowa Acts, chapter 1193,
 4 6 section 27, and any transfers made pursuant to 2010 Iowa Acts,
 4 7 chapter 1193, section 28, to the appropriations made for the
 4 8 following designated purposes, there is appropriated from
 4 9 the general fund of the state to the department of public
 4 10 safety for the fiscal year beginning July 1, 2010, and ending
 4 11 June 30, 2011, the following amounts, or so much thereof as
 4 12 is necessary, to supplement the appropriations made for the
 4 13 following designated purposes:
 4 14 1. For the department's administrative functions in 2010
 4 15 Iowa Acts, chapter 1190, section 14, subsection 1:
 4 16 \$ 275,000
 4 17 2. For the division of criminal investigation in 2010 Iowa
 4 18 Acts, chapter 1190, section 14, subsection 2:
 4 19 \$ 325,000
 4 20 3. For the division of narcotics enforcement in 2010 Iowa
 4 21 Acts, chapter 1190, section 14, subsection 4, paragraph "a":
 4 22 \$ 225,000
 4 23 4. For the division of state fire marshal in 2010 Iowa Acts,
 4 24 chapter 1190, section 14, subsection 5:
 4 25 \$ 130,000
 4 26 5. For the division of state patrol in 2010 Iowa Acts,
 4 27 chapter 1190, section 14, subsection 6:
 4 28 \$ 2,000,000
 4 29 Sec. 4. DEPARTMENT OF PUBLIC HEALTH. After applying the
 4 30 reductions made pursuant to 2010 Iowa Acts, chapter 1193,
 4 31 section 27, and any transfers made pursuant to 2010 Iowa Acts,
 4 32 chapter 1193, section 28, to the appropriations made for the
 4 33 following designated purposes, there is appropriated from
 4 34 the general fund of the state to the department of public
 4 35 health for the fiscal year beginning July 1, 2010, and ending



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 131 continued

5 1 June 30, 2011, the following amounts, or so much thereof as
 5 2 is necessary, to supplement the appropriations made for the
 5 3 following designated purposes:

5 4 1. For addictive disorders, in 2010 Iowa Acts, chapter 1192,
 5 5 section 2, subsection 1:
 5 6 \$ 675,896

5 7 2. For healthy children and families, in 2010 Iowa Acts,
 5 8 chapter 1192, section 2, subsection 2:
 5 9 \$ 68,192

5 10 3. For community capacity, in 2010 Iowa Acts, chapter 1192,
 5 11 section 2, subsection 4:
 5 12 \$ 13,275

5 13 4. For healthy aging, in 2010 Iowa Acts, chapter 1192,
 5 14 section 2, subsection 5:
 5 15 \$ 403,500

5 16 5. For infectious diseases, in 2010 Iowa Acts, chapter 1192,
 5 17 section 2, subsection 7:
 5 18 \$ 51,688

5 19 Sec. 5. DEPARTMENT OF HUMAN SERVICES. After applying the
 5 20 reductions made pursuant to 2010 Iowa Acts, chapter 1193,
 5 21 section 27, and any transfers made pursuant to 2010 Iowa
 5 22 Acts, chapter 1193, section 28, to the appropriations made
 5 23 for the following designated purposes, there is appropriated
 5 24 from the general fund of the state to the department of human
 5 25 services for the fiscal year beginning July 1, 2010, and ending
 5 26 June 30, 2011, the following amounts, or so much thereof as
 5 27 is necessary, to supplement the appropriations made for the
 5 28 following designated purposes:

5 29 1. For the state mental health institute at Cherokee,
 5 30 in 2010 Iowa Acts, chapter 1192, section 24, subsection 1,
 5 31 paragraph "a":
 5 32 \$ 784,607

5 33 2. For the state mental health institute at Clarinda,
 5 34 in 2010 Iowa Acts, chapter 1192, section 24, subsection 1,
 5 35 paragraph "b":



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 131 continued

6 1 \$ 623,793
 6 2 3. For the state mental health institute at Independence,
 6 3 in 2010 Iowa Acts, chapter 1192, section 24, subsection 1,
 6 4 paragraph "c":
 6 5 \$ 1,235,916
 6 6 Sec. 6. EFFECTIVE UPON ENACTMENT. This division of this
 6 7 Act, being deemed of immediate importance, takes effect upon
 6 8 enactment.

DIVISION II
TRANSFERS

6 9
 6 10
 6 11 Sec. 7. 2010 Iowa Acts, chapter 1031, section 235, is
 6 12 amended to read as follows:
 6 13 SEC. 235. DEPARTMENT OF REVENUE == EXAMINERS.
 6 14 1. There is appropriated from the general fund of the state
 6 15 to the department of revenue for the fiscal year beginning July
 6 16 1, 2010, and ending June 30, 2011, the following amount, or
 6 17 so much thereof as is necessary, to be used for the purposes
 6 18 designated:
 6 19 For salaries, support, maintenance, miscellaneous purposes,
 6 20 and for not more than the following full-time equivalent
 6 21 positions:

6 22 \$ 325,000
 6 23 FTEs 5.00

6 24 The moneys appropriated in this ~~section~~ subsection shall be
 6 25 utilized by the department to hire five additional examiners.

6 26 2. On the effective date of this 2011 Iowa Act, moneys
 6 27 appropriated in this section that remain unencumbered or
 6 28 unobligated are transferred to the appropriation made to the
 6 29 department of revenue in 2010 Iowa Acts, chapter 1189, section
 6 30 21.

6 31 Sec. 8. 2010 Iowa Acts, chapter 1193, section 84, is amended
 6 32 to read as follows:
 6 33 SEC. 84. FISCAL YEAR 2009=2010 == APPROPRIATIONS. There
 6 34 is appropriated from the general fund of the state to the
 6 35 following departments and agencies for the fiscal year



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 131 continued

7 1 beginning July 1, 2009, and ending June 30, 2010, the following
 7 2 amounts, or so much thereof as is necessary, to be used for the
 7 3 purposes designated:
 7 4 1. DEPARTMENT OF MANAGEMENT
 7 5 For salaries, support, maintenance, and miscellaneous
 7 6 purposes:
 7 7 \$ 200,000
 7 8 2. DEPARTMENT OF REVENUE
 7 9 For the duties of the office of the state debt coordinator
 7 10 established in 2010 Iowa Acts, Senate File 2383, if enacted,
 7 11 including salaries, support, maintenance, services,
 7 12 advertising, miscellaneous purposes, and for not more than the
 7 13 following full-time equivalent positions:
 7 14 \$ 300,000

..... F

7 15 3.00

7 16 On the effective date of this 2011 Iowa Act, moneys
 7 17 appropriated in this subsection that remain unencumbered or
 7 18 unobligated are transferred to the appropriation made to the
 7 19 department of revenue in 2010 Iowa Acts, chapter 1189, section
 7 20 21.

7 21 For the period beginning on the effective date of the section
 7 22 establishing the debt amnesty program in 2010 Iowa Acts, Senate
 7 23 File 2383, through November 30, 2010, or when the program is
 7 24 ended, whichever is later, an amount of the proceeds collected
 7 25 by the program equal to the administrative, advertising, and
 7 26 other costs of the program shall be considered repayment
 7 27 receipts, as defined in section 8.2, and shall be used by the
 7 28 office of the state debt coordinator for those costs.

7 29 Notwithstanding section 8.33, moneys appropriated in this
 7 30 section that remain unencumbered or unobligated at the close of
 7 31 the fiscal year shall not revert but shall remain available for
 7 32 expenditure for the purposes designated until the close of the
 7 33 succeeding fiscal year.

7 34 Sec. 9. DEPARTMENT OF HUMAN SERVICES. There is transferred
 7 35 between the following designated appropriations made to the



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 131 continued

8 1 department of human services for the fiscal year beginning July
8 2 1, 2010, and ending June 30, 2011, not more than the following
8 3 amounts:

8 4 1. From the appropriation made for purposes of the state
8 5 resource center at Glenwood in 2010 Iowa Acts, chapter 1192,
8 6 section 25, subsection 1, paragraph "a", to the appropriation
8 7 made for purposes of the Iowa juvenile home at Toledo in 2010
8 8 Iowa Acts, chapter 1192, section 17, subsection 1:

8 9 \$ 400,000

8 10 2. From the appropriation made for purposes of the state
8 11 resource center at Woodward in 2010 Iowa Acts, chapter 1192,
8 12 section 25, subsection 1, paragraph "b", to the appropriation
8 13 made for purposes of the state mental health institute at
8 14 Independence in 2010 Iowa Acts, chapter 1192, section 24,
8 15 subsection 1, paragraph "c":

8 16 \$ 400,000

8 17 Sec. 10. EFFECTIVE UPON ENACTMENT. This division of this
8 18 Act, being deemed of immediate importance, takes effect upon
8 19 enactment.

DIVISION III

CORRECTIVE PROVISIONS

8 22 Sec. 11. 2010 Iowa Acts, chapter 1193, section 199, is
8 23 amended to read as follows:

8 24 SEC. 199. TERRACE HILL ==== GENERAL FUND ==== DEPARTMENT OF
8 25 ADMINISTRATIVE SERVICES. There is appropriated from the
8 26 general fund of the state to the department of administrative
8 27 services for the fiscal year beginning July 1, ~~2009~~ 2010,
8 28 and ending June 30, ~~2010~~ 2011, the following amount, or so
8 29 much thereof as is necessary, to be used for the purposes
8 30 designated:

8 31 For salaries, support, maintenance, and miscellaneous
8 32 purposes necessary for the operation of Terrace Hill, and for
8 33 not more than the following full-time equivalent positions:

8 34 \$ 263,329

8 35 FTEs 6.38



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

House Study Bill 131 continued

10 1 made to the department of human services in 2010 Iowa Acts,
10 2 chapter 1192, as follows: from the state resource center at
10 3 Glenwood to the Iowa juvenile home at Toledo and from the
10 4 state resource center at Woodward to the state mental health
10 5 institute at Independence.
10 6 The division takes effect upon enactment.
10 7 CORRECTIVE PROVISIONS. This division provides corrective
10 8 provisions.
10 9 An appropriation made in 2010 Iowa Acts, chapter 1193,
10 10 commonly referred to as the standing appropriations bill, is
10 11 amended to correct the fiscal year in section 199. This fiscal
10 12 year for this appropriation, made from the general fund of
10 13 the state to the department of administrative services for
10 14 personnel costs at Terrace Hill, is changed from fiscal year
10 15 2009=2010 to fiscal year 2010=2011.
10 16 The division takes effect upon enactment and is
10 17 retroactively applicable to the 2010 Iowa Act's effective date
10 18 of April 29, 2010.
LSB 2233XG (17) 84
jp/tm



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Amendment 3036

PAG LIN

1 1 Amend Senate File 261 as follows:
1 2 #1. Page 5, before line 35 by inserting:
1 3 <Sec. _____. Section 423.3, Code 2011, is amended by
1 4 adding the following new subsection:
1 5 NEW SUBSECTION. 96. The sales price of fees
1 6 charged for the release of medical records as described
1 7 in section 622.10.>
1 8 #2. Page 6, before line 21 by inserting:
1 9 <Sec. _____. Section 622.10, subsection 5, paragraph
1 10 c, Code 2011, is amended to read as follows:
1 11 c. Fees charged pursuant to this subsection are ~~not~~
~~1 12 subject to a sales or use tax~~ exempt from the sales tax
1 13 pursuant to section 423.3, subsection 96. A provider
1 14 providing the records or images may require payment
1 15 in advance if an itemized statement demanding such is
1 16 provided to the requesting party within fifteen days
1 17 of the request. Upon a timely request for payment in
1 18 advance, the time for providing the records or images
1 19 shall be extended until the greater of thirty days from
1 20 the date of the original request or ten days from the
1 21 receipt of payment.>

PAM JOCHUM
SF261.563 (2) 84
tw/sc



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 262 - Introduced

SENATE FILE
BY WARD

A BILL FOR

1 An Act relating to the demonstration of a reasonable or
2 probable cause or excuse for the denial, delay in payment,
3 or termination of workers' compensation benefits.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1778SS (3) 84
av/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 262 - Introduced continued

PAG LIN

1 1 Section 1. Section 86.13, subsection 4, paragraph c,
1 2 subparagraph (1), Code 2011, is amended to read as follows:
1 3 (1) The excuse was preceded by a reasonable investigation
1 4 and evaluation by the employer or insurance carrier into
1 5 whether benefits were owed to the employee. This criteria
1 6 shall be considered satisfied if the employer or insurance
1 7 carrier demonstrates that the employee failed to cooperate
1 8 with a reasonable investigation and evaluation by the employer
1 9 or insurance carrier into whether benefits were owed to the
1 10 employee.

1 11 EXPLANATION

1 12 This bill provides that an employer or insurance carrier
1 13 satisfies one of the criteria for establishing a reasonable or
1 14 probable cause or excuse for the denial, delay in payment, or
1 15 termination of workers' compensation benefits and avoiding the
1 16 imposition of penalty benefits, if the employer or insurance
1 17 carrier demonstrates that the employee failed to cooperate
1 18 with a reasonable investigation and evaluation by the employer
1 19 or insurance carrier into whether benefits were owed to the
1 20 employee.

LSB 1778SS (3) 84

av/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 263 - Introduced

SENATE FILE

BY SORENSON, HAMERLINCK,
BEHN, KETTERING,
BACON, JOHNSON,
KAPUCIAN, CHELGREN,
BOETTGER, ZAUN, BARTZ,
ERNST, SMITH, WHITVER,
ANDERSON, and BERTRAND

A BILL FOR

1 An Act relating to the justifiable use of reasonable force.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1519SS (2) 84
jm/rj



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 263 - Introduced continued

PAG LIN

1 1 Section 1. Section 704.1, Code 2011, is amended to read as
1 2 follows:
1 3 704.1 Reasonable force.
1 4 "Reasonable force" is that force and no more which a
1 5 reasonable person, in like circumstances, would judge to
1 6 be necessary to prevent an injury or loss and can include
1 7 deadly force if it is reasonable to believe that such force is
1 8 necessary to avoid injury or risk to one's life or safety or
1 9 the life or safety of another, or it is reasonable to believe
1 10 that such force is necessary to resist a like force or threat.
1 11 Reasonable force, including deadly force, may be used ~~even if~~
~~1 12 an alternative course of action is available if the alternative~~
~~1 13 entails a risk to life or safety, or the life or safety of a~~
~~1 14 third party, or requires one to abandon or retreat from one's~~
~~1 15 dwelling or place of business or employment, and a person has~~
1 16 no duty to retreat, and has the right to stand the person's
1 17 ground, and meet force with force, if the person believes
1 18 reasonable force, including deadly force, is necessary under
1 19 the circumstances to prevent death or serious injury to oneself
1 20 or a third party, or to prevent the commission of a forcible
1 21 felony.
1 22 Sec. 2. NEW SECTION. 704.4A Immunity.
1 23 1. A person who uses reasonable force shall be immune from
1 24 any criminal prosecution or civil action for using such force,
1 25 unless the person against whom such force is used is a peace
1 26 officer acting within the scope of the officer's duties and the
1 27 peace officer identifies the officer's identity, or the person
1 28 knew or reasonably should have known the person is a peace
1 29 officer.
1 30 2. A law enforcement agency may use standard investigating
1 31 procedures for investigating the use of force, but the law
1 32 enforcement agency shall not arrest a person for using force
1 33 unless it determines there is probable cause that the force was
1 34 unlawful under this chapter.
1 35 3. If a person is arrested and it is later determined by a



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 263 - Introduced continued

2 1 court or jury that the person was justified in using reasonable
2 2 force under the circumstances, the person shall be awarded
2 3 reasonable attorney fees, court costs, compensation for loss of
2 4 any income, and reimbursement of any other expenses incurred as
2 5 a result of being arrested and charged.

2 6 EXPLANATION

2 7 This bill relates to the justifiable use of reasonable
2 8 force.

2 9 The bill provides that a person may use reasonable force,
2 10 including deadly force, and a person has no duty to retreat,
2 11 and has a right to stand the person's ground, and meet force
2 12 with force, if the person believes reasonable force, including
2 13 deadly force, is necessary under the circumstances to prevent
2 14 death or serious injury to oneself or a third party, or to
2 15 prevent the commission of a forcible felony.

2 16 Current law provides that a person may use reasonable force,
2 17 including deadly force, even if an alternative course of action
2 18 is available if the alternative entails a risk of life or
2 19 safety or the life or safety of a third party, or requires
2 20 one to abandon or retreat from one's residence or place of
2 21 business.

2 22 The bill also provides that a person who uses reasonable
2 23 force shall be immune from any criminal prosecution or civil
2 24 action for using such force, unless the person against whom
2 25 such force is used is a peace officer acting within the scope
2 26 of the officer's duties and the peace officer identifies the
2 27 officer's identity, or the person knew or reasonably should
2 28 have known the person is a peace officer.

2 29 Under the bill, a law enforcement agency shall not arrest a
2 30 person for using force unless it determines there is probable
2 31 cause that the force was unlawful under Code chapter 704.

2 32 The bill also provides that if a person is arrested and it
2 33 is later determined by a court or jury that the person was
2 34 justified in using reasonable force under the circumstances,
2 35 the person shall be awarded reasonable attorney fees, court



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate File 263 - Introduced continued

3 1 costs, compensation for loss of any income, and reimbursement
3 2 of any other expenses incurred as a result of being arrested
3 3 and charged.

LSB 1519SS (2) 84

jm/rj



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 264 - Introduced

SENATE FILE
BY SORENSON, HAMERLINCK,
ANDERSON, CHELGREN,
WHITVER, ERNST, and
BEHN

(COMPANION TO LSB
1783HH BY ALONS)

A BILL FOR

- 1 An Act eliminating the requirement of an annual permit to
- 2 acquire a pistol or revolver.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1783SS (5) 84
rh/rj



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 264 - Introduced continued

PAG LIN

1 1 Section 1. Section 724.11A, Code 2011, is amended to read
1 2 as follows:

1 3 724.11A Recognition.

1 4 A valid permit or license issued by another state to any
1 5 nonresident of this state shall be considered to be a valid
1 6 permit or license to carry weapons issued pursuant to this
1 7 chapter, ~~except that such permit or license shall not be~~

~~1 8 considered to be a substitute for an annual permit to acquire
1 9 pistols or revolvers issued pursuant to section 724.15.~~

1 10 Sec. 2. Section 724.21A, Code 2011, is amended to read as
1 11 follows:

1 12 724.21A Denial, suspension, or revocation of permit to carry
1 13 weapons ~~or permit to acquire pistols or revolvers.~~

1 14 1. In any case where the sheriff or the commissioner of
1 15 public safety denies an application for or suspends or revokes
1 16 a permit to carry weapons, ~~or an annual permit to acquire~~

~~1 17 pistols or revolvers,~~ the sheriff or commissioner shall provide
1 18 a written statement of the reasons for the denial, suspension,
1 19 or revocation and the applicant or permit holder shall have the
1 20 right to appeal the denial, suspension, or revocation to an
1 21 administrative law judge in the department of inspections and
1 22 appeals within thirty days of receiving written notice of the
1 23 denial, suspension, or revocation.

1 24 2. The applicant or permit holder may file an appeal with
1 25 an administrative law judge by filing a copy of the denial,
1 26 suspension, or revocation notice with a written statement that
1 27 clearly states the applicant's reasons rebutting the denial,
1 28 suspension, or revocation along with a fee of ten dollars.
1 29 Additional supporting information relevant to the proceedings
1 30 may also be included.

1 31 3. The administrative law judge shall, within forty=five
1 32 days of receipt of the request for an appeal, set a hearing
1 33 date. The hearing may be held by telephone or video conference
1 34 at the discretion of the administrative law judge. The
1 35 administrative law judge shall receive witness testimony and



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 264 - Introduced continued

2 1 other evidence relevant to the proceedings at the hearing. The
2 2 hearing shall be conducted pursuant to chapter 17A.

2 3 4. Upon conclusion of the hearing, the administrative law
2 4 judge shall order that the denial, suspension, or revocation
2 5 of the permit be either rescinded or sustained. An applicant,
2 6 permit holder, or issuing officer aggrieved by the final
2 7 judgment of the administrative law judge shall have the right
2 8 to judicial review in accordance with the terms of the Iowa
2 9 administrative procedure Act, chapter 17A.

2 10 5. The standard of review under this section shall be
2 11 clear and convincing evidence that the issuing officer's
2 12 written statement of the reasons for the denial, suspension, or
2 13 revocation constituted probable cause to deny an application or
2 14 to suspend or revoke a permit.

2 15 6. The department of inspections and appeals shall adopt
2 16 rules pursuant to chapter 17A as necessary to carry out the
2 17 provisions of this section.

2 18 7. In any case where the issuing officer denies an
2 19 application for, or suspends or revokes a permit to carry
2 20 ~~weapons, or an annual permit to acquire pistols or revolvers~~
2 21 solely because of an adverse determination by the national
2 22 instant criminal background check system, the applicant or
2 23 permit holder shall not seek relief under this section but
2 24 may pursue relief of the national instant criminal background
2 25 check system determination pursuant to Pub. L. No. 103=159,
2 26 sections 103(f) and (g) and 104 and 28 C.F.R. { 25.10, or other
2 27 applicable law. The outcome of such proceedings shall be
2 28 binding on the issuing officer.

2 29 Sec. 3. Section 724.27, subsection 1, unnumbered paragraph
2 30 1, Code 2011, is amended to read as follows:

2 31 The provisions of ~~section~~ sections 724.8, ~~section~~ 724.15,
~~2 32 subsection 1,~~ and ~~section~~ 724.26 shall not apply to a person
2 33 who is eligible to have the person's civil rights regarding
2 34 firearms restored under section 914.7 if any of the following
2 35 occur:



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 264 - Introduced continued

3 1 Sec. 4. REPEAL. Sections 724.15, 724.16, 724.17, 724.18,
3 2 724.19, 724.20, and 724.21, Code 2011, are repealed.

3 3 EXPLANATION

3 4 This bill eliminates the requirement, pursuant to Code
3 5 section 724.15, that a person who acquires ownership of a
3 6 pistol or revolver must apply for and be issued an annual
3 7 permit to acquire a pistol or revolver unless certain
3 8 exceptions apply.

3 9 The bill repeals related Code sections relating to
3 10 permit-to-acquire applications (Code sections 724.17 and
3 11 724.18), issuance requirements and procedures (Code sections
3 12 724.19, 724.20, and 724.21), and a related transfer of
3 13 ownership and penalty provision (Code section 724.16). The
3 14 bill makes conforming changes to Code sections 724.11A
3 15 (recognition of out-of-state permits), 724.21A (provisions
3 16 relating to the denial, suspension, or revocation of permits to
3 17 acquire), and 724.27 (restoration of citizenship rights to a
3 18 person convicted of a felony).

3 19 Current law provides that a person who acquires ownership of
3 20 a pistol or revolver without a valid annual permit to acquire
3 21 pistols or revolvers or a person who transfers ownership of
3 22 a pistol or revolver to a person who does not have in the
3 23 person's possession a valid annual permit to acquire pistols
3 24 or revolvers is guilty of an aggravated misdemeanor, and a
3 25 person who transfers ownership of a pistol or revolver to a
3 26 person that the transferor knows is prohibited from acquiring
3 27 ownership of a pistol or revolver commits a class "D" felony.
3 28 In addition, current law provides that a person who gives a
3 29 false name or presents false identification, or otherwise
3 30 knowingly gives false material information to one from whom the
3 31 person seeks to acquire a pistol or revolver commits a class
3 32 "D" felony.

LSB 1783SS (5) 84
rh/rj



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 265 - Introduced

SENATE FILE
BY DANIELSON

A BILL FOR

1 An Act creating a blue alert program within the department of
2 public safety for the apprehension of a person suspected of
3 killing or seriously injuring a peace officer in the line of
4 duty.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1915XS (3) 84
jm/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 265 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 80G.1 Blue alert program ====
1 2 creation.
1 3 A blue alert program is created as a cooperative effort
1 4 between the department of public safety and local law
1 5 enforcement agencies to aid in the apprehension of a person
1 6 suspected of killing or seriously injuring a peace officer in
1 7 the line of duty.
1 8 Sec. 2. NEW SECTION. 80G.2 Definition.
1 9 As used in this chapter, "peace officer" means the same as
1 10 defined in section 801.4.
1 11 Sec. 3. NEW SECTION. 80G.3 Criteria.
1 12 A blue alert shall be issued by Iowa state patrol
1 13 communications upon receipt of a request from a law enforcement
1 14 agency if the following criteria apply:
1 15 1. The law enforcement agency has confirmed that a peace
1 16 officer has been killed or seriously injured in the line of
1 17 duty and an entry has been made into the Iowa online articles
1 18 and warrants system providing that a peace officer has been
1 19 killed or seriously injured. The law enforcement agency
1 20 shall submit to the department of public safety sufficient
1 21 information to confirm the death or serious injury of the
1 22 officer on a form prescribed by the department of public safety
1 23 prior to a blue alert being transmitted.
1 24 2. The law enforcement agency has entered descriptive
1 25 information relating to the suspect.
1 26 3. There is enough descriptive information about the
1 27 suspect to ensure that an immediate broadcast of the
1 28 information will aid in the discovery of the suspect.
1 29 Sec. 4. NEW SECTION. 80G.4 Activation and termination.
1 30 1. Upon establishment of the blue alert criteria in section
1 31 80G.3, the department of public safety shall transmit a blue
1 32 alert through the emergency alert system to Iowa broadcasters.
1 33 2. Upon the transmission of a blue alert the department
1 34 of public safety shall post the alert on an internet website
1 35 accessible by the public.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 265 - Introduced continued

2 1 3. After an initial blue alert transmission, additional
2 2 information may be submitted by the participating law
2 3 enforcement agency by facsimile transmission, electronic mail,
2 4 or telephonic means.
2 5 4. The communications officer of the state patrol may
2 6 direct the transmission of an Iowa blue alert upon request from
2 7 another state, provided that there is evidence the suspect may
2 8 be present in Iowa.
2 9 5. A blue alert shall terminate if the suspect is located or
2 10 five hours have elapsed since the transmission of the alert.
2 11 6. A blue alert may be renewed.
2 12 Sec. 5. NEW SECTION. 80G.5 Rules.
2 13 The department of public safety shall adopt rules pursuant
2 14 to chapter 17A to implement this chapter.
2 15 EXPLANATION
2 16 This bill creates a blue alert program within the department
2 17 of public safety.
2 18 The bill provides that the purpose of the program is to
2 19 aid in the apprehension of a person suspected of killing or
2 20 seriously injuring a peace officer.
2 21 The bill defines "peace officer" to mean the same as defined
2 22 in Code section 801.4.
2 23 Under the bill, a blue alert shall be issued by the
2 24 department of public safety if the following apply: a law
2 25 enforcement agency has confirmed that a peace officer has
2 26 been killed or seriously injured in the line of duty, and
2 27 an entry has been made into the Iowa online articles and
2 28 warrants system; the law enforcement agency has entered
2 29 descriptive information relating to the suspect; and there is
2 30 enough descriptive information about the suspect to ensure
2 31 an immediate broadcast of the information will aid in the
2 32 discovery of the suspect.
2 33 If the criteria for issuing a blue alert have been
2 34 established, the department of public safety shall transmit
2 35 a blue alert through the emergency alert system to Iowa



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate File 265 - Introduced continued

3 1 broadcasters. Upon the transmission of the blue alert the
3 2 department shall also post the alert on an internet website.
3 3 The bill provides that a blue alert shall be terminated when
3 4 the suspect is located or five hours after transmission of the
3 5 alert.
3 6 A blue alert may be renewed.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 266 - Introduced

SENATE FILE
BY BOLKCOM

A BILL FOR

1 An Act relating to the creation of a medical marijuana Act
2 including the creation of nonprofit dispensaries, and
3 providing for civil and criminal penalties and fees.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1768XS (15) 84
rh/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 266 - Introduced continued

PAG LIN

1 1 Section 1. Section 124.401, subsection 5, Code 2011, is
1 2 amended by adding the following new unnumbered paragraph:
1 3 NEW UNNUMBERED PARAGRAPH A person may knowingly or
1 4 intentionally possess marijuana if the possession is in
1 5 accordance with the provisions of chapter 124D.
1 6 Sec. 2. NEW SECTION. 124D.1 Citation.
1 7 This chapter shall be known and may be cited as the "Medical
1 8 Marijuana Act".
1 9 Sec. 3. NEW SECTION. 124D.2 Definitions.
1 10 As used in this chapter, the following definitions shall
1 11 apply:
1 12 1. "Cardholder" means a qualifying patient, a primary
1 13 caregiver, or a principal officer, board member, employee,
1 14 or agent of a nonprofit dispensary who has been issued and
1 15 possesses a valid registry identification card.
1 16 2. "Debilitating medical condition" means any of the
1 17 following:
1 18 a. Cancer, glaucoma, positive status for human
1 19 immunodeficiency virus, acquired immune deficiency syndrome,
1 20 hepatitis C, amyotrophic lateral sclerosis, Crohn's disease,
1 21 agitation of Alzheimer's disease, nail patella, or the
1 22 treatment of any of these conditions.
1 23 b. A chronic or debilitating disease or medical condition
1 24 or its treatment that produces intractable pain, which is pain
1 25 that has not responded to ordinary medical or surgical measures
1 26 for more than six months.
1 27 c. A chronic or debilitating disease or medical condition or
1 28 its treatment that produces any of the following:
1 29 (1) Cachexia or wasting syndrome.
1 30 (2) Severe nausea.
1 31 (3) Seizures, including but not limited to those
1 32 characteristic of epilepsy.
1 33 (4) Severe and persistent muscle spasms, including but not
1 34 limited to those characteristic of multiple sclerosis.
1 35 d. Any other medical condition or its treatment approved by



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 266 - Introduced continued

2 1 the department.

2 2 3. "Department" means the department of public health.

2 3 4. "Enclosed, locked facility" means a closet, room,

2 4 greenhouse, or other enclosed area equipped with locks or other

2 5 security devices that permit access only by a cardholder.

2 6 5. "Felony drug offense" means a violation of a state or

2 7 federal controlled substance law that was classified as a

2 8 felony in the jurisdiction where the person was convicted.

2 9 "Felony drug offense" does not include any of the following:

2 10 a. An offense for which the sentence, including any term of

2 11 probation, incarceration, or supervised release, was completed

2 12 ten or more years earlier.

2 13 b. An offense that involved conduct that would have been

2 14 permitted under this chapter.

2 15 6. "Marijuana" means the same as defined in section 124.101,

2 16 subsection 19.

2 17 7. "Medical use" means the acquisition, possession,

2 18 cultivation, manufacture, use, delivery, transfer, or

2 19 transportation of marijuana or paraphernalia relating to the

2 20 administration of marijuana to treat or alleviate a registered

2 21 qualifying patient's debilitating medical condition or symptoms

2 22 associated with the patient's debilitating medical condition.

2 23 8. "Nonprofit dispensary" means a not=for=profit entity

2 24 registered under section 124D.4 that acquires, possesses,

2 25 cultivates, manufactures, delivers, transfers, transports,

2 26 sells, supplies, or dispenses marijuana or related supplies and

2 27 educational materials to cardholders. A nonprofit dispensary

2 28 is a primary caregiver.

2 29 9. "Physician" means an individual licensed under the

2 30 provisions of chapter 148 to practice medicine and surgery or

2 31 osteopathic medicine and surgery.

2 32 10. "Primary caregiver" means a person twenty=one years

2 33 of age or older who has agreed to assist with a qualifying

2 34 patient's medical use of marijuana and who has never been

2 35 convicted of a felony drug offense, and includes a nonprofit



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate File 266 - Introduced continued

3 1 dispensary. Unless the primary caregiver is a nonprofit
3 2 dispensary, the primary caregiver shall not assist more than
3 3 five qualifying patients with their medical use of marijuana.
3 4 11. "Qualifying patient" means a person who has been
3 5 diagnosed by a physician with a debilitating medical condition.
3 6 12. "Registered nonprofit dispensary" means a nonprofit
3 7 dispensary registered by the department pursuant to section
3 8 124D.4.
3 9 13. "Registry identification card" means a document issued
3 10 by the department that identifies a person as a registered
3 11 qualifying patient, registered primary caregiver, or a
3 12 principal officer, board member, employee, or agent of a
3 13 nonprofit dispensary.
3 14 14. "Unusable marijuana" means marijuana seeds, stalks,
3 15 seedlings, and unusable roots. "Seedling" means a marijuana
3 16 plant without flowers which is less than twelve inches in
3 17 height and less than twelve inches in diameter.
3 18 15. "Usable marijuana" means the dried leaves and flowers of
3 19 the marijuana plant, and any mixture or preparation thereof,
3 20 but does not include the seeds, stalks, and roots of the
3 21 plant and does not include the weight of other ingredients in
3 22 marijuana prepared for consumption as food.
3 23 16. "Visiting qualifying patient" means a patient with a
3 24 debilitating medical condition who is not a resident of this
3 25 state or who has been a resident of this state for less than
3 26 thirty days.
3 27 17. "Written certification" means a document signed by
3 28 a physician, stating that in the physician's professional
3 29 opinion the patient is likely to receive therapeutic or
3 30 palliative benefit from the medical use of marijuana to treat
3 31 or alleviate the patient's debilitating medical condition or
3 32 symptoms associated with the debilitating medical condition.
3 33 A written certification shall be made only in the course of a
3 34 bona fide physician-patient relationship after the physician
3 35 has completed a full assessment of the qualifying patient's



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 266 - Introduced continued

4 1 medical history. The written certification shall specify the
4 2 qualifying patient's debilitating medical condition.
4 3 Sec. 4. NEW SECTION. 124D.3 Medical use of marijuana.
4 4 1. A qualifying patient who has been issued and possesses a
4 5 registry identification card shall not be subject to arrest,
4 6 prosecution, or penalty in any manner, or denied any right
4 7 or privilege, including but not limited to a civil penalty
4 8 or disciplinary action by a business or occupational or
4 9 professional licensing board or bureau, for the medical use
4 10 of marijuana in accordance with this chapter, provided the
4 11 marijuana possessed by the qualifying patient:
4 12 a. Is not more than two and one-half ounces of usable
4 13 marijuana.
4 14 b. If the qualifying patient has not designated a primary
4 15 caregiver to cultivate marijuana for the qualifying patient,
4 16 does not exceed six marijuana plants, which must be kept in
4 17 an enclosed, locked facility unless the plants are being
4 18 transported because the qualifying patient is moving or the
4 19 plants are being transported to the qualifying patient's
4 20 property.
4 21 2. A primary caregiver other than a nonprofit dispensary who
4 22 has been issued and possesses a registry identification card
4 23 shall not be subject to arrest, prosecution, or penalty in any
4 24 manner, or denied any right or privilege, including but not
4 25 limited to a civil penalty or disciplinary action by a business
4 26 or occupational or professional licensing board or bureau, for
4 27 assisting a qualifying patient to whom the primary caregiver is
4 28 connected through the department's registration process with
4 29 the medical use of marijuana in accordance with this chapter,
4 30 provided that the marijuana possessed by the primary caregiver:
4 31 a. Is not more than two and one-half ounces of usable
4 32 marijuana for each qualifying patient to whom the primary
4 33 caregiver is connected through the department's registration
4 34 process.
4 35 b. For each qualifying patient who has designated the



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 266 - Introduced continued

5 1 primary caregiver to cultivate marijuana for the qualifying
5 2 patient, does not exceed six marijuana plants, which must be
5 3 kept in an enclosed, locked facility unless the plants are
5 4 being transported because the primary caregiver is moving.
5 5 3. Any incidental amount of seeds, stalks, and unusable
5 6 roots shall be allowed and shall not be included in the amounts
5 7 specified in subsections 1 and 2.
5 8 4. a. There shall be a presumption that a qualifying
5 9 patient or primary caregiver is engaged in the medical use of
5 10 marijuana pursuant to this chapter if the qualifying patient or
5 11 primary caregiver does both of the following:
5 12 (1) Possesses a registry identification card.
5 13 (2) Possesses an amount of marijuana that does not exceed
5 14 the amount allowed under this chapter.
5 15 b. The presumption may be rebutted by evidence that
5 16 conduct related to marijuana use or possession was not for the
5 17 purpose of treating or alleviating the qualifying patient's
5 18 debilitating medical condition or symptoms associated with
5 19 the debilitating medical condition, in accordance with this
5 20 chapter.
5 21 5. A cardholder shall not be subject to arrest, prosecution,
5 22 or penalty in any manner, or denied any right or privilege,
5 23 including but not limited to civil penalty or disciplinary
5 24 action by a business or occupational or professional licensing
5 25 board or bureau, for giving an amount of marijuana the person
5 26 is allowed to possess under subsection 1 or 2 to a cardholder
5 27 for a registered qualifying patient's medical use where nothing
5 28 of value is transferred in return, or to offer to do the same.
5 29 6. A school, employer, or landlord shall not refuse to
5 30 enroll, employ, or lease to, or otherwise penalize, a person
5 31 solely on the basis of the person's status as a registered
5 32 qualifying patient or a registered primary caregiver, unless
5 33 failing to do so would put the school, employer, or landlord
5 34 in violation of federal law or cause the school, employer, or
5 35 landlord to lose a federal contract or funding.



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate File 266 - Introduced continued

6 1 7. A person shall not be denied custody or visitation of
6 2 a minor for acting in accordance with this chapter, unless
6 3 the person's behavior is such that it creates an unreasonable
6 4 danger to the minor that can be clearly articulated and
6 5 substantiated.

6 6 8. A registered primary caregiver may receive compensation
6 7 for costs associated with assisting a registered qualifying
6 8 patient's medical use of marijuana, provided that the
6 9 registered primary caregiver is connected to the registered
6 10 qualifying patient through the department's registration
6 11 process. Any such compensation shall not constitute the sale
6 12 of controlled substances.

6 13 9. A physician shall not be subject to arrest, prosecution,
6 14 or penalty in any manner, or denied any right or privilege,
6 15 including but not limited to a civil penalty or disciplinary
6 16 action by the board of medicine or by any other business or
6 17 occupational or professional licensing board or bureau, solely
6 18 for providing written certifications or for otherwise stating
6 19 that, in the physician's professional opinion, a patient is
6 20 likely to receive therapeutic benefit from the medical use of
6 21 marijuana to treat or alleviate the patient's debilitating
6 22 medical condition or symptoms associated with the debilitating
6 23 medical condition, provided that nothing shall prevent a
6 24 professional licensing board from sanctioning a physician for
6 25 failing to properly evaluate a patient's medical condition or
6 26 otherwise violating the standard of care for evaluating medical
6 27 conditions.

6 28 10. A person shall not be subject to arrest, prosecution,
6 29 or penalty in any manner, or denied any right or privilege,
6 30 including but not limited to a civil penalty or disciplinary
6 31 action by a business or occupational or professional licensing
6 32 board or bureau, for providing a registered qualifying patient
6 33 or a registered primary caregiver with marijuana paraphernalia
6 34 for purposes of a qualifying patient's medical use of
6 35 marijuana.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 266 - Introduced continued

7 1 11. Any marijuana, marijuana paraphernalia, licit property,
7 2 or interest in licit property that is possessed, owned, or used
7 3 in connection with the medical use of marijuana, as allowed
7 4 under this chapter, or property incidental to such use, shall
7 5 not be seized or forfeited.

7 6 12. A person shall not be subject to arrest, prosecution,
7 7 or penalty in any manner, or denied any right or privilege,
7 8 including but not limited to a civil penalty or disciplinary
7 9 action by a business or occupational or professional licensing
7 10 board or bureau, simply for being in the presence or vicinity
7 11 of the medical use of marijuana as allowed under this chapter,
7 12 or for assisting a registered qualifying patient with using or
7 13 administering marijuana.

7 14 13. A registry identification card, or its equivalent, that
7 15 is issued under the laws of another state, district, territory,
7 16 commonwealth, or insular possession of the United States that
7 17 allows the medical use of marijuana by a visiting qualifying
7 18 patient, shall have the same force and effect as a registry
7 19 identification card issued by the department for purposes of
7 20 this chapter.

7 21 Sec. 5. NEW SECTION. 124D.4 Nonprofit dispensaries.

7 22 1. The department shall register and issue a registration
7 23 certificate to a nonprofit dispensary within thirty days of
7 24 receiving an application for registration of a nonprofit
7 25 dispensary if the prospective nonprofit dispensary provided all
7 26 of the following, in accordance with the department's rules:

7 27 a. An application fee of five thousand dollars.

7 28 b. The legal name of the nonprofit dispensary.

7 29 c. The physical address of the nonprofit dispensary and
7 30 the physical address of one additional location, if any, where
7 31 marijuana will be cultivated.

7 32 d. The name, address, and date of birth of each principal
7 33 officer and board member of the nonprofit dispensary.

7 34 e. The name, address, and date of birth of any person who is
7 35 an agent of or employed by the nonprofit dispensary.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 266 - Introduced continued

8 1 2. The department shall track the number of registered
8 2 qualifying patients who designate a nonprofit dispensary as
8 3 a primary caregiver and issue to each nonprofit dispensary
8 4 a written statement of the number of qualifying patients
8 5 who have designated the nonprofit dispensary to cultivate
8 6 marijuana for them. This statement shall be updated each time
8 7 a registered qualifying patient newly designates the nonprofit
8 8 dispensary or ceases to designate the nonprofit dispensary and
8 9 may be transmitted electronically if the department's rules so
8 10 provide. The department may provide by rule that the updated
8 11 written statements may not be issued more frequently than once
8 12 each week.

8 13 3. Except as provided in subsection 4, the department shall
8 14 issue each principal officer, board member, agent, or employee
8 15 of a nonprofit dispensary a registry identification card within
8 16 ten days of receipt of the person's name, address, date of
8 17 birth, and a fee in an amount established by the department.
8 18 Each registry identification card shall specify that the
8 19 cardholder is a principal officer, board member, agent, or
8 20 employee of a nonprofit dispensary and shall contain all of the
8 21 following information:

8 22 a. The name, address, and date of birth of the principal
8 23 officer, board member, agent, or employee.

8 24 b. The legal name of the nonprofit dispensary with which
8 25 the principal officer, board member, agent, or employee is
8 26 affiliated.

8 27 c. A random identification number that is unique to the
8 28 cardholder.

8 29 d. The date of issuance and expiration date of the registry
8 30 identification card.

8 31 e. A photograph, if the department requires inclusion of a
8 32 photograph by rule.

8 33 4. The department shall not issue a registry identification
8 34 card to any principal officer, board member, agent, or employee
8 35 of a nonprofit dispensary who has been convicted of a felony



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate File 266 - Introduced continued

9 1 drug offense. The department may conduct a background check
9 2 of each principal officer, board member, agent, or employee
9 3 in order to carry out this subsection. The department shall
9 4 notify the nonprofit dispensary in writing of the reason for
9 5 denying the registry identification card.

9 6 5. a. A nonprofit dispensary registration certificate and
9 7 the registry identification card for each principal officer,
9 8 board member, agent, or employee shall expire one year after
9 9 the date of issuance. The department shall issue a renewal
9 10 nonprofit dispensary registration certificate or renewal
9 11 registry identification card within ten days to any person who
9 12 complies with the requirements in subsection 3.

9 13 b. A registry identification card of a principal officer,
9 14 board member, agent, or employee shall expire ten days after
9 15 notification by a nonprofit dispensary that such person ceases
9 16 to work at the nonprofit dispensary.

9 17 6. A nonprofit dispensary is subject to reasonable
9 18 inspection by the department. The department shall give
9 19 reasonable notice of an inspection.

9 20 7. a. A nonprofit dispensary shall be operated on a
9 21 not=for=profit basis for the mutual benefit of its members
9 22 and patrons. The bylaws of a nonprofit dispensary and its
9 23 contracts with patrons shall contain such provisions relative
9 24 to the disposition of revenues and receipts as may be necessary
9 25 and appropriate to establish and maintain its not=for=profit
9 26 status. However, a nonprofit dispensary need not be recognized
9 27 as tax=exempt by the Internal Revenue Service and is not
9 28 required to incorporate pursuant to chapter 504.

9 29 b. A nonprofit dispensary shall notify the department within
9 30 ten days of when a principal officer, board member, agent, or
9 31 employee ceases to work at the nonprofit dispensary.

9 32 c. A nonprofit dispensary shall notify the department in
9 33 writing of the name, address, and date of birth of any new
9 34 principal officer, board member, agent, or employee and shall
9 35 submit a fee in an amount established by the department for



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate File 266 - Introduced continued

10 1 a new registry identification card before the new principal
10 2 officer, board member, agent, or employee begins working at the
10 3 nonprofit dispensary.

10 4 d. A nonprofit dispensary shall implement appropriate
10 5 security measures to deter and prevent unauthorized entrance
10 6 into areas containing marijuana and the theft of marijuana.

10 7 e. The operating documents of a nonprofit dispensary
10 8 shall include procedures for the oversight of the nonprofit
10 9 dispensary and procedures to ensure accurate recordkeeping.

10 10 f. A nonprofit dispensary is prohibited from acquiring,
10 11 possessing, cultivating, manufacturing, delivering,
10 12 transferring, transporting, supplying, or dispensing marijuana
10 13 for any purpose except to assist registered qualifying patients
10 14 with the medical use of marijuana directly or through the
10 15 qualifying patients' other primary caregivers.

10 16 g. All principal officers and board members of a nonprofit
10 17 dispensary shall be residents of the state of Iowa.

10 18 h. All cultivation of marijuana shall take place in an
10 19 enclosed, locked facility.

10 20 i. A nonprofit dispensary shall not be located within
10 21 five hundred feet of the property line of a public or private
10 22 school.

10 23 8. A nonprofit dispensary or a principal officer, board
10 24 member, agent, or employee of a nonprofit dispensary shall not
10 25 dispense more than two and one-half ounces of usable marijuana
10 26 to a qualifying patient or to a primary caregiver on behalf of
10 27 a qualifying patient during a fifteen-day period.

10 28 9. a. A nonprofit dispensary shall not be subject to
10 29 prosecution, search, seizure, or penalty, or be denied any
10 30 right or privilege, including but not limited to a civil
10 31 penalty or disciplinary action by a business, occupational, or
10 32 licensing board or entity, solely for acting in accordance with
10 33 this chapter to provide usable marijuana or to otherwise assist
10 34 registered qualifying patients connected with the nonprofit
10 35 dispensary with the medical use of marijuana.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 266 - Introduced continued

11 1 b. A principal officer, board member, agent, or employee
11 2 of a registered nonprofit dispensary shall not be subject
11 3 to arrest, prosecution, search, seizure, or penalty in any
11 4 manner or denied any right or privilege, including but not
11 5 limited to a civil penalty or disciplinary action by a court or
11 6 occupational or professional licensing board or entity, solely
11 7 for acting in accordance with this chapter and department rules
11 8 to acquire, possess, cultivate, manufacture, deliver, transfer,
11 9 transport, supply, or dispense marijuana or related supplies
11 10 and educational materials to registered qualifying patients,
11 11 to registered primary caregivers on behalf of registered
11 12 qualifying patients, or to other nonprofit dispensaries.

11 13 10. a. A nonprofit dispensary shall not possess more
11 14 than six live marijuana plants for each registered qualifying
11 15 patient who has designated the nonprofit dispensary as a
11 16 primary caregiver and has designated that the nonprofit
11 17 dispensary will be permitted to cultivate marijuana for the
11 18 registered qualifying patient's medical use.

11 19 b. A principal officer, board member, employee, or agent
11 20 of a nonprofit dispensary shall not dispense, deliver,
11 21 or otherwise transfer marijuana to a person other than a
11 22 qualifying patient who has designated the nonprofit dispensary
11 23 as a primary caregiver.

11 24 c. The department shall immediately revoke the registry
11 25 identification card of a principal officer, board member,
11 26 employee, or agent of a nonprofit dispensary who is found to
11 27 be in violation of paragraph "b", and such a person shall be
11 28 disqualified from serving as a principal officer, board member,
11 29 agent, or employee of a nonprofit dispensary.

11 30 d. Except as otherwise provided, a person who has been
11 31 convicted of an offense that was classified as a felony in
11 32 the jurisdiction where the person was convicted shall not be
11 33 eligible to be a principal officer, board member, agent, or
11 34 employee of a nonprofit dispensary.

11 35 (1) A person who is a principal officer, board member,



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 266 - Introduced continued

12 1 agent, or employee of a nonprofit dispensary in violation of
12 2 this paragraph "d" is subject to a civil penalty of up to one
12 3 thousand dollars.

12 4 (2) A person who is a principal officer, board member,
12 5 agent, or employee of a nonprofit dispensary in violation
12 6 of this paragraph "d" and who, at the time of the violation,
12 7 has been previously found to have been in violation of this
12 8 paragraph "d" commits a class "D" felony.

12 9 e. A nonprofit dispensary shall not acquire usable marijuana
12 10 or mature marijuana plants except through the cultivation of
12 11 marijuana by that nonprofit dispensary.

12 12 Sec. 6. NEW SECTION. 124D.5 Departmental rules.

12 13 1. Not later than one hundred twenty days after the
12 14 effective date of this Act, the department shall adopt rules to
12 15 carry out the purposes of this chapter.

12 16 2. Not later than one hundred twenty days after the
12 17 effective date of this Act, the department shall adopt
12 18 rules that govern the manner in which the department shall
12 19 consider petitions from the public to add medical conditions
12 20 or treatments to the list of debilitating medical conditions
12 21 set forth in section 124D.2, subsection 2. In considering
12 22 such petitions, the department shall include public notice
12 23 of, and an opportunity to comment in, a public hearing upon
12 24 such petitions. The department shall, after hearing, approve
12 25 or deny such petitions within one hundred eighty days of
12 26 their submission. The approval or denial of such a petition
12 27 constitutes final agency action, subject to judicial review.

12 28 3. Not later than one hundred twenty days after the
12 29 effective date of this Act, the department shall adopt rules
12 30 governing the manner in which it considers applications for and
12 31 renewals of registry identification cards. The department's
12 32 rules must establish application and renewal fees that generate
12 33 revenues sufficient to offset all expenses of implementing
12 34 and administering this chapter. The department may establish
12 35 a sliding scale of application and renewal fees based upon



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 266 - Introduced continued

13 1 a qualifying patient's income. The department may accept
13 2 donations from private sources to reduce application and
13 3 renewal fees.
13 4 Sec. 7. NEW SECTION. 124D.6 Registry identification cards
13 5 ==== application ==== fee ==== penalty.
13 6 1. The department shall issue a registry identification
13 7 card to a qualifying patient who submits an application
13 8 containing all of the following:
13 9 a. A written certification.
13 10 b. An application or renewal fee.
13 11 c. The name, address, and date of birth of the qualifying
13 12 patient except that if the applicant is homeless, no address
13 13 is required.
13 14 d. The name, address, and telephone number of the qualifying
13 15 patient's physician.
13 16 e. The name, address, and date of birth of each primary
13 17 caregiver, if any, of the qualifying patient. A qualifying
13 18 patient may designate only one primary caregiver unless
13 19 the qualifying patient is under eighteen years of age and
13 20 requires a parent to serve as a primary caregiver or the
13 21 qualifying patient designates a nonprofit dispensary to
13 22 cultivate marijuana for the qualifying patient's medical use
13 23 and the qualifying patient requests the assistance of a second
13 24 caregiver to assist with the qualifying patient's medical use.
13 25 f. If the qualifying patient designates one or more primary
13 26 caregivers, a designation as to who will be allowed under state
13 27 law to cultivate marijuana plants for the qualifying patient's
13 28 medical use. Only one person may be allowed to cultivate
13 29 marijuana plants for a qualifying patient.
13 30 2. The department shall not issue a registry identification
13 31 card to a qualifying patient who is under the age of eighteen
13 32 unless all of the following requirements are met:
13 33 a. The qualifying patient's physician has explained the
13 34 potential risks and benefits of the medical use of marijuana
13 35 to the qualifying patient and to a parent, guardian, or legal



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 266 - Introduced continued

14 1 custodian of the qualifying patient.
14 2 b. The parent, guardian, or person having legal custody
14 3 consents in writing to all of the following:
14 4 (1) Allowing the qualifying patient's medical use of
14 5 marijuana.
14 6 (2) Serving as the qualifying patient's primary caregiver.
14 7 (3) Controlling the acquisition of the marijuana, the
14 8 dosage, and the frequency of the medical use of marijuana by
14 9 the qualifying patient.
14 10 3. The department shall verify the information contained
14 11 in an application or renewal application submitted pursuant
14 12 to this section, and shall approve or deny an application
14 13 or renewal application within thirty days of receiving the
14 14 application or renewal application. The department may deny
14 15 an application or a renewal application only if the applicant
14 16 fails to provide the information required pursuant to this
14 17 section, or the department determines that the information
14 18 provided was falsified. Rejection of an application or a
14 19 renewal application is considered a final agency action subject
14 20 to judicial review pursuant to chapter 17A.
14 21 4. The department shall issue a registry identification
14 22 card to the primary caregiver, if any, who is named in
14 23 a qualifying patient's approved application or renewal
14 24 application, up to a maximum of one primary caregiver per
14 25 qualifying patient, provided the primary caregiver meets the
14 26 requirements of section 124D.2, subsection 10.
14 27 5. The department shall issue a registry identification
14 28 card to a qualifying patient and to the primary caregiver
14 29 within five days of approving an application or a renewal
14 30 application, which shall expire one year after the date of
14 31 issuance. A registry identification card shall contain all of
14 32 the following:
14 33 a. The name, address, and date of birth of the qualifying
14 34 patient.
14 35 b. The name, address, and date of birth of the primary



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate File 266 - Introduced continued

15 1 caregiver, if any, of the qualifying patient.
15 2 c. The date of issuance and expiration date of the registry
15 3 identification card.
15 4 d. A random identification number.
15 5 e. A photograph, if the department requires a photograph.
15 6 f. A clear designation indicating whether the cardholder
15 7 shall be allowed under law to cultivate marijuana plants for
15 8 the qualifying patient's medical use, to be determined based
15 9 upon the qualifying patient's preference.
15 10 6. a. A registered qualifying patient shall notify the
15 11 department of any change in the registered qualifying patient's
15 12 name, address, or primary caregiver, preference regarding who
15 13 may cultivate marijuana for the registered qualifying patient,
15 14 or if the registered qualifying patient ceases to have a
15 15 debilitating medical condition, within ten days of such change.
15 16 b. A registered qualifying patient who fails to notify the
15 17 department of any of the changes in paragraph "a" is subject
15 18 to a civil penalty of up to one hundred fifty dollars. If
15 19 the registered qualifying patient's certifying physician
15 20 notifies the department in writing that the registered
15 21 qualifying patient no longer suffers from a debilitating
15 22 medical condition, the registered qualifying patient's registry
15 23 identification card shall become void upon notification by the
15 24 department to the qualifying patient.
15 25 c. A registered primary caregiver shall notify the
15 26 department of any change in the registered primary caregiver's
15 27 name or address within ten days of such change. A registered
15 28 primary caregiver who fails to notify the department of such
15 29 change is subject to a civil penalty of up to one hundred fifty
15 30 dollars.
15 31 d. When a registered qualifying patient or registered
15 32 primary caregiver notifies the department of any changes
15 33 listed in this subsection and submits a fee of ten dollars,
15 34 the department shall issue the cardholder a new registry
15 35 identification card within ten days of receiving the updated



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 266 - Introduced continued

16 1 information.

16 2 e. When a registered qualifying patient changes the
16 3 registered qualifying patient's registered primary caregiver,
16 4 the department shall notify the primary caregiver within
16 5 ten days. The registered primary caregiver's protections
16 6 as provided in this chapter shall expire ten days after
16 7 notification by the department.

16 8 f. If a cardholder loses the cardholder's registry
16 9 identification card, the cardholder shall notify the department
16 10 and submit a fee of ten dollars within ten days of losing the
16 11 card. Within five days after such notification, the department
16 12 shall issue a new registry identification card with a new
16 13 random identification number to the cardholder.

16 14 7. Possession of, or application for, a registry
16 15 identification card shall not constitute probable cause or
16 16 reasonable suspicion and shall not be used to support the
16 17 search of the person or property of the person possessing or
16 18 applying for the registry identification card. The possession
16 19 of or application for a registry identification card does not
16 20 prevent the issuance of a warrant if probable cause exists on
16 21 other grounds.

16 22 8. The following confidentiality rules shall apply:

16 23 a. Applications and supporting information submitted by
16 24 a qualifying patient, including information regarding the
16 25 qualifying patient's primary caregiver and physician, are
16 26 confidential.

16 27 b. Applications and supporting information submitted by a
16 28 primary caregiver operating in compliance with this chapter,
16 29 including the physical address of a nonprofit dispensary, are
16 30 confidential.

16 31 c. The department shall maintain a confidential list
16 32 of the persons to whom the department has issued registry
16 33 identification cards. Individual names and other identifying
16 34 information on the list shall be confidential and not subject
16 35 to disclosure, except to authorized employees of the department



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate File 266 - Introduced continued

17 1 as necessary to perform official duties of the department.
17 2 d. The department shall verify to law enforcement personnel
17 3 whether a registry identification card is valid without
17 4 disclosing more information than is reasonably necessary to
17 5 verify the authenticity of the registry identification card.
17 6 e. (1) A person, including an employee or official of the
17 7 department or another state agency or local government, who
17 8 breaches the confidentiality of information obtained pursuant
17 9 to this chapter commits a serious misdemeanor punishable by
17 10 imprisonment of up to one hundred days and a fine of up to one
17 11 thousand dollars.
17 12 (2) Notwithstanding this paragraph "e", department employees
17 13 may notify law enforcement about falsified or fraudulent
17 14 information submitted to the department, if the employee who
17 15 suspects that falsified or fraudulent information has been
17 16 submitted confers with the employee's supervisor and the
17 17 employee and the employee's supervisor agree that circumstances
17 18 exist that warrant reporting.
17 19 9. A cardholder who sells marijuana to a person who is not
17 20 allowed to possess marijuana for medical purposes under this
17 21 chapter shall have the cardholder's registry identification
17 22 card revoked and is subject to any other penalties for the
17 23 sale of marijuana. The department shall revoke the registry
17 24 identification card of any cardholder who violates this chapter
17 25 and the cardholder is subject to any other penalties for the
17 26 violation.
17 27 10. The department shall submit an annual report to
17 28 the general assembly by January 15 of each year that does
17 29 not disclose any identifying information about cardholders
17 30 or physicians, but does contain, at a minimum, all of the
17 31 following information:
17 32 a. The number of applications and renewal applications
17 33 submitted for registry identification cards.
17 34 b. The number of registered qualifying patients and
17 35 registered primary caregivers in each county.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 266 - Introduced continued

18 1 c. The nature of the debilitating medical conditions of the
18 2 qualifying patients.
18 3 d. The number of registry identification cards revoked.
18 4 e. The number of physicians providing written certifications
18 5 for qualifying patients.
18 6 f. The number of registered nonprofit dispensaries.
18 7 g. The number of principal officers, board members,
18 8 employees, and agents of nonprofit dispensaries.
18 9 11. The application for a qualifying patient's registry
18 10 identification card shall include a question on whether the
18 11 patient would like the department to notify the patient about
18 12 any clinical studies regarding marijuana's risks or efficacy
18 13 that seek human subjects.
18 14 Sec. 8. NEW SECTION. 124D.7 Scope of chapter.
18 15 1. This chapter does not permit any person to do any of the
18 16 following:
18 17 a. Undertake any task under the influence of marijuana,
18 18 when doing so would constitute negligence or professional
18 19 malpractice.
18 20 b. Possess marijuana, or otherwise engage in the medical use
18 21 of marijuana, in any of the following places:
18 22 (1) In a school bus.
18 23 (2) On the grounds of any preschool or primary or secondary
18 24 school.
18 25 (3) In any correctional facility.
18 26 c. Smoke marijuana in any of the following:
18 27 (1) Any form of public transportation.
18 28 (2) Any public place.
18 29 d. Operate, navigate, or be in actual physical control
18 30 of any motor vehicle, aircraft, or motorboat while under the
18 31 influence of marijuana.
18 32 e. Use marijuana if that person does not have a debilitating
18 33 medical condition.
18 34 2. Nothing in this chapter shall be construed to require any
18 35 of the following:



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 266 - Introduced continued

19 1 a. A government medical assistance program or private health
19 2 insurer to reimburse a person for costs associated with the
19 3 medical use of marijuana.

19 4 b. An employer to accommodate the ingestion of marijuana in
19 5 any workplace or any employee working while under the influence
19 6 of marijuana.

19 7 3. Fraudulent representation to a law enforcement official
19 8 of any fact or circumstance relating to the medical use
19 9 of marijuana to avoid arrest or prosecution is a simple
19 10 misdemeanor, punishable by a fine of five hundred dollars,
19 11 in addition to any other penalties that may apply for making
19 12 a false statement or for the use of marijuana other than use
19 13 undertaken pursuant to this chapter.

19 14 Sec. 9. NEW SECTION. 124D.8 Affirmative defenses ====
19 15 dismissal.

19 16 1. Except as provided in section 124D.7, a qualifying
19 17 patient and a qualifying patient's primary caregiver, other
19 18 than a nonprofit dispensary, may assert the medical purpose for
19 19 using marijuana as a defense to any prosecution of an offense
19 20 involving marijuana intended for the patient's medical use, and
19 21 this defense shall be presumed valid where the evidence shows
19 22 all of the following:

19 23 a. A physician has stated that, in the physician's
19 24 professional opinion, after having completed a full assessment
19 25 of the patient's medical history and current medical
19 26 condition made in the course of a bona fide physician=patient
19 27 relationship, the qualifying patient is likely to receive
19 28 therapeutic or palliative benefit from the medical use of
19 29 marijuana to treat or alleviate the qualifying patient's
19 30 debilitating medical condition or symptoms associated with the
19 31 qualifying patient's debilitating medical condition.

19 32 b. The qualifying patient and the qualifying patient's
19 33 primary caregiver, if any, were collectively in possession of
19 34 a quantity of marijuana that was not more than was reasonably
19 35 necessary to ensure the uninterrupted availability of marijuana



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 266 - Introduced continued

20 1 for the purpose of treating or alleviating the qualifying
20 2 patient's debilitating medical condition or symptoms associated
20 3 with the qualifying patient's debilitating medical condition.
20 4 c. The qualifying patient and the qualifying patient's
20 5 primary caregiver were engaged in the acquisition, possession,
20 6 cultivation, manufacture, use, delivery, transfer, or
20 7 transportation of marijuana or paraphernalia relating to the
20 8 administration of marijuana solely to treat or alleviate the
20 9 qualifying patient's debilitating medical condition or symptoms
20 10 associated with the qualifying patient's debilitating medical
20 11 condition.
20 12 2. A person may assert the medical purpose for using
20 13 marijuana in a motion to dismiss and the charges shall be
20 14 dismissed following an evidentiary hearing where the person
20 15 shows all of the elements listed in subsection 1.
20 16 3. If a qualifying patient or a patient's primary caregiver
20 17 demonstrates the qualifying patient's medical purpose for using
20 18 marijuana pursuant to this section, the qualifying patient and
20 19 the patient's primary caregiver shall not be subject to any of
20 20 the following for the qualifying patient's use of marijuana for
20 21 medical purposes:
20 22 a. Disciplinary action by a business or occupational or
20 23 professional licensing board or bureau.
20 24 b. Forfeiture of any interest in or right to nonmarijuana,
20 25 licit property.
20 26 Sec. 10. NEW SECTION. 124D.9 Enforcement.
20 27 1. If the department fails to adopt rules to implement the
20 28 requirements of this chapter within one hundred twenty days
20 29 of the effective date of this Act, a qualifying patient may
20 30 commence an action in district court to compel the department
20 31 to perform the department's duties pursuant to this chapter.
20 32 2. If the department fails to issue a valid registry
20 33 identification card or a registration certificate in response
20 34 to a valid application or renewal application submitted
20 35 pursuant to this chapter within forty=five days of its



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 266 - Introduced continued

21 1 submission, the registry identification card or registration
21 2 certificate is deemed granted, and a copy of the registry
21 3 identification card application or renewal application is
21 4 deemed a valid registry identification card.

21 5 3. If at any time after January 1, 2012, the department
21 6 is not accepting applications pursuant to this chapter,
21 7 including if it has not promulgated rules allowing qualifying
21 8 patients to submit applications, a notarized statement by a
21 9 qualifying patient containing the information required in
21 10 an application, pursuant to section 124D.6, together with
21 11 a written certification, shall be deemed a valid registry
21 12 identification card.

21 13 Sec. 11. Section 453B.6, Code 2011, is amended by adding the
21 14 following new unnumbered paragraph:

21 15 NEW UNNUMBERED PARAGRAPH A person who is in possession
21 16 of marijuana for medical purposes in accordance with chapter
21 17 124D is in lawful possession of a taxable substance and is not
21 18 subject to the requirements of this chapter.

21 19 EXPLANATION

21 20 This bill establishes new Code chapter 124D, the medical
21 21 marijuana Act, relating to the possession and use of marijuana
21 22 for therapeutic purposes, provides for the creation of
21 23 nonprofit dispensaries, and provides for civil and criminal
21 24 penalties and fees.

21 25 The bill provides that a qualifying patient who has been
21 26 issued and possesses a registry identification card shall not
21 27 be subject to arrest, prosecution, or civil penalty, or denied
21 28 any right or privilege, for the qualifying patient's medical
21 29 use of marijuana pursuant to the provisions of the bill.

21 30 The bill defines a qualifying patient as a person who has
21 31 been diagnosed by a physician with a debilitating medical
21 32 condition defined as cancer, glaucoma, positive status for
21 33 human immunodeficiency virus, acquired immune deficiency
21 34 syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's
21 35 disease, agitation of Alzheimer's disease, nail patella,



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 266 - Introduced continued

22 1 a chronic or debilitating disease or medical condition or
22 2 its treatment that produces intractable pain, a chronic or
22 3 debilitating medical condition that produces one or more of
22 4 the following: cachexia or wasting syndrome, severe nausea,
22 5 certain seizures, or certain muscle spasms, or any other
22 6 medical condition or its treatment approved by the department
22 7 of public health (department). A primary caregiver is defined
22 8 as a person, 21 or older, who has agreed to assist with a
22 9 qualifying patient's medical use of marijuana who has never
22 10 been convicted of a felony drug offense. A primary caregiver
22 11 also includes a nonprofit dispensary. A physician is defined
22 12 as a physician or surgeon or osteopathic physician or surgeon
22 13 licensed under Code chapter 148.

22 14 The bill provides for the creation of nonprofit
22 15 dispensaries. The bill defines a nonprofit dispensary as
22 16 a not=for=profit organization registered by the department
22 17 that acquires, possesses, cultivates, manufactures, delivers,
22 18 transfers, transports, sells, supplies, or dispenses marijuana
22 19 or related supplies and educational materials to qualifying
22 20 patients and primary caregivers who possess a valid registry
22 21 identification card. The bill provides specific guidelines for
22 22 regulation of nonprofit dispensaries and principal officers,
22 23 board members, employees, or agents of a nonprofit dispensary
22 24 by the department. A person who has been convicted of a felony
22 25 offense shall not be eligible to be a principal officer, board
22 26 member, agent, or employee of a nonprofit dispensary, unless
22 27 otherwise permitted by the department. A first violation
22 28 of this provision is punishable by a civil penalty of up to
22 29 \$1,000. A subsequent violation is a class "D" felony.

22 30 The bill provides that the department shall adopt rules
22 31 for implementing the bill including rules relating to the
22 32 consideration of petitions from the public to add additional
22 33 debilitating medical conditions to the list of debilitating
22 34 medical conditions specified in the bill, rules relating
22 35 to applications and renewal applications for registry



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate File 266 - Introduced continued

23 1 identification cards issued to qualifying patients and primary
23 2 caregivers, and rules relating to registration certificates for
23 3 nonprofit dispensaries. The department shall establish fees
23 4 which shall meet certain requirements.

23 5 The bill provides that the department shall issue a
23 6 registry identification card to a qualifying patient who
23 7 submits certain specified information to the department. The
23 8 department shall not issue a registry identification card to
23 9 a qualifying patient who is under the age of 18 unless the
23 10 qualifying patient's physician has explained the potential
23 11 risks and benefits of the medical use of marijuana to the
23 12 qualifying patient and to the qualifying patient's parent,
23 13 guardian, or legal representative and such persons provide
23 14 the appropriate consent. The department shall also issue a
23 15 registry identification card to each primary caregiver named
23 16 in a qualifying patient's approved application for a registry
23 17 identification card, up to a maximum of one primary caregiver
23 18 per qualifying patient. The bill places restrictions on the
23 19 amount of marijuana that may be possessed by a qualifying
23 20 patient or a primary caregiver and on the persons authorized
23 21 to cultivate marijuana for a qualifying patient. The bill
23 22 requires the department to submit an annual report to the
23 23 general assembly by January 15 of each year concerning
23 24 information related to registry identification cards.

23 25 The bill provides that a registered qualifying patient or
23 26 a registered primary caregiver who loses their registration
23 27 identification card or who makes changes to certain information
23 28 relevant to their registration identification card shall
23 29 notify the department. A registered qualifying patient or a
23 30 registered primary caregiver who fails to notify the department
23 31 of any changes in information relevant to the registration
23 32 identification card is subject to a civil penalty of up to
23 33 \$150.

23 34 The bill provides that applications and supporting
23 35 information submitted by a qualifying patient, primary



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 266 - Introduced continued

24 1 caregiver, physician, nonprofit dispensary, or board member,
24 2 employee, or agent of a nonprofit dispensary, are confidential.
24 3 The bill also provides that a person, including an employee or
24 4 official of the department or another state or local agency,
24 5 who disseminates information received in connection with an
24 6 application for a registry identification card pursuant to the
24 7 bill, is guilty of a serious misdemeanor and is subject to
24 8 confinement in jail for up to 100 days and a fine of \$1,000.
24 9 The bill prohibits the possession and use of medical
24 10 marijuana in certain places and during certain activities.
24 11 The bill provides that any fraudulent representation to a law
24 12 enforcement official relating to the use of medical marijuana
24 13 is a simple misdemeanor, punishable by a fine of up to \$500.
24 14 The bill amends Code section 124.401, relating to prohibited
24 15 acts involving controlled substances, to provide that it is
24 16 lawful for a person to knowingly or intentionally possess
24 17 marijuana if the possession is in accordance with the
24 18 provisions of the bill. The bill also amends Code section
24 19 453B.6, relating to tax stamps for controlled substances, to
24 20 specify that possession in accordance with the provisions of
24 21 the bill is lawful possession and a tax stamp is not required.

LSB 1768XS (15) 84

rh/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 267 - Introduced

SENATE FILE
BY DANIELSON, McCOY, and
BEALL

A BILL FOR

1 An Act relating to close clearances and safe spaces around
2 railroad tracks and railroad facilities, and providing
3 penalties and including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2212XS (4) 84
dea/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 267 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 327F.10 Minimum clear space
1 2 requirements for bridges, structures, poles, and other
1 3 obstructions.
1 4 1. Overhead clearances.
1 5 a. The minimum overhead clearance above a railroad track
1 6 that is used or proposed to be used for transporting freight
1 7 cars shall be twenty-two feet, except as otherwise provided in
1 8 this subsection.
1 9 b. The overhead clearance above the top rail of tracks
1 10 located at the entrance to or inside a building may be
1 11 less than twenty-two feet but not less than eighteen feet.
1 12 However, if an overhead clearance of less than twenty-two
1 13 feet exists above tracks inside a building, the movement of
1 14 railway equipment shall be brought to a stop before entering
1 15 the building. In switching movements requiring a number of
1 16 entries, stopping is required only upon initial entry.
1 17 c. This subsection does not apply to electric wires or
1 18 equipment required above tracks for the operation of trains by
1 19 electric energy, provided that a carrier that conducts such an
1 20 operation adopts and enforces rules which prohibit an employee
1 21 from being on top of a rail car while the car is being operated
1 22 under lower clearances than those provided in this subsection.
1 23 d. The overhead clearances provided in this subsection do
1 24 not apply to engine houses, engine house facilities, tipples,
1 25 or facilities used for servicing rail cars or for loading or
1 26 unloading bulk commodities if compliance is not reasonably
1 27 practicable.
1 28 e. The department of transportation may waive the
1 29 requirements of this subsection for structures constructed
1 30 before January 1, 2012, if the waiver will not adversely affect
1 31 the safety of the public or employees of the railroad.
1 32 2. Side clearances.
1 33 a. The minimum side clearance from the center line of
1 34 tangent railroad tracks that are used or proposed to be
1 35 used for transporting freight cars shall conform with the



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate File 267 - Introduced continued

2 1 requirements of this subsection, except that structures,
2 2 including platforms and tracks, constructed or under
2 3 construction prior to January 1, 2012, may be maintained at
2 4 clearances existing prior to that date, and may be extended at
2 5 existing clearances unless such an extension is in connection
2 6 with reconstruction of the original platform.

2 7 b. The minimum side clearance between the center line of
2 8 the track and any structure or obstruction above the top of the
2 9 rail, except structures or obstructions specifically exempted
2 10 under this subsection, shall be twelve feet.

2 11 c. (1) A platform that is four feet or less above the top
2 12 of the rail, except a platform adjacent to main or passing
2 13 tracks, may be less than eight feet six inches from the center
2 14 line of the track on one side of such track if a full clearance
2 15 of at least eight feet six inches is maintained on the opposite
2 16 side of the track or the distance from the center of the track
2 17 to the center of the adjacent track is not less than fourteen
2 18 feet.

2 19 (2) A platform that is four feet six inches or less above
2 20 the top of the rail, if used principally for loading or
2 21 unloading refrigerator cars, shall not be less than eight feet
2 22 from the center line of the track.

2 23 (3) A low passenger platform that is eight inches or less
2 24 above the top rail shall not be less than five feet one inch
2 25 from the center line of the track. A high passenger platform
2 26 that is four feet or less above the top rail shall not be less
2 27 than five feet seven inches from the center line of the track.

2 28 (4) Platforms constructed before January 1, 2012, with less
2 29 than the clearances prescribed in this paragraph "c" may be
2 30 extended at such lesser clearances unless the extension is in
2 31 connection with reconstruction of the original platform.

2 32 d. The side clearance, other than for platforms, on sidings
2 33 only, at an entrance to a building or inside a building shall
2 34 not be less than eight feet from the center line of the track.

2 35 e. Switchboxes, switch=operating mechanisms, and



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 267 - Introduced continued

3 1 accessories necessary for the control or operation of signals
3 2 or interlockers projecting four inches or less above the top
3 3 rail shall not be less than three feet from the center line of
3 4 the track.
3 5 f. The center spindle of signal and switch stands three
3 6 feet or less above the top of the rail and located between
3 7 tracks, if not practicable to provide the clearances otherwise
3 8 prescribed in this subsection, shall not be less than six feet
3 9 from the center line of the track.
3 10 g. Through bridges supporting affected track, tunnels, water
3 11 columns, or oil columns shall not be less than eight feet from
3 12 the center line of the track, except where special protection
3 13 is required for unusual commodities.
3 14 h. (1) The clearance for through bridges supporting
3 15 affected track, water barrel platforms or refuge platforms on
3 16 bridges or trestles not provided with walkways, handrails,
3 17 water barrels, water columns, block signals, cattle guards,
3 18 and stock chutes, if all or portions thereof are four feet or
3 19 less above the top of the rail, may be decreased to the extent
3 20 defined by a line extending diagonally upward from a point
3 21 level with the top of the rail and five feet distant laterally
3 22 from the center line of the track to a point four feet above
3 23 the top of the rail and eight feet distant laterally from the
3 24 center line of the track. However, the minimum clearance for
3 25 handrails or water barrels on bridges with walkways shall be
3 26 seven feet nine inches, and the minimum clearance for fences
3 27 for cattle guards shall be six feet nine inches.
3 28 (2) The lesser clearances authorized in subparagraph (1)
3 29 for handrails and water barrels do not apply to through bridges
3 30 if the work of train workers or yard workers requires the
3 31 workers to be on the decks of such bridges for the purpose of
3 32 coupling or uncoupling cars in the performance of switching
3 33 service on a switching lead.
3 34 i. The side clearances specified in this subsection do
3 35 not apply to mail cranes when the arms of the mail cranes are



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 267 - Introduced continued

4 1 supporting mail sacks for delivery, if the top arm is not
4 2 higher than ten feet eight inches above the top of the rail and
4 3 neither arm extends within six feet five inches from the center
4 4 line of the track.
4 5 j. Icing platforms and supports shall have a minimum side
4 6 clearance of eight feet. Except in emergencies, operations
4 7 over portions of track adjacent to icing platforms constructed
4 8 before January 1, 2012, with a side clearance of less than
4 9 eight feet shall be restricted to the movement or switching
4 10 of trains containing refrigerator cars to be iced and to the
4 11 necessary use of such tracks for the unloading of supplies
4 12 required for the operation of an icing dock.
4 13 k. The side clearances specified in this section do not
4 14 apply to the following:
4 15 (1) Intertrack fences located on the center line between
4 16 tracks.
4 17 (2) Engine houses, engine house facilities, tipples, or
4 18 facilities used for servicing rail cars or for loading or
4 19 unloading bulk commodities if compliance is not reasonably
4 20 practicable.
4 21 (3) Car retarders, derails, switch point protectors,
4 22 guardrails, and similar appurtenances projecting three inches
4 23 or less above the top of the rail.
4 24 1. The minimum side clearances prescribed in this subsection
4 25 are for tangent tracks. Structures adjacent to curve tracks
4 26 shall have additional minimum side clearances compensating for
4 27 curvature.
4 28 3. Overhead and side clearances.
4 29 a. The overhead and side clearances prescribed in
4 30 subsections 1 and 2 may be decreased to the extent of a line
4 31 extending diagonally downward from a point four feet from the
4 32 center line of the track and twenty-two feet above the top of
4 33 the rail to a point eight feet from the center line of the track
4 34 and sixteen feet above the top of the rail.
4 35 b. For tracks located at an entrance to or inside a



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate File 267 - Introduced continued

5 1 building with an overhead clearance of eighteen feet and a side
5 2 clearance of eight feet, as prescribed in this section, the
5 3 overhead and side clearances may be decreased to the extent of
5 4 a line extending diagonally downward from a point four feet
5 5 from the center line of the track and eighteen feet above the
5 6 top of the rail to a point eight feet from the center line of
5 7 the track and fourteen feet above the top of the rail.

5 8 c. A canopy at one side of the track at a freight platform
5 9 may not be less than four feet from the center line of the
5 10 track if the height of the canopy is at least seventeen feet
5 11 six inches above the top of the rail and if the full clearance
5 12 of eight feet six inches is maintained on the opposite side of
5 13 the track or the distance from the center of the track to the
5 14 center of the adjacent track is not less than fourteen feet.

5 15 d. A shelter over a platform used for passenger car
5 16 operation may not be less than four feet six inches from the
5 17 center line of the track if the height is not less than fifteen
5 18 feet above the top of the rail, provided that a carrier that
5 19 conducts such an operation adopts and enforces rules which
5 20 prohibit an employee from riding on the side of equipment if
5 21 standing above car floor height.

5 22 4. Clearances between parallel tracks.

5 23 a. The minimum distance between the center lines of parallel
5 24 tracks shall be thirteen feet six inches for main tracks and
5 25 thirteen feet six inches for yard and side tracks, except as
5 26 otherwise provided in this subsection.

5 27 b. The center line of any track except a main track or a
5 28 passing track, which is parallel and adjacent to a main track
5 29 or a passing track, shall be fifteen feet from the center line
5 30 of such main track or passing track, except that if a passing
5 31 track is adjacent to and at least fifteen feet from the main
5 32 track, such other track may be constructed adjacent to the
5 33 passing track with a clearance of not less than thirteen feet
5 34 six inches.

5 35 c. The center line of any ladder track which is parallel to



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate File 267 - Introduced continued

6 1 another adjacent track shall have a clearance of not less than
6 2 eighteen feet from the center line of such other track, except
6 3 that parallel ladder tracks shall have a clearance of not less
6 4 than nineteen feet from center line to center line.
6 5 d. The minimum distance between the center line of parallel
6 6 team and house tracks shall be thirteen feet six inches.
6 7 e. Tracks constructed or under construction prior to January
6 8 1, 2012, may be extended without increasing the distances
6 9 between tracks.
6 10 5. Other conditions and obstructions adjacent to tracks.
6 11 a. A railroad shall not knowingly permit merchandise,
6 12 material, or other articles to remain piled or assembled on
6 13 ground or platforms adjacent to any track at a distance of less
6 14 than eight feet six inches from the center line of the track. A
6 15 suitable line or other marker may be maintained at a distance
6 16 of eight feet six inches from the center line of the track on
6 17 all platforms, excluding passenger platforms, to indicate the
6 18 space along the edge of the platform which must be kept clear
6 19 of merchandise, material, or other articles.
6 20 b. The space between tracks ordinarily used by train
6 21 workers, yard workers, and other employees as a walkway in
6 22 the discharge of their duties, and the space beside such
6 23 tracks within eight feet six inches of the center line of the
6 24 tracks, shall be kept in reasonably suitable condition for such
6 25 purpose.
6 26 6. Preexisting clearances. Except as otherwise provided
6 27 in this section, if an overhead or side clearance between a
6 28 track and any building, structure, or facility is less than the
6 29 minimum prescribed in this section but existed prior to January
6 30 1, 2012, the minimum clearances prescribed by this section
6 31 shall be required when the building, structure, or facility is
6 32 relocated or reconstructed. However, the department may grant
6 33 specific requests for the continuance of prior clearances at
6 34 reconstructed buildings, structures, or facilities as provided
6 35 in subsection 7.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 267 - Introduced continued

7 1 7. Waivers.

7 2 a. Nothing in this section shall be construed to restrict
7 3 the temporary distribution of materials or the performance of
7 4 work on, over, or adjacent to tracks if the distribution or
7 5 performance is necessary in the construction or maintenance
7 6 of facilities or equipment, provided that the distribution
7 7 or performance is carried out within a reasonable time under
7 8 conditions reasonably necessary to provide for the safety of
7 9 all concerned, including proper notice by train order, message,
7 10 or bulletin.

7 11 b. If, in any particular case, a waiver from any of the
7 12 requirements of this section is deemed necessary by a carrier,
7 13 the department, upon good cause shown, may grant an application
7 14 by the carrier for a waiver. The request for the waiver shall
7 15 be accompanied by a full statement of conditions existing and
7 16 the reason why the waiver is necessary.

7 17 8. Application of terms. Wherever the terms "railroad",
7 18 "railroad track", "track", "building", "entrance to or inside
7 19 a building", "structure", "facility", "platform", or other
7 20 similar terms are used in this section, the terms apply only to
7 21 property owned by or leased to a common carrier railroad.

7 22 9. Application of section. This section shall not be
7 23 construed as limiting the authority or jurisdiction of the
7 24 department of transportation.

7 25 Sec. 2. NEW SECTION. 327F.11 Safe space along railroad
7 26 rights-of-way.

7 27 1. For purposes of this section, "safe space" means the area
7 28 encompassed within the following distances:

7 29 a. From the actual grade level to a distance of twenty-two
7 30 feet six inches above the top of the rail head.

7 31 b. A distance of eight feet six inches on both sides of a
7 32 perpendicular from the center line of a railroad track with a
7 33 radius of not less than four hundred feet lateral curvature.

7 34 c. A distance of nine feet on both sides of a perpendicular
7 35 from the center line of a railroad track with a radius of less



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 267 - Introduced continued

8 1 than four hundred feet curvature.

8 2 2. A person shall not permit scrap iron, lumber, debris,
8 3 vegetation exceeding a height of four inches, marked unevenness
8 4 of terrain, or any other material or condition which endangers
8 5 a railroad employee to remain or continue in the safe space
8 6 over which the person has control.

8 7 Sec. 3. NEW SECTION. 327F.12 Close clearance warnings.

8 8 1. The owner of a railroad track shall place a warning
8 9 device at a location where the close clearance between the
8 10 track and a building, machinery, trees, brush, or other object
8 11 is such that the building, machinery, trees, brush, or other
8 12 object physically impedes a person who is lawfully riding the
8 13 side of a train in the course of the person's duties in service
8 14 to a railroad company from clearing the building, machinery,
8 15 trees, brush, or other object.

8 16 2. The warning device shall be placed in a location which
8 17 provides adequate notice to a person riding the side of a train
8 18 so that the person may prepare for the close clearance. Any
8 19 signs posted shall not be a danger to other persons working on
8 20 the property.

8 21 3. Placement of a warning device pursuant to this section
8 22 does not relieve the owner of a railroad track from any duties
8 23 required under chapter 317 or section 327F.27.

8 24 Sec. 4. Section 327F.13, Code 2011, is amended by striking
8 25 the section and inserting in lieu thereof the following:

8 26 327F.13 Close clearances and safe spaces ==== enforcement.

8 27 1. Applicability of provisions. The provisions of sections
8 28 327F.10, 327F.11, and 327F.12 apply to matters under the
8 29 purview of the state and enforceable by the department of
8 30 transportation. Sections 327F.10, 327F.11, and 327F.12 do not
8 31 apply to the exercise of authority which a federal agency has
8 32 delegated to state enforcement personnel under section 206 of
8 33 the federal Railroad Safety Act of 1970, 49 U.S.C. { 20106, or
8 34 any other regulation or requirement preempted by federal law.

8 35 2. Emergency orders. If an inspector authorized by



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 267 - Introduced continued

9 1 the department determines through testing, inspection,
9 2 investigation, or research that a locomotive, car, or other
9 3 facility or equipment of a railroad is in a condition that
9 4 violates a law, regulation, or order which the department is
9 5 authorized to enforce, and the condition is so hazardous as to
9 6 present an imminent danger or potential danger likely to result
9 7 in injury to a person, damage to property, or a breakdown of
9 8 equipment, the inspector shall declare such locomotive, car, or
9 9 other facility "out of service".

9 10 3. Action by inspector. When an inspector authorized by
9 11 the department declares a locomotive, car, or other facility
9 12 to be "out of service", the inspector shall affix an "out of
9 13 service" notice in a prominent place on the locomotive, car,
9 14 or other facility. The affixing of an "out of service" notice
9 15 shall constitute legal notice that the locomotive, car, or
9 16 facility shall not be used or operated until all defects noted
9 17 on the "out of service" notice have been repaired. Such notice
9 18 shall not be removed until the defects noted by the inspector
9 19 have been corrected by the railroad company and the locomotive,
9 20 car, or other facility is in full compliance with applicable
9 21 regulations. In the case of a track or other facility for
9 22 which it is not practical to affix an "out of service" notice,
9 23 the inspector shall furnish immediate telephone or telegraphic
9 24 notification to the owner of the track or facility in lieu of
9 25 affixing an "out of service" notice, describing the specific
9 26 location of the affected track or other facility, the nature of
9 27 the defect, and related conditions. When an "out of service"
9 28 notice has been affixed or the owner of the track has been
9 29 notified, the inspector shall furnish notice by the most
9 30 expeditious manner to the railroad immediately responsible for
9 31 the operation of the defective locomotive, car, track, or other
9 32 facility. The notice shall indicate the nature of the defects
9 33 involved which caused the equipment or other facility to be
9 34 placed "out of service". The inspector shall retain one copy
9 35 of the notice and immediately forward one copy of the notice



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 267 - Introduced continued

10 1 to the department.

10 2 4. Reduction in maximum speed of track. When an inspector
10 3 authorized by the department determines the existence of a
10 4 hazardous local track condition, the inspector shall furnish
10 5 immediate telephone or telegraphic notification to the owner
10 6 of the track that movements within defined limits of the track
10 7 must be made at a reduced maximum speed, which shall be the
10 8 speed applicable to the highest federal railroad administration
10 9 class designation that the inspector determines is appropriate.
10 10 Within forty-eight hours following the notification, the
10 11 inspector shall furnish notice in duplicate to the owner of the
10 12 track or to the owner's agent immediately responsible for the
10 13 affected track. The notice shall indicate the full particulars
10 14 of the conditions and the violations which create the local
10 15 safety hazard. Such conditions or violations shall be fully
10 16 repaired or otherwise brought into compliance with the highest
10 17 federal railroad administration designation applicable to the
10 18 speed at which trains will operate on the track in question.

10 19 5. Action by railroad. When a locomotive, car, or other
10 20 facility of a railroad has been declared "out of service", the
10 21 locomotive, car, or facility shall be removed from service
10 22 until the defect or defects are corrected. In the case of
10 23 track which is reduced in class as provided in subsection
10 24 4, the railroad shall take the steps necessary to insure
10 25 compliance with the findings of the inspector. For the purpose
10 26 of making necessary corrections, defective locomotive units,
10 27 freight cars, cabin cars, or passenger carrying cars may
10 28 be moved to the nearest available point where the unit can
10 29 be repaired, provided that other similar units in suitable
10 30 operating condition are also a part of the consist. When the
10 31 defects noted on the notice have been corrected, the railroad
10 32 shall notify the inspector issuing the notice and the inspector
10 33 shall inspect the locomotive, car, or other facility. If the
10 34 repairs or corrections have been satisfactorily completed, the
10 35 inspector shall remove the "out of service" notice.



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate File 267 - Introduced continued

11 1 6. Reinspection ==== review by department.
11 2 a. Upon issuance of an "out of service" notice, the
11 3 railroad involved may request a second inspection of the
11 4 locomotive, car, or other facility. An engineer designated
11 5 by the department shall arrange for an immediate reinspection
11 6 by a second authorized inspector. If, on reinspection, the
11 7 decision of the original inspector is affirmed or modified
11 8 by an engineer designated by the department, the engineer
11 9 shall notify the railroad in writing that the original finding
11 10 is affirmed or modified. If the decision of the original
11 11 inspector is not affirmed or modified, the inspector shall
11 12 immediately remove the "out of service" notice and enter an
11 13 appropriate notation on the related notice to the railroad, and
11 14 the restrictions of the notice shall cease to be effective.
11 15 b. If, upon reinspection, an engineer designated by the
11 16 department affirms or modifies the findings of the original
11 17 inspection, the railroad may, within thirty days of the
11 18 affirmation or modification, request the department to conduct
11 19 a hearing at which interested parties may be present and
11 20 testify for the purpose of reviewing the inspections. As a
11 21 result of the hearing, the department may modify in whole
11 22 or in part the findings of the inspections and the actions
11 23 taken by the inspectors. Actions on review may be undertaken
11 24 on an expedited basis in relation to other business of the
11 25 department.
11 26 c. The requirements of an "out of service" notice shall be
11 27 effective pending action by the department.
11 28 d. Upon petition of a carrier based upon good cause, the
11 29 department may grant a request for an extension of time for
11 30 compliance with an "out of service" notice issued or modified
11 31 as provided under this subsection.
11 32 7. Penalties.
11 33 a. A violation of section 327F.10, 327F.11, or 327F.12 is
11 34 punishable as a schedule "one" penalty under section 327C.5.
11 35 b. A violation of this section shall subject the violator to



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 267 - Introduced continued

12 1 such civil or criminal penalties as may be provided by law.
12 2 c. Each day of noncompliance constitutes a separate
12 3 violation. If a locomotive or car which was properly equipped
12 4 by a carrier subsequently becomes defective or insecure while
12 5 in use by the carrier, the car or locomotive may be hauled as
12 6 necessary from the place where it is in use to the nearest
12 7 available point where the equipment can be repaired, and the
12 8 penalties imposed under this subsection shall not apply.
12 9 Sec. 5. RULES. The department of transportation shall adopt
12 10 rules it deems necessary to implement this Act.
12 11 Sec. 6. EFFECTIVE DATE. This Act takes effect January 1,
12 12 2012.

EXPLANATION

12 14 This bill concerns requirements and enforcement provisions
12 15 for minimum clearances along railroad tracks and safe spaces
12 16 along railroad rights-of-way.
12 17 CLEARANCE REQUIREMENTS. The bill establishes that the
12 18 minimum clearance above a railroad track used for transporting
12 19 freight is 22 feet. Exceptions are specified for tracks at
12 20 the entrance to or inside a building, tracks for the operation
12 21 of trains by electricity, and engine houses and certain other
12 22 facilities where compliance is not reasonably practicable.
12 23 The department of transportation is authorized to waive the
12 24 overhead clearance requirements for structures constructed
12 25 prior to January 1, 2012.
12 26 The bill establishes a minimum side clearance of 12 feet from
12 27 the center line of the track for structures and obstructions
12 28 above the top of the rail. Exceptions are specified for
12 29 platforms; sidings at entrances to or inside buildings;
12 30 switchboxes, switch-operating mechanisms, and accessories
12 31 for control or operation of signals or interlockers; center
12 32 spindles of signal and switch stands; through bridges; mail
12 33 cranes; icing platforms and supports; intertrack fences;
12 34 engine houses and certain other facilities where compliance
12 35 is not reasonably practicable; car retarders, derails, switch



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate File 267 - Introduced continued

13 1 point projectors, guardrails, or similar appurtenances; and
13 2 curve tracks. Structures constructed or under construction
13 3 prior to January 1, 2012, may be maintained and extended at
13 4 existing clearances, except in connection with reconstruction
13 5 of the original platform.

13 6 The bill provides specific formulas for the modification of
13 7 overhead and side clearances in relation to one another.

13 8 The bill establishes a minimum distance of 13 feet six
13 9 inches between the center lines of parallel tracks, and the
13 10 same required distance for yard and side tracks. Specific
13 11 requirements for main tracks and passing tracks, ladder tracks,
13 12 and parallel team and house tracks are detailed in the bill.
13 13 However, tracks constructed or under construction prior to
13 14 January 1, 2012, may be extended with the existing distances
13 15 between tracks.

13 16 The department of transportation is authorized to grant
13 17 waivers from any of the clearance requirements upon the request
13 18 of a carrier and upon a showing of good cause.

13 19 SAFE SPACES. The bill defines "safe space" as the area from
13 20 the grade level to a distance of 22 feet six inches above the
13 21 top of the head rail; a distance of eight feet six inches on
13 22 both sides of a perpendicular from the center line of a track
13 23 with a radius of not less than 400 feet lateral curvature; and
13 24 a distance of nine feet on both sides of a perpendicular from
13 25 the center line of a track with a radius of less than 400 feet
13 26 lateral curvature. Safe spaces are required to be kept free of
13 27 scrap iron, lumber, debris, vegetation higher than four inches,
13 28 markedly uneven terrain, or any other material or condition
13 29 which endangers employees.

13 30 CLOSE CLEARANCE WARNING DEVICES. The bill retains current
13 31 requirements for the owner of a railroad track to place a
13 32 warning device at a location where a close clearance between
13 33 a train and a building or other object might physically
13 34 impede a person lawfully riding on the side of a train from
13 35 clearing the building or object. The bill applies the close



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 267 - Introduced continued

14 1 clearance warning requirements to situations where a person is
14 2 lawfully riding on the side of a cut of cars. Under current
14 3 law, requirements for close clearance warning devices only
14 4 apply to locations specified in rules by the department of
14 5 transportation when funds are available to reimburse the owner
14 6 of a railroad track for the cost of the close clearance warning
14 7 device. The bill strikes that applicability provision.
14 8 ENFORCEMENT. The bill states that the close clearance
14 9 and safe spaces requirements in the bill apply only to
14 10 matters under the purview of the state and enforceable by the
14 11 department of transportation, and do not apply to the exercise
14 12 of the authority delegated to state enforcement personnel
14 13 pursuant to federal law.
14 14 The bill provides that an inspector authorized by the
14 15 department may declare a locomotive, car, or other facility
14 16 to be "out of service" if it is found to be in a condition
14 17 that poses a danger to a person or property or might cause
14 18 a breakdown of equipment. In the case of a track or other
14 19 facility where it is not practical to post a notice, a
14 20 telephone or telegraphic notification to the owner of
14 21 the affected track or facility may be substituted. The
14 22 inspector must also furnish notice to the railroad immediately
14 23 responsible for operation of the defective locomotive, car,
14 24 track, or other facility, send a copy of the notice to the
14 25 department, and retain one copy.
14 26 If an inspector determines the existence of a hazardous
14 27 local track condition, the inspector is required to order a
14 28 reduction in the maximum speed of a track, with notice to the
14 29 owner of the track or the owner's agent.
14 30 The bill outlines the process for a railroad to make
14 31 required repairs to defective track, locomotives, cars, or
14 32 other facilities, bringing them into compliance with applicable
14 33 regulations and resulting in removal of an "out of service"
14 34 notice or a restriction on maximum speed imposed by an
14 35 inspector.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 267 - Introduced continued

15 1 When an "out of service" notice is issued, a railroad may
15 2 request a second inspection and, if the second inspection
15 3 does not affirm or modify the findings of the original
15 4 investigation, the second inspector must immediately remove
15 5 the "out of service" notice, which ceases to be effective.
15 6 If the findings of the original inspection are affirmed or
15 7 modified, the railroad may, within 30 days, request a hearing
15 8 with the department. The bill specifies that actions on review
15 9 may be prioritized by the department according to the needs
15 10 of the department's schedule. However, the requirements of
15 11 an "out of service" notice remain effective pending action
15 12 by the department. The department is authorized to grant a
15 13 request for an extension of time for compliance with an "out of
15 14 service" order upon petition of a carrier based on good cause.
15 15 The bill provides that violations of close clearance,
15 16 safe space, and close clearance warning requirements are
15 17 punishable by a schedule "one" penalty under the penalty
15 18 schedule applicable to carriers. A schedule "one" penalty is a
15 19 \$100 fine. Violations of enforcement provisions may subject
15 20 the violator to such penalties as may be provided by other
15 21 law. Each day of noncompliance with the requirements of the
15 22 bill constitutes a separate violation. If a locomotive or car
15 23 which was properly equipped by a carrier subsequently becomes
15 24 defective or insecure, it may be hauled to a nearby location
15 25 for repair, and the penalties imposed by the bill do not apply.
15 26 The bill requires the department of transportation to adopt
15 27 rules it deems necessary for implementation of the bill.
15 28 The bill takes effect January 1, 2012.

LSB 2212XS (4) 84

dea/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 268 - Introduced

SENATE FILE
BY DANIELSON

A BILL FOR

1 An Act relating to the purchase of flood damaged structures
2 under the federal hazard mitigation grant program.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2243XS (3) 84
tm/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 268 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 29C.20C Flood damaged structures
1 2 ==== public purchase.
1 3 If the president, at the request of the governor, declares
1 4 a major disaster to exist in this state due to flooding,
1 5 the state hazard mitigation officer under the federal hazard
1 6 mitigation grant program administered by the federal emergency
1 7 management agency, in coordination and cooperation with
1 8 representatives of the federal emergency management agency,
1 9 shall meet with representatives of the local governments
1 10 included under the disaster declaration for purposes of
1 11 identifying structures with damage assessments equal to fifty
1 12 percent or more of the replacement cost of the structure.
1 13 Within three months from the time the disaster began, purchase
1 14 of the identified structures shall be completed under the
1 15 program.

1 16 EXPLANATION

1 17 This bill relates to the purchase of flood damaged
1 18 structures under the federal hazard mitigation grant program.
1 19 If a major disaster due to flooding is declared by the
1 20 president of the United States, the bill requires the state
1 21 hazard mitigation officer in coordination and cooperation with
1 22 representatives of the federal emergency management agency to
1 23 meet with representatives of the local governments included
1 24 under the disaster declaration for purposes of identifying
1 25 structures with damage assessments equal to 50 percent or more
1 26 of the replacement cost of the structure. Within three months
1 27 from the time the disaster began, purchase of the identified
1 28 structures shall be completed under the program.

LSB 2243XS (3) 84
tm/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 269 - Introduced

SENATE FILE

BY SENG, JOHNSON,
SEYMOUR, HOUSER,
KIBBIE, RIELLY,
KAPUCIAN, HAHN,
HANCOCK, and FRAISE

A BILL FOR

1 An Act relating to wastewater discharges by on=farm processing
2 operations.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 1037ST (1) 84
da/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 269 - Introduced continued

PAG LIN

1 1 Section 1. NEW SECTION. 455B.198A Wastewater discharge ====
1 2 on=farm processing.
1 3 1. As used in this section:
1 4 a. "Farm" means the land and structures used in the
1 5 production of an agricultural animal or crop as defined in
1 6 section 717A.1.
1 7 b. "Food commodity" means any commodity that is derived from
1 8 a live agricultural animal or harvested crop, both as defined
1 9 in section 717A.1, which is intended for human consumption in
1 10 its raw or processed state, and which in its raw state includes
1 11 but is not limited to milk, eggs, vegetables, fruits, nuts,
1 12 syrup, and honey.
1 13 c. "On=farm processing operation" means any place located
1 14 on a farm where the form or condition of a food commodity
1 15 originating from that farm or another farm is changed or
1 16 packaged for human consumption, including but not limited to a
1 17 dairy, creamery, winery, distillery, or cannery. The change to
1 18 the food commodity may include cleaning, cooling, pasteurizing,
1 19 purifying, or preserving the food commodity.
1 20 d. "Wastewater disposal system" means an on=site wastewater
1 21 treatment and disposal system, including a septic system and
1 22 soil absorption field, that discharges wastewater on private
1 23 property.
1 24 2. A person engaged in an on=farm processing operation who
1 25 qualifies under this subsection is exempt from the wastewater
1 26 discharge regulations provided in this chapter, and rules
1 27 relating to such regulations adopted by the department pursuant
1 28 to this chapter, for wastewater produced from the on=farm
1 29 processing operation. In order to qualify, the person must
1 30 dispose of wastewater as follows:
1 31 a. The person shall not dispose of the wastewater into
1 32 a stream, lake, pond, river, watercourse, waterway, well,
1 33 agricultural drainage well, sinkhole, spring, reservoir, or
1 34 aquifer.
1 35 b. The person shall not discharge the wastewater using land



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate File 269 - Introduced continued

2 1 application or a wastewater disposal system if any one=day
2 2 biochemical oxygen demand contributed by the wastewater exceeds
2 3 five pounds. In addition, the following applies:
2 4 (1) The wastewater shall not be land applied on the same
2 5 spot on more than one occasion within a five=day period.
2 6 (2) The wastewater shall not be discharged using a
2 7 wastewater disposal system allowed for a single=family dwelling
2 8 if the one=day biochemical oxygen demand contributed by the
2 9 wastewater exceeds one pound. Otherwise, the wastewater
2 10 disposal system may be used if approved by a professional
2 11 engineer certifying that the wastewater disposal system meets
2 12 state effluent quality requirements for a private sewage system
2 13 as provided in 567 IAC ch. 69. However, in all cases the
2 14 wastewater must be compatible with the wastewater disposal
2 15 system.
2 16 c. For purposes of this subsection, the biochemical oxygen
2 17 demand shall be determined in the manner and at the temperature
2 18 used by the department to determine biochemical oxygen demand
2 19 for pretreated effluent.
2 20 3. The department shall adopt by rule guidelines to assist
2 21 a person who owns or operates an on=farm processing operation
2 22 in determining if the exemption provided in this section is
2 23 applicable. The guidelines shall provide, at a minimum, an
2 24 estimate of the maximum number of gallons of milk or wine that
2 25 could be processed by a creamery or winery utilizing land
2 26 application or alternatively a wastewater disposal system.
2 27 4. A person engaged in an on=farm processing operation who
2 28 qualifies as a small animal feeding operation as defined in
2 29 section 459.102 may dispose of wastewater produced by the small
2 30 animal feeding operation in the same manner as manure, if any
2 31 one=day demand for the biochemical oxygen demand contributed by
2 32 the wastewater does not exceed five pounds.
2 33 5. The department may adopt rules providing additional
2 34 exemptions from the requirements of this chapter that would
2 35 otherwise apply to the disposal of wastewater generated by an



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate File 269 - Introduced continued

3 1 on=farm processing operation.

3 2 EXPLANATION

3 3 This bill provides that an on=farm processing operation
3 4 may be exempt from state regulations governing wastewater
3 5 discharge, if the waste produced by the processing operation
3 6 meets certain standards measuring "biochemical oxygen demand",
3 7 a chemical procedure which determines the amount of dissolved
3 8 oxygen in a volume of water required to break down the organic
3 9 compounds. The exemption provided in the bill would apply to
3 10 an operation that processes a food commodity produced on that
3 11 farm or another farm and includes a dairy, creamery, winery,
3 12 distillery, or cannery. The standards apply to both disposal
3 13 by land application and on=site wastewater treatment systems
3 14 including a private septic system. The bill requires the
3 15 department to adopt guidelines by rule that could be used by
3 16 creameries and wineries to determine if they qualify for the
3 17 exemption. If a person is a small animal feeding operation,
3 18 the person may dispose of the wastewater in the same manner as
3 19 manure.

3 20 The bill also authorizes the department of natural resources
3 21 to adopt rules providing further exemptions applicable to
3 22 on=farm processing operations.

LSB 1037ST (1) 84

da/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1139

SENATE FILE
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CHAIRPERSON DANDEKAR)

A BILL FOR

1 An Act relating to the licensing and regulation of real estate
2 brokers and salespersons.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2492SC (4) 84
rn/rj



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1139 continued

PAG LIN

1 1 Section 1. Section 543B.29, subsection 4, Code 2011, is
1 2 amended to read as follows:
1 3 4. A real estate broker's or salesperson's license shall be
1 4 revoked following three violations of this section or section
1 5 543B.34 within a ~~three-year~~ five-year period.
1 6 Sec. 2. Section 543B.33, Code 2011, is amended to read as
1 7 follows:
1 8 543B.33 Salespersons ===== change of employment.
1 9 When any real estate salesperson is discharged or terminates
1 10 employment with the real estate broker by whom the salesperson
1 11 is employed, the real estate broker shall immediately deliver
1 12 or mail ~~by certified mail~~ to the real estate commission the
1 13 real estate salesperson's license on the reverse side of
1 14 which the employing broker shall set out the date and cause
1 15 of termination of employment. The real estate broker at the
1 16 time of mailing the real estate salesperson's license to the
1 17 commission shall address a communication to the last known
1 18 residence address of the real estate salesperson stating that
1 19 the license has been delivered or mailed to the commission.
1 20 A copy of the communication to the real estate salesperson
1 21 shall accompany the license when mailed or delivered to the
1 22 commission. It is unlawful for any real estate salesperson to
1 23 perform any of the acts contemplated by this chapter either
1 24 directly or indirectly under authority of a license from and
1 25 after the date of receipt of the license by the commission.
1 26 The commission shall, upon presentation of evidence by the
1 27 salesperson that the salesperson has been employed by another
1 28 broker, issue another license for the balance of the current
1 29 license period showing each change of employment. A fee as
1 30 determined by the commission shall be charged for the issuance
1 31 of the license. Not more than one license shall be issued to
1 32 any real estate salesperson for the same period of time.
1 33 Sec. 3. Section 543B.34, unnumbered paragraph 3, Code 2011,
1 34 is amended to read as follows:
1 35 If an investigation pursuant to this section reveals that an



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1139 continued

2 1 unlicensed person has assumed to act in the capacity of a real
2 2 estate broker or real estate salesperson, the commission ~~may~~
~~2 3~~ shall issue a cease and desist order, and ~~may~~ shall impose a
2 4 civil penalty of up to the greater of ten thousand dollars or
2 5 ten percent of the real estate sale price.
2 6 Sec. 4. Section 543B.56A, Code 2011, is amended to read as
2 7 follows:
2 8 543B.56A Brokerage agreements ===== contents.
2 9 1. The purpose of this section is to promote the protection
2 10 of the public by establishing minimum standards reasonably
2 11 expected by the public in reliance upon the professional work
2 12 product of real estate licensees. The reliance of the public
2 13 and business community on sound professional opinions and
2 14 assistance imposes on real estate licensees certain obligations
2 15 both to their clients and to the public. The purpose of
2 16 this section is also to assist in ensuring that licensees'
2 17 obligations are met including licensees' exercising sound
2 18 independent business judgment, striving to continuously improve
2 19 professional business skills and knowledge in the industry,
2 20 promoting sound and informative real estate reporting, and
2 21 exercising the highest fiduciary duties to clients and the
2 22 public.
2 23 2. A brokerage agreement shall specify that the broker
2 24 shall, at a minimum, do all of the following:
2 25 ~~1.~~ a. Accept delivery of and present to the client offers
2 26 and counteroffers to buy, sell, rent, lease, or exchange the
2 27 client's property or the property the client seeks to purchase
2 28 or lease.
2 29 ~~2.~~ b. Assist the client in developing, communicating,
2 30 negotiating, and presenting offers or counteroffers until a
2 31 rental agreement, lease, exchange agreement, offer to buy or
2 32 sell, or purchase agreement is signed and all contingencies are
2 33 satisfied or waived and the transaction is completed.
2 34 ~~3.~~ c. Answer the client's questions relating to
2 35 the brokerage agreements, listing agreements, offers,



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1139 continued

3 1 counteroffers, notices, and contingencies.
3 2 4. d. Provide prospective buyers access to listed
3 3 properties.

3 4 EXPLANATION

3 5 This bill makes specified modifications to provisions
3 6 relating to the licensing and regulation of real estate brokers
3 7 and salespersons.

3 8 The bill changes a provision currently providing that a real
3 9 estate broker's or salesperson's license shall be suspended
3 10 or revoked following three violations described in Code
3 11 section 543B.29, which specifies conditions for suspension or
3 12 revocation, during a three-year period, to a five-year period.
3 13 The bill deletes a requirement that a real estate broker mail
3 14 by certified mail to the real estate commission the license of
3 15 a discharged or terminated salesperson employed by the broker,
3 16 with the result that only regular mail is required. The bill
3 17 changes a current provision that the real estate commission,
3 18 upon determining that an unlicensed person has acted in the
3 19 capacity of a real estate broker or real estate salesperson,
3 20 may issue a cease and desist order or impose a specified civil
3 21 penalty, to a requirement that the commission shall issue an
3 22 order and impose a penalty.

3 23 Additionally, the bill adds to Code section 543B.56A,
3 24 relating to the contents of brokerage agreements, a provision
3 25 specifying that the purpose of the Code section is to promote
3 26 the protection of the public by establishing minimum standards
3 27 for the professional work product of licensees, and to assist
3 28 ensuring specified licensee obligations are met.

LSB 2492SC (4) 84

rn/rj



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1140

SENATE FILE
BY (PROPOSED COMMITTEE ON
LABOR AND BUSINESS
RELATIONS BILL BY
CHAIRPERSON HORN)

A BILL FOR

1 An Act requiring certain weekly workers' compensation benefits
2 to be calculated by including an employee's overtime
3 and premium pay, and to include an annual cost-of-living
4 adjustment.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2656XC (4) 84
av/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1140 continued

PAG LIN

1 1 Section 1. Section 85.36, Code 2011, is amended to read as
1 2 follows:
1 3 85.36 Basis of computation.
1 4 1. The basis of compensation shall be the weekly earnings
1 5 of the injured employee at the time of the injury. Weekly
1 6 earnings means gross salary, wages, or earnings of an employee
1 7 to which such employee would have been entitled had the
1 8 employee worked the customary hours for the full pay period in
1 9 which the employee was injured, as regularly required by the
1 10 employee's employer for the work or employment for which the
1 11 employee was employed, computed or determined as follows, and
1 12 then rounded to the nearest dollar:
1 13 ~~1.~~ a. In the case of an employee who is paid on a weekly
1 14 pay period basis, the weekly gross earnings.
1 15 ~~2.~~ b. In the case of an employee who is paid on a biweekly
1 16 pay period basis, one-half of the biweekly gross earnings.
1 17 ~~3.~~ c. In the case of an employee who is paid on a
1 18 semimonthly pay period basis, the semimonthly gross earnings
1 19 multiplied by twenty-four and subsequently divided by
1 20 fifty-two.
1 21 ~~4.~~ d. In the case of an employee who is paid on a monthly
1 22 pay period basis, the monthly gross earnings multiplied by
1 23 twelve and subsequently divided by fifty-two.
1 24 ~~5.~~ e. In the case of an employee who is paid on a yearly
1 25 pay period basis, the weekly earnings shall be the yearly
1 26 earnings divided by fifty-two.
1 27 ~~6.~~ f. In the case of an employee who is paid on a daily
1 28 or hourly basis, or by the output of the employee, the
1 29 weekly earnings shall be computed by dividing by thirteen
1 30 the earnings, including but not limited to overtime, shift
1 31 differential ~~pay but not including overtime or~~, and premium
1 32 pay, of the employee earned in the employ of the employer in
1 33 the last completed period of thirteen consecutive calendar
1 34 weeks immediately preceding the injury. If the employee was
1 35 absent from employment for reasons personal to the employee



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1140 continued

2 1 during part of the thirteen calendar weeks preceding the
2 2 injury, the employee's weekly earnings shall be the amount
2 3 the employee would have earned had the employee worked when
2 4 work was available to other employees of the employer in a
2 5 similar occupation. A week which does not fairly reflect
2 6 the employee's customary earnings shall be replaced by the
2 7 closest previous week with earnings that fairly represent the
2 8 employee's customary earnings.

2 9 ~~7.~~ g. In the case of an employee who has been in the employ
2 10 of the employer less than thirteen calendar weeks immediately
2 11 preceding the injury, the employee's weekly earnings shall be
2 12 computed under ~~subsection 6~~ paragraph "f", taking the earnings,
2 13 including but not limited to overtime, shift differential
2 14 ~~pay but not including overtime or, and premium pay,~~ for such
2 15 purpose to be the amount the employee would have earned had the
2 16 employee been so employed by the employer the full thirteen
2 17 calendar weeks immediately preceding the injury and had
2 18 worked, when work was available to other employees in a similar
2 19 occupation. If the earnings of other employees cannot be
2 20 determined, the employee's weekly earnings shall be the average
2 21 computed for the number of weeks the employee has been in the
2 22 employ of the employer.

2 23 h. In the case of an employee injured in the course of
2 24 performing as a professional athlete, the basis of compensation
2 25 for weekly earnings shall be one=fiftieth of total earnings
2 26 which the employee has earned from all employment for the
2 27 previous twelve months prior to the injury.

2 28 ~~8.~~ 2. If at the time of the injury the hourly earnings
2 29 have not been fixed or cannot be ascertained, the earnings for
2 30 the purpose of calculating compensation shall be taken to be
2 31 the usual earnings for similar services where such services are
2 32 rendered by paid employees.

2 33 ~~9.~~ 3. If an employee earns either no wages or less than the
2 34 usual weekly earnings of the regular full=time adult laborer
2 35 in the line of industry in which the employee is injured in



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1140 continued

3 1 that locality, the weekly earnings shall be one=fiftieth of
3 2 the total earnings which the employee has earned from all
3 3 employment during the twelve calendar months immediately
3 4 preceding the injury.
3 5 a. In computing the compensation to be allowed a volunteer
3 6 fire fighter, emergency medical care provider, reserve peace
3 7 officer, or volunteer ambulance driver, the earnings as a
3 8 fire fighter, emergency medical care provider, reserve peace
3 9 officer, or volunteer ambulance driver shall be disregarded and
3 10 the volunteer fire fighter, emergency medical care provider,
3 11 reserve peace officer, or volunteer ambulance driver, shall
3 12 be paid an amount equal to the compensation the volunteer
3 13 fire fighter, emergency medical care provider, reserve peace
3 14 officer, or volunteer ambulance driver would be paid if injured
3 15 in the normal course of the volunteer fire fighter's, emergency
3 16 medical care provider's, reserve peace officer's, or volunteer
3 17 ambulance driver's regular employment or an amount equal to one
3 18 hundred and forty percent of the statewide average weekly wage,
3 19 whichever is greater.
3 20 b. If the employee was an apprentice or trainee when
3 21 injured, and it is established under normal conditions the
3 22 employee's earnings should be expected to increase during the
3 23 period of disability, that fact may be considered in computing
3 24 the employee's weekly earnings.
3 25 c. If the employee was an inmate as defined in section
3 26 85.59, the inmate's actual earnings shall be disregarded, and
3 27 the weekly compensation rate shall be as set forth in section
3 28 85.59.
3 29 ~~10.~~ 4. If a wage, or method of calculating a wage, is
3 30 used for the basis of the payment of a workers' compensation
3 31 insurance premium for a proprietor, partner, limited liability
3 32 company member, limited liability partner, or officer of a
3 33 corporation, the wage or the method of calculating the wage
3 34 is determinative for purposes of computing the proprietor's,
3 35 partner's, limited liability company member's, limited



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1140 continued

4 1 liability partner's, or officer's weekly workers' compensation
4 2 benefit rate.

4 3 ~~11.~~ 5. In computing the compensation to be allowed an
4 4 elected or appointed official, the official may choose either
4 5 of the following payment options:

4 6 a. The official shall be paid an amount of compensation
4 7 based on the official's weekly earnings as an elected or
4 8 appointed official.

4 9 b. The earnings of the official as an elected or appointed
4 10 official shall be disregarded and the official shall be paid
4 11 an amount equal to one hundred forty percent of the statewide
4 12 average weekly wage.

~~4 13 12. In the case of an employee injured in the course of
4 14 performing as a professional athlete, the basis of compensation
4 15 for weekly earnings shall be one-fiftieth of total earnings
4 16 which the employee has earned from all employment for the
4 17 previous twelve months prior to the injury.~~

4 18 6. The basis of compensation for permanent total disability
4 19 benefits or death benefits shall increase on January 1 of
4 20 each year for compensation which becomes due that year by
4 21 a percentage equal to the cost-of-living adjustment made
4 22 to disability benefits payable by the United States social
4 23 security administration in December of the immediately
4 24 preceding year.

4 25 Sec. 2. Section 85.61, subsection 3, Code 2011, is amended
4 26 to read as follows:

4 27 3. "Gross earnings" means recurring payments by employer to
4 28 the employee for employment, before any authorized or lawfully
4 29 required deduction or withholding of funds by the employer,
4 30 excluding irregular bonuses, retroactive pay, ~~overtime~~, penalty
4 31 pay, reimbursement of expenses, expense allowances, and the
4 32 employer's contribution for welfare benefits.

4 33 EXPLANATION

4 34 This bill requires certain weekly workers' compensation
4 35 benefits to be calculated by including an employee's overtime



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate Study Bill 1140 continued

5 1 and premium pay, and to include an annual cost-of-living
5 2 adjustment.

5 3 The bill amends Code section 85.36 to require the
5 4 calculation of the amount of weekly workers' compensation
5 5 benefits to include, not exclude, an employee's earnings for
5 6 overtime and premium pay. A coordinating amendment is made to
5 7 Code section 85.61.

5 8 The bill also amends Code section 85.36 to require the basis
5 9 of compensation for weekly workers' compensation benefits
5 10 payable for permanent total disability benefits or death
5 11 benefits to increase on January 1 each year for compensation
5 12 which becomes due that year, by a percentage equal to the
5 13 cost-of-living adjustment made to disability benefits payable
5 14 by the United States social security administration in December
5 15 of the immediately preceding year.

5 16 Technical corrections are also made to Code section 85.36 to
5 17 remove an unnumbered paragraph and for purposes of clarity.

LSB 2656XC (4) 84

av/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1141

SENATE FILE
BY (PROPOSED COMMITTEE ON
LABOR AND BUSINESS
RELATIONS BILL BY
CHAIRPERSON HORN)

A BILL FOR

1 An Act requiring additional workers' compensation payments for
2 scheduled injuries that result in a reduction in the injured
3 employee's earning capacity.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2622XC (2) 84
av/rj



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1141 continued

PAG LIN

1 1 Section 1. Section 85.34, subsection 2, Code 2011, is
1 2 amended by adding the following new paragraph:
1 3 NEW PARAGRAPH. w. If an employee sustains an injury
1 4 described in paragraphs "a" through "t" and is unable to return
1 5 to employment providing substantially similar earnings to the
1 6 earnings provided in the employment in which the employee was
1 7 engaged at the time of the injury, compensation shall be paid
1 8 during the number of weeks in relation to five hundred weeks
1 9 as the reduction in the employee's earning capacity bears in
1 10 relation to the earning capacity that the employee possessed
1 11 when the injury occurred. If the employee is permanently and
1 12 totally disabled as a result of such an injury the employee may
1 13 be entitled to benefits under subsection 3.
1 14 Sec. 2. Section 85.64, Code 2011, is amended to read as
1 15 follows:
1 16 85.64 Limitation of benefits.
1 17 1. If an employee who has previously lost, or lost the
1 18 use of, one hand, one arm, one foot, one leg, or one eye,
1 19 becomes permanently disabled by a compensable injury which
1 20 has resulted in the loss of or loss of use of another such
1 21 member or organ and which does not cause the employee to be
1 22 eligible for benefits under section 85.34, subsection 2,
1 23 paragraph "w", the employer shall be liable only for the degree
1 24 of disability which would have resulted from the latter injury
1 25 if there had been no preexisting disability. In addition to
1 26 such compensation, and after the expiration of the full period
1 27 provided by law for the payments thereof by the employer, the
1 28 employee shall be paid out of the "Second Injury Fund" created
1 29 by this division the remainder of such compensation as would be
1 30 payable for the degree of permanent disability involved after
1 31 first deducting from such remainder the compensable value of
1 32 the previously lost member or organ.
1 33 2. Any benefits received by any such employee, or to which
1 34 the employee may be entitled, by reason of such increased
1 35 disability from any state or federal fund or agency, to which



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate Study Bill 1141 continued

2 1 said employee has not directly contributed, shall be regarded
2 2 as a credit to any award made against said second injury fund
2 3 as aforesaid.

2 4 EXPLANATION

2 5 This bill amends Code section 85.34 to provide that
2 6 for purposes of workers' compensation, an employee who
2 7 sustains a scheduled injury and is unable to return to
2 8 employment providing substantially similar earnings to that
2 9 of the preinjury employment earning capacity, shall be paid
2 10 compensation during the number of weeks in relation to 500
2 11 weeks as the reduction in the employee's earning capacity
2 12 caused by the disability bears in relation to the earning
2 13 capacity that the employee possessed when the injury occurred.

2 14 The bill also amends Code section 85.64 to provide that an
2 15 employee who has previously sustained a loss of a body part and
2 16 then becomes permanently disabled when that injury is combined
2 17 with a second compensable injury is entitled to compensation
2 18 out of the state second injury fund as long as that second
2 19 compensable injury alone does not cause the employee to be
2 20 unable to return to substantially similar employment and thus
2 21 be eligible for benefits under the new paragraph "w" in Code
2 22 section 85.34(2).



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1142

SENATE FILE
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL
BY CHAIRPERSON
DANIELSON)

A BILL FOR

1 An Act permitting the limited gambling licensing of individuals
2 as representatives of certain nonprofit organizations.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2033XC (3) 84
aw/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1142 continued

PAG LIN

1 1 Section 1. Section 99B.1, subsection 13, Code 2011, is
1 2 amended by adding the following new paragraph:
1 3 NEW PARAGRAPH. c. If the applicant is a volunteer applying
1 4 to serve as a representative individual limited licensee on
1 5 behalf of an organization, the individual must state in the
1 6 application the name of the organization. A volunteer may only
1 7 apply as a representative individual limited licensee on behalf
1 8 of an organization if that organization holds an exemption from
1 9 federal income taxation under section 501(c)(3), 501(c)(4),
1 10 501(c)(5), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or
1 11 501(c)(19) of the Internal Revenue Code as defined in section
1 12 422.3. The requirements of paragraph "a" shall apply to
1 13 any representative individual applying on behalf of such an
1 14 organization and such a representative individual shall only be
1 15 eligible to hold two limited licenses to conduct raffles within
1 16 any given calendar year.

1 17 Sec. 2. Section 99B.7, subsection 1, paragraph d,
1 18 subparagraph (2), Code 2011, is amended to read as follows:
1 19 (2) (a) If a raffle licensee holds a statewide raffle
1 20 license, the licensee may hold not more than eight raffles per
1 21 calendar year at which real property or one or more merchandise
1 22 prizes having a combined value of more than ten thousand
1 23 dollars may be awarded or cash prizes of up to a total of two
1 24 hundred thousand dollars may be awarded. Each such raffle held
1 25 under a statewide license shall be held in a separate county.
1 26 (b) If a representative individual limited licensee holds
1 27 a limited license to conduct raffles applied for on behalf
1 28 of an organization as provided in section 99B.1, subsection
1 29 13, paragraph "c", the representative licensee may hold not
1 30 more than one raffle per license applied for and no more than
1 31 two per calendar year at which real property or one or more
1 32 merchandise prizes having a combined value of more than ten
1 33 thousand dollars may be awarded or cash prizes of up to a total
1 34 of two hundred thousand dollars may be awarded. Each such
1 35 raffle held under a limited license shall be held in a separate



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1142 continued

2 1 county.

2 2 Sec. 3. Section 99B.7, subsection 1, paragraph m,
2 3 subparagraph (1), subparagraph division (a), Code 2011, is
2 4 amended to read as follows:

2 5 (a) The organization, or an organization being represented
2 6 by a volunteer representative individual limited licensee,
2 7 is exempt from federal income taxes under section 501(c)(3),
2 8 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(7), 501(c)(8),
2 9 501(c)(10), or 501(c)(19) of the Internal Revenue Code as
2 10 defined in section 422.3, the organization is an agency or
2 11 instrumentality of the United States government, this state,
2 12 or a political subdivision of this state, or, in lieu of an
2 13 exemption from federal income taxes, the organization is a
2 14 parent=teacher organization or booster club that is recognized
2 15 as a fund=raiser and supporter for a school district organized
2 16 pursuant to chapter 274 or for a school within the school
2 17 district, in a notarized letter signed by the president of the
2 18 board of directors, the superintendent of the school district,
2 19 or a principal of a school within that school district.

2 20 EXPLANATION

2 21 This bill allows an individual volunteer to apply for a
2 22 limited license as a representative licensee on behalf of
2 23 certain nonprofit organizations.

2 24 The bill allows an individual to apply and serve as a
2 25 representative limited licensee for a nonprofit organization
2 26 that is exempt from federal taxation under section 501(c)(3),
2 27 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(7), 501(c)(8),
2 28 501(c)(10), or 501(c)(19) of the Internal Revenue Code. The
2 29 bill requires that such an individual applicant must meet the
2 30 requirements for all other individual applicants relating to
2 31 one's financial standing and reputation, citizenship, and
2 32 criminal history.

2 33 The bill states that only one raffle may be held for each
2 34 limited raffle license granted to a representative individual
2 35 on behalf of a nonprofit organization. At these raffles, real



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate Study Bill 1142 continued

3 1 property or one or more merchandise prizes having a combined
3 2 value greater than \$10,000 may be awarded or cash prizes of
3 3 up to \$200,000 may be awarded. The bill allows an individual
3 4 licensed on behalf of a nonprofit organization to apply for up
3 5 to two limited raffle licenses per calendar year.
3 6 The bill requires that any organization being represented
3 7 by a volunteer individual licensee must be exempt from federal
3 8 taxation under section 501(c)(3), 501(c)(4), 501(c)(5),
3 9 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of
3 10 the Internal Revenue Code.

LSB 2033XC (3) 84

aw/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1143

SENATE FILE
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CHAIRPERSON DANDEKAR)

A BILL FOR

1 An Act relating to hearings conducted with regard to petitions
2 for an electric transmission line franchise.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2692SC (2) 84
rn/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1143 continued

PAG LIN

1 1 Section 1. Section 478.4, Code 2011, is amended to read as
1 2 follows:

1 3 478.4 Franchise ==== hearing.

1 4 The utilities board shall consider the petition and any
1 5 objections filed to it in the manner provided. It shall
1 6 examine the proposed route or cause any engineer selected
1 7 by it to do so. If a hearing is held on the petition it may
1 8 hear testimony as may aid it in determining the propriety of
1 9 granting the franchise. The board may, in its reasonable
1 10 discretion upon its own motion or upon the motion of the
1 11 petitioner, and pursuant to procedures that the board
1 12 determines to be just and reasonable, order a separate
1 13 hearing and issue a separate decision on any issue or issues
1 14 to be heard in relation to the petition. It may grant the
1 15 franchise in whole or in part upon the terms, conditions, and
1 16 restrictions, and with the modifications as to location and
1 17 route as may seem to it just and proper. Before granting
1 18 the franchise, the utilities board shall make a finding that
1 19 the proposed line or lines are necessary to serve a public
1 20 use and represents a reasonable relationship to an overall
1 21 plan of transmitting electricity in the public interest. A
1 22 franchise shall not become effective until the petitioners
1 23 shall pay, or file an agreement to pay, all costs and expenses
1 24 of the franchise proceeding, whether or not objections are
1 25 filed, including costs of inspections or examinations of the
1 26 route, hearing, salaries, publishing of notice, and any other
1 27 expenses reasonably attributable to it. The funds received
1 28 for the costs and the expenses of the franchise proceeding
1 29 shall be remitted to the treasurer of state for deposit in the
1 30 department of commerce revolving fund created in section 546.12
1 31 as provided in section 476.10.

1 32 EXPLANATION

1 33 This bill relates to a hearing which may be conducted by
1 34 the Iowa utilities board upon the filing of a petition for
1 35 a franchise for a new electric transmission line. The bill



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate Study Bill 1143 continued

2 1 states that the board may, in its reasonable discretion upon
2 2 its own motion or upon the motion of the petitioner, and
2 3 pursuant to procedures that the board determines to be just
2 4 and reasonable, order a separate hearing and issue a separate
2 5 decision on any issue or issues to be heard in relation to the
2 6 petition.

LSB 2692SC (2) 84

rn/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1144

SENATE FILE
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CHAIRPERSON DANDEKAR)

A BILL FOR

1 An Act relating to the permitting, licensing, construction, and
2 operation of nuclear generation facilities.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2351SC (1) 84
rn/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1144 continued

PAG LIN

1 1 Section 1. Section 476.6, subsection 22, Code 2011, is
1 2 amended by adding the following new paragraph:
1 3 NEW PARAGRAPH. d. A rate-regulated electric utility that
1 4 was subject to a revenue sharing settlement agreement with
1 5 regard to its electric base rates as of January 1, 2010, shall
1 6 file an application for ratemaking principles applicable to the
1 7 construction of a nuclear generating facility with the board.
1 8 The application shall comply with the provisions of section
1 9 476.53.
1 10 Sec. 2. Section 476.53, Code 2011, is amended to read as
1 11 follows:
1 12 476.53 Electric generating and transmission facilities.
1 13 1. It is the intent of the general assembly to attract
1 14 the development of electric power generating and transmission
1 15 facilities within the state in sufficient quantity to ensure
1 16 reliable electric service to Iowa consumers and provide
1 17 economic benefits to the state. It is also the intent of the
1 18 general assembly to encourage rate-regulated public utilities
1 19 to consider altering existing electric generating facilities,
1 20 where reasonable, to manage carbon emission intensity in
1 21 order to facilitate the transition to a carbon-constrained
1 22 environment.
1 23 ~~2.~~ a. The general assembly's intent with regard to the
1 24 development of electric power generating and transmission
1 25 facilities, or the significant alteration of an existing
1 26 generating facility, as provided in this subsection ~~4~~, shall be
1 27 implemented in a manner that is cost-effective and compatible
1 28 with the environmental policies of the state, as expressed in
1 29 Title XI.
1 30 b. The general assembly's intent with regard to the
1 31 reliability of electric service to Iowa consumers, as provided
1 32 in this subsection ~~4~~, shall be implemented by considering the
1 33 diversity of the types of fuel used to generate electricity,
1 34 the availability and reliability of fuel supplies, and the
1 35 impact of the volatility of fuel costs.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1144 continued

2 1 2. It is also the intent of the general assembly to
2 2 encourage the prudent development of baseload nuclear
2 3 electric power generation. Nuclear generation has a long-term
2 4 proven record of providing a safe, reliable, and secure
2 5 source of electricity in the United States and offers the
2 6 potential for significant job creation, substantial economic
2 7 development benefits, and the production of electricity at
2 8 significantly reduced levels of regulated air emissions when
2 9 compared to output from other thermal generation sources.
2 10 Further, the general assembly recognizes that meeting
2 11 stringent environmental permit requirements is expensive and
2 12 creates significant cost burdens on customers and employers
2 13 attributable to the imposition of additional comprehensive
2 14 and costly regulations by the United States environmental
2 15 protection agency that dramatically increase costs to
2 16 customers. Finally, the general assembly recognizes that
2 17 development of nuclear electric power generation requires
2 18 significant capital investment and a substantial period of
2 19 time for successful nuclear generation development, siting,
2 20 licensing, and deployment.

2 21 3. a. The board shall specify in advance, by order issued
2 22 after a contested case proceeding, the ratemaking principles
2 23 that will apply ~~when the costs of the electric power generating~~
2 24 ~~facility or alternate energy production facility are included~~
2 25 ~~in regulated electric rates~~ whenever a rate-regulated public
2 26 utility does any of the following:

2 27 (1) Files an application pursuant to section 476A.3 to
2 28 ~~construct~~ do any of the following in Iowa a:

2 29 (a) Construct a baseload electric power generating facility
2 30 with a nameplate generating capacity equal to or greater than
2 31 three hundred megawatts ~~or a.~~

2 32 (b) Construct a combined-cycle electric power generating
2 33 facility, ~~or an.~~

2 34 (c) Construct an alternate energy production facility as
2 35 defined in section 476.42, ~~or to significantly.~~



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1144 continued

3 1 (d) Significantly alter an existing generating facility.

3 2 (i) For purposes of this subparagraph division (d), a
3 3 significant alteration of an existing generating facility must,
3 4 in order to qualify for establishment of ratemaking principles,
3 5 fall into one of the following categories:

3 6 ~~(a)~~ (A) Conversion of a coal fueled facility into a gas
3 7 fueled facility.

3 8 ~~(b)~~ (B) Addition of carbon capture and storage facilities
3 9 at a coal fueled facility.

3 10 ~~(c)~~ (C) Addition of gas fueled capability to a coal fueled
3 11 facility, in order to convert the facility to one that will
3 12 rely primarily on gas for future generation.

3 13 ~~(d)~~ (D) Addition of a biomass fueled capability to a coal
3 14 fueled facility.

3 15 (ii) With respect to a significant alteration of an existing
3 16 generating facility, an original facility shall not be required
3 17 to be either a baseload or a combined-cycle facility. Only
3 18 the incremental investment undertaken by a utility under

3 19 ~~subparagraph divisions (a), (b), (c), or (d)~~ subdivision (i),
3 20 subparagraph part (A), (B), (C), or (D) shall be eligible to

3 21 apply the ratemaking principles established by the order issued
3 22 pursuant to paragraph "e". ~~Facilities for which advanced~~

~~3 23 ratemaking principles are obtained pursuant to this section~~

~~3 24 shall not be subject to a subsequent board review pursuant to~~

~~3 25 section 476.6, subsection 21 to the extent that the investment~~

~~3 26 has been considered by the board under this section. To the~~

~~3 27 extent an eligible utility has been authorized to make capital~~

~~3 28 investments subject to section 476.6, subsection 21, such~~

~~3 29 investments shall not be eligible for ratemaking principles~~

~~3 30 pursuant to this section.~~

3 31 (2) Expresses its intent to file an application pursuant to
3 32 section 476A.3 to build a nuclear generating facility including
3 33 but not limited to small modular reactor technology, or

3 34 expresses its intent to seek authority pursuant to a combined

3 35 construction and operating license or an early site permit from



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1144 continued

4 1 the United States nuclear regulatory commission.

4 2 ~~(2)~~ (3) Leases or owns in Iowa, in whole or in part, a any
4 3 of the following:

4 4 (a) A new baseload electric power generating facility with
4 5 a nameplate generating capacity equal to or greater than three
4 6 hundred megawatts ~~or a.~~

4 7 (b) A combined-cycle electric power generating facility,
4 8 ~~or a.~~

4 9 (c) A new alternate energy production facility as defined
4 10 in section 476.42.

4 11 (d) A new nuclear generating facility including but not
4 12 limited to small modular reactor technology.

4 13 b. In determining the applicable ratemaking principles, the
4 14 board shall not be limited to traditional ratemaking principles
4 15 or traditional cost recovery mechanisms.

4 16 (1) Among the principles and mechanisms the board may
4 17 consider, the board has the authority to approve ratemaking
4 18 principles proposed by a rate-regulated public utility that
4 19 provide for reasonable restrictions upon the ability of
4 20 the public utility to seek a general increase in electric
4 21 rates under section 476.6 for at least three years after the
4 22 generating facility begins providing service to Iowa customers.

4 23 (2) In determining the applicable ratemaking principles for
4 24 a nuclear generating facility or for a license or permit from
4 25 the United States nuclear regulatory commission, a ratemaking
4 26 principles order issued by the board shall incorporate all of
4 27 the following:

4 28 (a) Enable the utility to recover upon issuance of the
4 29 order, through a rider pursuant to a tariff filing, a return
4 30 on, and a return of all prudent costs associated with, the
4 31 permitting, licensing, and construction of a nuclear generating
4 32 facility. The amount of such cost recovery from utility
4 33 customers shall be reduced by the amount of any funding of such
4 34 costs borne by the United States department of energy or any
4 35 other governmental entity, and costs recovered from any joint



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1144 continued

5 1 owners of the nuclear generating facility. A determination of
5 2 all prudent costs recoverable pursuant to this subparagraph
5 3 division shall be made and the level and rate of the recovery
5 4 of such charges reset annually to reflect the level of
5 5 reasonable costs related to pursuit of United States nuclear
5 6 regulatory commission authority or construction costs expected
5 7 to be incurred in the next twelve months. A determination
5 8 shall also be made of any adjustment required to balance the
5 9 preceding period's actual expenditures and financing costs
5 10 with what had been projected and included in costs recoverable
5 11 for the preceding period. If applicable, the utility shall
5 12 report to the board annually the budgeted and actual costs as
5 13 compared to the estimated total in-service cost of the nuclear
5 14 generating facility that was presented in the last annual
5 15 filing, as projected through the expected in-service date of
5 16 the nuclear generating facility. Following issuance of the
5 17 board's ratemaking principles order, the utility shall file an
5 18 application with the board on an annual basis providing such
5 19 information, with the understanding that some cost components
5 20 may be higher than estimated and other cost components may be
5 21 lower. Each annual proceeding shall be completed by the board
5 22 within ninety days from the date of filing the application.
5 23 The complete methodology for determination of prudent costs
5 24 shall be addressed as a ratemaking principle. All United
5 25 States nuclear regulatory commission authority costs are
5 26 to be recovered over a period not to exceed the estimated
5 27 construction period for a nuclear generating facility as
5 28 determined by the board. All nuclear generating facility
5 29 construction costs are to be recovered over a period not
5 30 to exceed the sum of the estimated construction period for
5 31 a nuclear unit, plus its useful life as determined by the
5 32 board. A utility's commencement of cost collection shall
5 33 begin promptly after completion of the ratemaking principles
5 34 proceeding, allowing for such additional time as may be needed
5 35 by the board to review a compliance rider tariff filing.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1144 continued

6 1 (b) Enable the utility to recover in rates all prudently
6 2 incurred expenses and costs, including but not limited to
6 3 ongoing operations and maintenance costs, decommissioning
6 4 funding and site restoration costs, and taxes for such a new
6 5 nuclear generating facility.

6 6 (c) Base the allowed debt and equity return on a capital
6 7 structure calculated using the average of the utility's
6 8 actual thirteen monthly balances for long-term debt, preferred
6 9 stock, and common equity. The long-term debt and preferred
6 10 stock thirteen-month balances shall include adjustments for
6 11 thirteen-month balances of unamortized discount, premium,
6 12 expense, and any gain or loss on reacquired securities. The
6 13 costs of long-term debt and preferred stock shall reflect
6 14 the actual embedded interest and dividend rate for each
6 15 issue as well as any annual amortization of unamortized
6 16 discount, premium, expense, and any gain or loss on reacquired
6 17 securities. The costs of common equity shall reflect the
6 18 risks to which the investor's capital is exposed and not the
6 19 investor's source of funds, and the investor-required cost of
6 20 capital of the rate-regulated utility, and neither directly
6 21 nor indirectly include additional debt of the rate-regulated
6 22 utility's parent or other affiliates in the rate-regulated
6 23 utility's capital structure or cost of service.

6 24 (d) Allow the utility to recover all prudent
6 25 preconstruction and construction costs incurred if the
6 26 utility elects not to complete or is precluded from completing
6 27 construction of the nuclear generating facility. Costs
6 28 determined to be prudent in prior annual proceedings shall not
6 29 subsequently be redetermined to be imprudent. The utility
6 30 shall recover such costs over a period equal to the period
6 31 during which the costs were incurred or five years, whichever
6 32 is longer, in a manner to be determined by the board.

6 33 (e) Allow the utility to recover the net book value of
6 34 any generating facility that the utility commits to retire
6 35 in anticipation of the operation of a new nuclear generating



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1144 continued

7 1 facility. The board shall allow for the recovery of a return
7 2 on, and a return of the book value of, the retired generating
7 3 facility over a period not greater than the remaining useful
7 4 life of the facility prior to a determination to retire the
7 5 facility.

7 6 c. In determining the applicable ratemaking principles, the
7 7 board shall make the following findings:

7 8 (1) The rate-regulated public utility has in effect a
7 9 board-approved energy efficiency plan as required under section
7 10 476.6, subsection 16.

7 11 (2) ~~The~~ Except for an application for ratemaking principles
7 12 subject to paragraph "a", subparagraph (2), the rate-regulated
7 13 public utility has demonstrated to the board that the public
7 14 utility has considered other sources for long-term electric
7 15 supply and that the facility or lease is reasonable when
7 16 compared to other feasible alternative sources of supply. ~~The~~
~~7 17 rate-regulated public utility may satisfy the requirements of~~
~~7 18 this subparagraph through a competitive bidding process, under~~
~~7 19 rules adopted by the board, that demonstrate the facility or~~
~~7 20 lease is a reasonable alternative to meet its electric supply~~
~~7 21 needs.~~

7 22 d. The applicable ratemaking principles shall be determined
7 23 in a contested case proceeding, which proceeding may be
7 24 combined with the proceeding for issuance of a certificate
7 25 conducted pursuant to chapter 476A.

7 26 e. The order setting forth the applicable ratemaking
7 27 principles shall be issued prior to the commencement of
7 28 construction or lease of the facility.

7 29 f. Following issuance of the order, the rate-regulated
7 30 public utility shall have the option of proceeding according to
7 31 either of the following:

7 32 (1) Withdrawing its application for a certificate pursuant
7 33 to chapter 476A or withdrawing its ratemaking principles
7 34 application.

7 35 (2) Proceeding with the construction or lease of the



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1144 continued

8 1 facility or efforts to pursue United States nuclear regulatory
8 2 commission authority.

8 3 g. Notwithstanding any provision of this chapter to the
8 4 contrary, the ratemaking principles established by the order
8 5 issued pursuant to paragraph "e" shall be binding with regard
8 6 to the specific electric power generating facility in any
8 7 subsequent rate proceeding.

8 8 h. Any judicial action directly or indirectly resulting
8 9 in a modification of the board's ratemaking principles order
8 10 shall be applied prospectively only. No refunds shall be made
8 11 of revenues previously collected, unless the board determines
8 12 such revenues to be in excess of the costs incurred or to be
8 13 incurred by the utility. With respect to financial commitments
8 14 made prior to any judicial action directly or indirectly
8 15 resulting in a modification of the board's ratemaking
8 16 principles order, the utility shall recover such costs under a
8 17 cancellation costs ratemaking principle.

8 18 4. The utilities board and the consumer advocate may employ
8 19 additional temporary staff, or may contract for professional
8 20 services with persons who are not state employees, as the
8 21 board and the consumer advocate deem necessary to perform
8 22 required functions as provided in this section, including but
8 23 not limited to review of power purchase contracts, review of
8 24 emission plans and budgets, and review of ratemaking principles
8 25 proposed for construction or lease of a new generating
8 26 facility, including a new nuclear generating facility or United
8 27 States nuclear regulatory commission authority. Beginning
8 28 July 1, 2002, there is appropriated out of any funds in the
8 29 state treasury not otherwise appropriated, such sums as may
8 30 be necessary to enable the board and the consumer advocate to
8 31 hire additional staff and contract for services under this
8 32 section. The costs of the additional staff and services shall
8 33 be assessed to the utilities pursuant to the procedure in
8 34 section 476.10 and section 475A.6.

8 35 5. Facilities for which advanced ratemaking principles are



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1144 continued

9 1 obtained pursuant to this section shall not be subject to a
9 2 subsequent board review pursuant to section 476.6, subsection
9 3 21, to the extent that the investment has been considered
9 4 by the board under this section. To the extent an eligible
9 5 utility has been authorized to make capital investments subject
9 6 to section 476.6, subsection 21, such investments shall not be
9 7 eligible for ratemaking principles pursuant to this section.

9 8 Sec. 3. ELECTRIC UTILITY RATE INCREASES ==== MITIGATION
9 9 STUDY. The utilities board of the utilities division of the
9 10 department of commerce shall conduct a study to identify
9 11 the potential impact to customer electric utility rates
9 12 resulting from recent federal regulations adopted by the United
9 13 States environmental protection agency, and strategies to
9 14 mitigate this impact. The study shall be undertaken with the
9 15 involvement of rate-regulated electric public utilities and
9 16 other stakeholders identified by the board. The board shall
9 17 submit a report regarding the results of the study by January
9 18 1, 2012.

9 19 EXPLANATION

9 20 This bill relates to the permitting, licensing,
9 21 construction, and operation of nuclear generation facilities.
9 22 The bill provides that it is the intent of the general
9 23 assembly to encourage the prudent development of baseload
9 24 nuclear electric power generation, noting that nuclear
9 25 generation has a long-term proven record of providing a safe,
9 26 reliable, and secure source of electricity, and offers the
9 27 potential for significant job creation, substantial economic
9 28 development benefits, and the production of electricity at
9 29 significantly reduced levels of regulated air emissions when
9 30 compared to output from other thermal generation sources.
9 31 The bill provides that the general assembly also recognizes
9 32 that meeting stringent environmental permit requirements is
9 33 expensive and creates significant cost burdens on customers
9 34 and employers attributable to the imposition of additional
9 35 comprehensive and costly regulations by the United States



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate Study Bill 1144 continued

10 1 environmental protection agency that dramatically increase
10 2 costs to customers. The bill provides that the general
10 3 assembly additionally recognizes that development of nuclear
10 4 electric power generation requires significant capital
10 5 investment and a substantial period of time for successful
10 6 nuclear generation development, siting, licensing, and
10 7 deployment.

10 8 The bill requires a rate-regulated electric utility that
10 9 was subject to a revenue sharing settlement agreement with
10 10 regard to its electric base rates as of January 1, 2010, to
10 11 file an application for ratemaking principles applicable to the
10 12 construction of a nuclear generating facility with the Iowa
10 13 utilities board, and that the application shall comply with the
10 14 provisions of Code section 476.53.

10 15 The bill makes significant modifications to Code section
10 16 476.53 consistent with the potential construction of a nuclear
10 17 generating facility. The bill provides that the board shall
10 18 specify in advance the ratemaking principles that will apply
10 19 when a rate-regulated public utility expresses its intent to
10 20 file an application pursuant to Code section 476A.3 to build a
10 21 nuclear generating facility, including but not limited to small
10 22 modular reactor technology, or expresses its intent to seek
10 23 authority pursuant to a combined construction and operating
10 24 license or an early site permit from the United States nuclear
10 25 regulatory commission, or leases or owns in whole or in part
10 26 such a facility.

10 27 The bill provides that in determining the applicable
10 28 ratemaking principles for a nuclear generating facility or for
10 29 a license or permit from the United States nuclear regulatory
10 30 commission, a ratemaking principles order issued by the
10 31 board shall incorporate several components. The bill states
10 32 that after the order is issued, the utility may recover from
10 33 utility customers a return on, and return of all prudent costs
10 34 associated with, the permitting, licensing, and construction of
10 35 a facility, reduced by the amount of any funding of such costs



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate Study Bill 1144 continued

11 1 borne by the United States department of energy or any other
11 2 governmental entity, and costs recovered from any joint owners
11 3 of the nuclear generating facility. The bill provides that
11 4 the determination of prudent costs and the level and rate of
11 5 the recovery of charges shall be reset annually to reflect the
11 6 level of reasonable costs related to pursuit of United States
11 7 nuclear regulatory commission authority or construction costs
11 8 expected to be incurred by the utility in the next 12 months.
11 9 A determination shall also be made of any adjustment required
11 10 to balance the preceding period's actual expenditures and
11 11 financing costs with what had been projected and included in
11 12 costs recoverable for the preceding period. The bill directs
11 13 a utility, if applicable, to report to the board annually the
11 14 budgeted and actual costs as compared to the estimated total
11 15 in-service cost of the nuclear generating facility that was
11 16 presented in the last annual filing, as projected through the
11 17 expected in-service date of the nuclear generating facility.
11 18 The bill provides that after the order is issued, a utility
11 19 shall file an application with the board on an annual basis
11 20 providing the budgeted versus actual cost information, and that
11 21 each annual proceeding shall be completed by the board within
11 22 90 days from the date of filing the application.
11 23 The bill states that all United States nuclear regulatory
11 24 commission authority costs are to be recovered over a period
11 25 not to exceed the estimated construction period for a nuclear
11 26 generating facility as determined by the board, and that all
11 27 nuclear generating facility construction costs are to be
11 28 recovered over a period not to exceed the sum of the estimated
11 29 construction period for a nuclear unit, plus its useful life as
11 30 determined by the board. The bill also states that a utility's
11 31 commencement of cost collection shall begin promptly after
11 32 completion of the ratemaking principles proceeding, allowing
11 33 for such additional time as may be needed by the board to
11 34 review a compliance rider tariff filing.
11 35 The bill provides that the order shall additionally enable



**Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011**

Senate Study Bill 1144 continued

12 1 the utility to recover in rates all prudently incurred expenses
12 2 and costs, including but not limited to ongoing operations and
12 3 maintenance costs, decommissioning funding and site restoration
12 4 costs, and taxes for a new nuclear generating facility.
12 5 Further, the order shall base the allowed debt and equity
12 6 return on a capital structure calculated using the average
12 7 of the utility's actual 13 monthly balances for long-term
12 8 debt, preferred stock, and common equity, including specified
12 9 adjustments. The bill states that the costs of long-term
12 10 debt and preferred stock shall reflect the actual embedded
12 11 interest and dividend rate for each issue as well as any annual
12 12 amortization of unamortized discount, premium, expense, and any
12 13 gain or loss on reacquired securities, and that the cost of
12 14 common equity shall reflect the risks to which the investor's
12 15 capital is exposed and not the investor's source of funds, and
12 16 the investor-required cost of capital of the rate-regulated
12 17 utility, and shall neither directly nor indirectly include
12 18 additional debt of the rate-regulated utility's parent or other
12 19 affiliates in the rate-regulated utility's capital structure
12 20 or cost of service.

12 21 The bill provides that the order shall also allow a utility
12 22 to recover all prudent preconstruction and construction costs
12 23 incurred if the utility elects not to complete or is precluded
12 24 from completing construction of the nuclear generating
12 25 facility, recovered over a period equal to the period during
12 26 which the costs were incurred or five years, whichever is
12 27 longer, and in a manner to be determined by the board. The
12 28 bill states that the order shall further allow the utility to
12 29 recover the net book value of any generating facility that the
12 30 utility commits to retire in anticipation of the operation of
12 31 a new nuclear generating facility, and that the board shall
12 32 allow for the recovery of a return on, and return of the book
12 33 value of, the retired generating facility over a period not
12 34 greater than the remaining useful life of the facility prior to
12 35 a determination to retire the facility.



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1144 continued

13 1 The bill exempts a rate-regulated public utility applying
13 2 for ratemaking principles with regard to a nuclear generating
13 3 facility from requirements that a utility must demonstrate to
13 4 the board that it has considered other sources for long-term
13 5 electric supply and that the facility or a lease of a facility
13 6 is reasonable when compared to other feasible alternative
13 7 sources of supply, and removes a provision applicable with
13 8 regard to any application that a utility may satisfy these
13 9 requirements.

13 10 The bill provides that any judicial action directly
13 11 or indirectly resulting in a modification of the board's
13 12 ratemaking principles order shall be applied prospectively
13 13 only, and that no refunds shall be made of revenues previously
13 14 collected, unless the board determines such revenues to be in
13 15 excess of the costs incurred or to be incurred by the utility.

13 16 The bill directs the board to conduct a study to identify
13 17 the potential impact to customer electric utility rates
13 18 resulting from recent federal regulations adopted by the United
13 19 States environmental protection agency, and strategies to
13 20 mitigate this impact. The study shall be undertaken with the
13 21 involvement of rate-regulated electric public utilities and
13 22 other stakeholders identified by the board. The bill requires
13 23 the board to submit a report regarding the results of the study
13 24 by January 1, 2012.

13 25 The bill makes additional conforming changes and relocation
13 26 of specified provisions consistent with expanding applicable
13 27 ratemaking principles in connection with a nuclear generating
13 28 facility.

LSB 2351SC (1) 84

rn/nh



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1145

SENATE FILE
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CHAIRPERSON DANDEKAR)

A BILL FOR

1 An Act modifying provisions relating to utilization of the Iowa
2 communications network.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
TLSB 2677SC (2) 84
rn/sc



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1145 continued

PAG LIN

1 1 Section 1. Section 8D.9, subsection 2, Code 2011, is amended
1 2 to read as follows:

1 3 2. a. A private or public agency, other than a private
1 4 college or university or a nonpublic school, which certifies
1 5 to the commission pursuant to subsection 1 that the agency is
1 6 a part of or intends to become a part of the network shall use
1 7 the network for all video, data, and voice requirements of
1 8 the agency unless the private or public agency petitions the
1 9 commission for a waiver and one of the following applies:

1 10 (1) The costs to the authorized user for services provided
1 11 on the network are not competitive with the same services
1 12 provided by another provider.

1 13 (2) The authorized user is under contract with another
1 14 provider for such services, provided the contract was entered
1 15 into prior to April 1, 1994. The agency shall use the network
1 16 for video, data, and voice requirements which are not provided
1 17 pursuant to such contract.

1 18 (3) The authorized user has entered into an agreement
1 19 with the commission to become part of the network prior to
1 20 June 1, 1994, which does not provide for use of the network
1 21 for all video, data, and voice requirements of the agency.
1 22 The commission may enter into an agreement described in this
1 23 subparagraph upon a determination that the use of the network
1 24 for all video, data, and voice requirements of the agency would
1 25 not be in the best interests of the agency.

1 26 b. A private or public agency, other than a private college
1 27 or university or a nonpublic school, shall petition the
1 28 commission for a waiver of the requirement to use the network
1 29 as provided in paragraph "a", if the agency determines that
1 30 paragraph "a", subparagraph (1) or (2) applies. The commission
1 31 shall establish by rule a review process for determining, upon
1 32 application of an authorized user, whether paragraph "a",
1 33 subparagraph (1) or (2) applies. An authorized user found
1 34 by the commission to be under contract for such services as
1 35 provided in paragraph "a", subparagraph (2), shall not enter



Iowa General Assembly
Daily Bills, Amendments & Study Bills
February 21, 2011

Senate Study Bill 1145 continued

2 1 into another contract upon the expiration of such contract,
2 2 but shall utilize the network for such services as provided in
2 3 this section unless paragraph "a", subparagraph (1), applies.
2 4 A waiver approved by the commission may be for a period as
2 5 requested by the private or public agency of up to three years.
2 6 c. A private college or university or a nonpublic school
2 7 which certifies to the commission pursuant to subsection 1
2 8 that the private college, university, or nonpublic school is
2 9 a part of or intends to become a part of the network may use
2 10 the network for its video, data, or voice requirements as
2 11 determined by the private college or university or nonpublic
2 12 school.

2 13 EXPLANATION

2 14 This bill exempts a private college or university or a
2 15 nonpublic school from a requirement that a private or public
2 16 agency which certifies to the Iowa telecommunications and
2 17 technology commission that it is a part of or intends to become
2 18 a part of the Iowa communications network shall use the network
2 19 for all video, data, and voice requirements of the agency
2 20 unless the agency petitions the commission for a waiver and the
2 21 waiver is granted. The bill provides, in the alternative, that
2 22 a private college or university or a nonpublic school which
2 23 certifies to the commission that it is a part of or intends to
2 24 become a part of the network may use the network for its video,
2 25 data, or voice requirements as determined by that entity.
2 26 The bill also provides that if a waiver is granted to a
2 27 public or private agency, that waiver shall apply for a period
2 28 as requested by the agency, not to exceed three years.

LSB 2677SC (2) 84

rn/sc