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House Resolution 103 - Introduced

HOUSE RESOLUTION NO. 103

BY ANDERSON, DRAKE, ARNOLD, BERRY, MASCHER, S. OLSON,  
and PETERSEN

1 A Resolution congratulating the Republic of China on  
2 Taiwan on its twentieth anniversary of participating  
3 in the Asia-Pacific Economic Cooperation forum and  
4 supporting the Republic of China on Taiwan as a part  
5 of the global community.

6 WHEREAS, the Republic of China on Taiwan in 2012  
7 is celebrating 20 years of Taiwan's participation in  
8 the Asia-Pacific Economic Cooperation (APEC) forum and  
9 its active role in promoting economic cooperation in  
10 the Asia-Pacific region, particularly in the areas of  
11 broadening opportunities for digital computing, green  
12 technologies, and renewable energy, improving crisis  
13 management for small and medium-size enterprises,  
14 and establishing a research center for typhoon and  
15 society; and

16 WHEREAS, Taiwan in 2010 ranked as the United States'  
17 ninth largest trading partner in the world, serving as  
18 the United States' thirteenth largest export market and  
19 ninth largest source of imports; and

20 WHEREAS, Taiwan is the world's sixth largest market  
21 for United States agricultural goods, as well as the  
22 fifteenth-largest market for Iowa goods, worth \$106  
23 million in 2010, an increase of 12.9 percent above  
24 Iowa's exports to Taiwan in 2009, which exports could  
25 increase further in coming years with the expected  
26 purchases of soybeans and corn following the September  
27 2011 visit of the Taiwan Agricultural Goodwill Mission



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28 to Iowa and the Midwest, thus contributing to the  
1 region's economy; and

2 WHEREAS, Taiwan seeks greater regional integration  
3 in the Asian-Pacific and welcomes the opportunity  
4 presented by the United States announcement at the  
5 2011 APEC leaders' meeting of its intent to not only  
6 join the Trans-Pacific Partnership (TPP), the proposed  
7 twenty-first century trade agreement between the United  
8 States and eight other Asia-Pacific Rim countries, but  
9 to expand TPP membership in the future to include other  
10 countries, such as Taiwan; and

11 WHEREAS, Taiwan's absence from international  
12 organizations has impeded Taiwan's ability to  
13 participate in global climate initiatives and to  
14 respond to natural disasters like Typhoon Morakot,  
15 which struck Taiwan in the summer of 2009, an unusually  
16 destructive typhoon season in the Pacific; and

17 WHEREAS, aviation safety has become a major global  
18 concern since 2001, with Taiwan being a key air  
19 transport hub in the Asia-Pacific region, with more  
20 than 1 million flights passing through the Taipei  
21 Flight Information Region, and with one of the world's  
22 largest airports by cargo volume, Taoyuan International  
23 Airport; NOW THEREFORE,

24 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES,  
25 That the Iowa House of Representatives congratulates  
26 the Republic of China on Taiwan in 2012 on the  
27 one-hundredth anniversary of its Founding Day  
28 of January 1, and separately, on its 20 years of  
29 participation in the APEC forum; supports Taiwan's

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30 efforts to secure entry to the TPP, along with  
1 the United States and other friendly Asia-Pacific  
2 Rim countries; and reaffirms its support for the  
3 participation of Taiwan in the United Nations  
4 Framework Convention on Climate Change (UNFCCC) and  
5 the International Civil Aviation Organization (ICAO)  
6 to increase Taiwan's international stature in and  
7 contribution to the global community; and  
8 BE IT FURTHER RESOLVED, That the Chief Clerk of the  
9 House of Representatives is hereby directed to send  
10 a copy of this Resolution to United States Secretary  
11 of State Hillary Rodham Clinton; Executive Secretary  
12 Christiana Figueres of the UNFCCC; Secretary General  
13 Raymond Benjamin of the ICAO; President Ma Ying-jeou of  
14 the Republic of China (Taiwan); and the Taipei Economic  
15 and Cultural Office in Chicago, Illinois.



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House Study Bill 529 - Introduced

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED SECRETARY OF  
STATE BILL)

A BILL FOR

1 An Act authorizing the secretary of state to modify fees for  
2 businesses newly organizing in this state during an Iowa  
3 start a business month.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 secretary of state under this chapter, if the fee is to be paid  
2 by a person as a direct result of organizing an Iowa start-up  
3 business as provided in section 9.4A.

4 Sec. 3. Section 488.1206, Code 2011, is amended by adding  
5 the following new subsection:

6 NEW SUBSECTION. 4. The secretary of state may reduce or  
7 waive any fee that is otherwise required to be collected by the  
8 secretary of state under this chapter, if the fee is to be paid  
9 by a person as a direct result of organizing an Iowa start-up  
10 business as provided in section 9.4A.

11 Sec. 4. Section 489.117, Code 2011, is amended by adding the  
12 following new subsection:

13 NEW SUBSECTION. 3A. The secretary of state may reduce or  
14 waive any fee that is otherwise required to be collected by the  
15 secretary of state under this chapter, if the fee is to be paid  
16 by a person as a direct result of organizing an Iowa start-up  
17 business as provided in section 9.4A.

18 Sec. 5. Section 490.122, Code Supplement 2011, is amended by  
19 adding the following new subsection:

20 NEW SUBSECTION. 4. The secretary of state may reduce or  
21 waive any fee that is otherwise required to be collected by the  
22 secretary of state under this chapter, if the fee is to be paid  
23 by a person as a direct result of organizing an Iowa start-up  
24 business as provided in section 9.4A.

25 Sec. 6. Section 501.105, Code 2011, is amended by adding the  
26 following new subsection:

27 NEW SUBSECTION. 7. The secretary of state may reduce or  
28 waive any fee that is otherwise required to be collected by the  
29 secretary of state under this chapter, if the fee is to be paid  
30 by a person as a direct result of organizing an Iowa start-up  
31 business as provided in section 9.4A.

32 Sec. 7. Section 501A.205, Code 2011, is amended by adding  
33 the following new subsection:

34 NEW SUBSECTION. 4. The secretary of state may reduce or  
35 waive any fee that is otherwise required to be collected by the



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1 secretary of state under this chapter, if the fee is to be paid  
2 by a person as a direct result of organizing an Iowa start-up  
3 business as provided in section 9.4A.

4 Sec. 8. Section 504.113, Code Supplement 2011, is amended by  
5 adding the following new subsection:

6 NEW SUBSECTION. 4. The secretary of state may reduce or  
7 waive any fee that is otherwise required to be collected by the  
8 secretary of state under this chapter, if the fee is to be paid  
9 by a person as a direct result of organizing an Iowa start-up  
10 business as provided in section 9.4A.

11 EXPLANATION

12 This bill authorizes the secretary of state to provide for an  
13 Iowa start-up business initiative for the benefit of domestic  
14 business entities newly organized under the laws of this state  
15 according to rules adopted by the secretary of state. Under  
16 the initiative, the secretary of state may designate a month  
17 as "Iowa start a business month". The secretary of state may  
18 reduce or waive any fee required to be paid by a person as a  
19 direct result of organizing an Iowa start-up business during  
20 that month (e.g., filing articles of incorporation for an Iowa  
21 corporation). The secretary of state is authorized to adopt  
22 rules to administer the initiative.



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House Study Bill 530 - Introduced

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED SECRETARY OF  
STATE BILL)

A BILL FOR

1 An Act relating to the naming of certain business entities.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5269XD (3) 84  
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1 Section 1. Section 486A.1002, Code 2011, is amended to read  
 2 as follows:

3 **486A.1002 Name.**

4 1. The name of a limited liability partnership must end with  
 5 "Registered Limited Liability Partnership", "Limited Liability  
 6 Partnership", "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".

7 2. The name of a limited liability partnership shall not  
 8 contain any combination of letters, numbers, or symbols that  
 9 create a connotation that is offensive to good taste and  
 10 decency.

11 Sec. 2. Section 486A.1102, subsection 1, paragraph a, Code  
 12 2011, is amended to read as follows:

13 a. (1) The name of the foreign limited liability  
 14 partnership which satisfies the requirements of the state or  
 15 other jurisdiction under whose law it is formed and ends with  
 16 "Registered Limited Liability Partnership", "Limited Liability  
 17 Partnership", "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".

18 (2) Notwithstanding subparagraph (1), the name of a limited  
 19 liability partnership shall not contain any combination of  
 20 letters, numbers, or symbols that create a connotation that is  
 21 offensive to good taste and decency.

22 Sec. 3. Section 488.108, Code 2011, is amended by adding the  
 23 following new subsection:

24 NEW SUBSECTION. 4A. The name of a limited partnership shall  
 25 not contain any combination of letters, numbers, or symbols  
 26 that create a connotation that is offensive to good taste and  
 27 decency.

28 Sec. 4. Section 489.108, Code 2011, is amended by adding the  
 29 following new subsection:

30 NEW SUBSECTION. 3A. The name of a limited liability company  
 31 shall not contain any combination of letters, numbers, or  
 32 symbols that create a connotation that is offensive to good  
 33 taste and decency.

34 Sec. 5. Section 490.401, Code 2011, is amended by adding the  
 35 following new subsection:

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1     NEW SUBSECTION. 4A. A corporate name shall not contain  
2 any combination of letters, numbers, or symbols that create a  
3 connotation that is offensive to good taste and decency.

4     Sec. 6. Section 499.4, Code 2011, is amended to read as  
5 follows:

6     **499.4 Use of term "cooperative" restricted Name.**

7     1. A person including a corporation hereafter organized,  
8 which is not an association as defined in this chapter or a  
9 cooperative as defined in chapter 501 or 501A, shall not use  
10 the word "cooperative" or any abbreviation thereof in its  
11 name or advertising or in any connection with its business,  
12 except foreign associations admitted under section 499.54. The  
13 attorney general or any association or any member thereof may  
14 sue and enjoin such use.

15     2. The name of an association shall not contain any  
16 combination of letters, numbers, or symbols that create a  
17 connotation that is offensive to good taste and decency.

18     3. This chapter does not control the use of fictitious  
19 names; however, if a cooperative association or a foreign  
20 cooperative association uses a fictitious name in this state,  
21 it shall deliver to the secretary of state for filing a copy  
22 of the resolution of its board of directors, certified by its  
23 secretary, adopting the fictitious name.

24     Sec. 7. Section 501.104, Code 2011, is amended by adding the  
25 following new subsection:

26     NEW SUBSECTION. 1A. The name of a foreign cooperative shall  
27 not contain any combination of letters, numbers, or symbols  
28 that create a connotation that is offensive to good taste and  
29 decency.

30     Sec. 8. Section 501.104, subsection 2, paragraph c, Code  
31 2011, is amended to read as follows:

32     c. The name of a foreign cooperative, cooperative  
33 association, or corporation authorized to do business in this  
34 state, including as provided in section 499.54 or section  
35 501A.221. The name of a foreign cooperative shall not contain





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House Study Bill 531 - Introduced

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
WAYS AND MEANS BILL BY  
CHAIRPERSON SANDS)

A BILL FOR

- 1 An Act relating to assessment and taxation of
- 2 telecommunications company property and including effective
- 3 date and applicability provisions.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 433.4, Code 2011, is amended to read as  
 2 follows:

3 **433.4 Assessment.**

4 1. The director of revenue shall on or before October 31  
 5 each year, proceed to find the actual value of the property  
 6 of these companies in this state used by the companies in the  
 7 transaction of telegraph and telephone business, taking into  
 8 consideration the information obtained from the statements  
 9 required, and any further information the director can obtain,  
 10 using the same as a means for determining the actual ~~cash~~ value  
 11 of the property of these companies within this state. ~~The~~  
 12 ~~director shall also take into consideration the valuation of~~  
 13 ~~all property of these companies, including franchises and the~~  
 14 ~~use of the property in connection with lines outside the state,~~  
 15 ~~and making these deductions as may be necessary on account of~~  
 16 ~~extra value of property outside the state as compared with~~  
 17 ~~the value of property in the state, in order that the actual~~  
 18 ~~cash value of the property of the company within this state~~  
 19 ~~may be ascertained. The assessment shall include all property~~  
 20 ~~of every kind and character whatsoever, real, personal, or~~  
 21 ~~mixed, used by the companies in the transaction of telegraph~~  
 22 ~~and telephone business; and the~~ The property so included in  
 23 the assessment shall not be taxed in any other manner than as  
 24 provided in this chapter.

25 2. a. Except as provided in paragraph "c", for assessment  
 26 years beginning on or after January 1, 2013, a company's  
 27 property, excluding the property identified in paragraph "b"  
 28 as exempt from taxation, shall be subject to assessment and  
 29 taxation under this chapter by the director of revenue in  
 30 the same manner as property assessed and taxed as commercial  
 31 property under chapters 427, 427A, 427B, 428, and 441.

32 b. A company's property that is any of the following is  
 33 exempt from taxation and shall not be assessed for taxation:

34 (1) Central office equipment.

35 (2) Transmission equipment.







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1 of revenue in the same manner as property assessed and taxed  
2 as commercial property. The bill provides, however, that for  
3 assessment years beginning on or after January 1, 2013, but  
4 before January 1, 2017, the director of revenue shall add to  
5 the actual value so determined for that assessment year a  
6 specified amount of actual value of the company's qualified  
7 telephone company property. The bill defines "qualified  
8 telephone company property" as telephone wire, telephone  
9 cable, fiber optic cable, conduit systems, poles, or other  
10 equipment owned or leased by a company and used by the company  
11 to transmit sound or data.

12 The bill strikes a provision in Code section 476.1D that  
13 allowed certain specified long-distance telephone company  
14 property to be assessed for taxation as commercial property by  
15 the local assessor.

16 Except for the section of the bill amending Code section  
17 476.1D, the bill takes effect July 1, 2012, and applies to  
18 assessment years beginning on or after January 1, 2013. The  
19 section of the bill amending Code section 476.1D takes effect  
20 July 1, 2016, and applies to assessment years beginning on or  
21 after January 1, 2017.



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House Study Bill 532 - Introduced

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

A BILL FOR

1 An Act relating to permissible forms of ownership of  
2 transmission facilities subject to a joint agreement for  
3 generating, purchasing, or otherwise acquiring electric  
4 power and energy.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 390.1, subsection 9, Code 2011, is  
2 amended to read as follows:

3 9. "Own" and "ownership" in the case of transmission  
4 facilities, including substations and associated facilities,  
5 ~~which are located in whole or in part in Iowa,~~ may include  
6 the right to the use of an amount of the capacity of the  
7 facilities, if the joint agreement so provides. "Own" and  
8 "ownership" ~~in the case of transmission facilities, including~~  
9 ~~substations and associated facilities, does not~~ may include  
10 ~~those which are located in states which are not contiguous to~~  
11 Iowa a joint facility located in this state or outside this  
12 state.

13 Sec. 2. NEW SECTION. 390.8A **Transmission facility**  
14 **ownership.**

15 In addition to the powers conferred upon a city or electric  
16 power agency elsewhere in this chapter, a city or electric  
17 power agency may acquire ownership interest in a transmission  
18 facility, including ownership of the capacity of such facility,  
19 within this state or in any other state for the purpose  
20 of participating with other utilities in transmission to  
21 be operated by a regional transmission organization or an  
22 independent transmission operator approved by the federal  
23 energy regulatory commission. For purposes of this section,  
24 "electric power agency" means the same as defined in section  
25 390.9.

26 EXPLANATION

27 This bill expands the definition of "ownership" of  
28 transmission facilities subject to a joint agreement between  
29 participants, which may include a city, electric cooperative,  
30 or privately owned utility company, to include facilities  
31 located outside the state of Iowa. Currently, Code section  
32 390.1, subsection 9, restricts ownership to facilities which  
33 are located within Iowa or in states contiguous to Iowa.

34 The bill provides that in addition to other powers  
35 conferred upon a city or electric power agency, a city or



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1 electric power agency may acquire ownership interest in a  
2 transmission facility, including ownership of the capacity  
3 of such facility, within Iowa or in any other state for the  
4 purpose of participating with other utilities in transmission  
5 to be operated by a regional transmission organization or an  
6 independent transmission operator approved by the federal  
7 energy regulatory commission.



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House Study Bill 533 - Introduced

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

A BILL FOR

1 An Act relating to third-party payment of services provided by  
2 a doctor of chiropractic.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1     Section 1. NEW SECTION.   **514C.29 Services provided by a**  
2 **doctor of chiropractic.**

3     1. Notwithstanding the uniformity of treatment requirements  
4 of section 514C.6, a policy, contract, or plan providing  
5 for third-party payment or prepayment of health or medical  
6 expenses shall not impose a copayment or coinsurance amount on  
7 an insured for services provided by a doctor of chiropractic  
8 licensed pursuant to chapter 151 that is greater than the  
9 copayment or coinsurance amount imposed on the insured for  
10 services provided by a person engaged in the practice of  
11 medicine and surgery or osteopathic medicine and surgery under  
12 chapter 148 for the same or a similar diagnosed condition even  
13 if a different nomenclature is used to describe the condition  
14 for which the services are provided.

15     2. This section applies to the following classes of  
16 third-party payment provider policies, contracts, or plans  
17 delivered, issued for delivery, continued, or renewed in this  
18 state on or after July 1, 2012:

19     *a.* Individual or group accident and sickness insurance  
20 providing coverage on an expense-incurred basis.

21     *b.* An individual or group hospital or medical service  
22 contract issued pursuant to chapter 509, 514, or 514A.

23     *c.* An individual or group health maintenance organization  
24 contract regulated under chapter 514B.

25     *d.* A plan established pursuant to chapter 509A for public  
26 employees.

27     *e.* An organized delivery system licensed by the director of  
28 public health.

29     3. This section shall not apply to accident-only,  
30 specified disease, short-term hospital or medical, hospital  
31 confinement indemnity, credit, dental, vision, Medicare  
32 supplement, long-term care, basic hospital and medical-surgical  
33 expense coverage as defined by the commissioner, disability  
34 income insurance coverage, coverage issued as a supplement  
35 to liability insurance, workers' compensation or similar



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1 insurance, or automobile medical payment insurance.

2 EXPLANATION

3     This bill provides that a policy, contract, or plan  
4 providing for third-party payment or prepayment of health or  
5 medical expenses shall not impose a copayment or coinsurance  
6 amount on an insured for services provided by a doctor of  
7 chiropractic that is greater than the copayment or coinsurance  
8 amount imposed on the insured for services rendered by a person  
9 engaged in the practice of medicine and surgery or osteopathic  
10 medicine and surgery for the same or a similar diagnosed  
11 condition even if a different nomenclature is used to describe  
12 the condition for which the services are provided.

13     The bill applies to specified individual and group policies,  
14 contracts, and plans that are issued for delivery, continued,  
15 or renewed in this state on or after July 1, 2012.



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House Study Bill 534 - Introduced

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:

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1 professionals.

2 5. "*Commissioner*" means the commissioner of insurance, or  
3 the commissioner's designees.

4 6. "*Control*" means either of the following:

5 a. That an entity directly or indirectly, or acting through  
6 one or more other persons, owns, controls, or has the power  
7 to vote twenty-five percent or more of any class of voting  
8 securities of another entity.

9 b. That an entity controls in any manner the election of a  
10 majority of the directors or trustees of another entity.

11 7. "*Eligible surplus lines insurer*" means a nonadmitted  
12 insurer that has filed an application with the commissioner  
13 and been approved for placement of surplus lines insurance and  
14 appears on the Iowa listing of nonadmitted companies.

15 8. "*Exempt commercial purchaser*" means any person purchasing  
16 commercial insurance that, at the time of placement, meets all  
17 of the following requirements:

18 a. The person employs or retains a qualified risk manager to  
19 negotiate insurance coverage.

20 b. The person has paid aggregate nationwide commercial  
21 property and casualty insurance premiums in excess of one  
22 hundred thousand dollars in the immediately preceding twelve  
23 months.

24 c. The person meets at least one of the following criteria:

25 (1) The person possesses a net worth in excess of twenty  
26 million dollars except that beginning on January 1, 2015, and  
27 on January 1 every five years thereafter, this amount shall be  
28 adjusted to reflect the percentage change in the consumer price  
29 index for all urban consumers for the most recent available  
30 five-year period published by the United States department of  
31 labor, bureau of labor statistics.

32 (2) The person generates annual revenues in excess of fifty  
33 million dollars except that beginning on January 1, 2015, and  
34 on January 1 every five years thereafter, this amount shall be  
35 adjusted to reflect the percentage change in the consumer price

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1 index for all urban consumers for the most recent available  
 2 five-year period published by the United States department of  
 3 labor, bureau of labor statistics.

4 (3) The person employs more than five hundred full-time or  
 5 full-time equivalent employees per individual insured or is a  
 6 member of an affiliated group employing more than one thousand  
 7 employees in the aggregate.

8 (4) The person is a nonprofit organization or public entity  
 9 generating annual budgeted expenditures of at least thirty  
 10 million dollars except that beginning on January 1, 2015, and  
 11 on January 1 every five years thereafter, this amount shall be  
 12 adjusted to reflect the percentage change in the consumer price  
 13 index for all urban consumers for the most recent available  
 14 five-year period published by the United States department of  
 15 labor, bureau of labor statistics.

16 (5) The person is a municipality with a population in excess  
 17 of fifty thousand persons.

18 9. *"Home state"* means:

19 a. Except as provided in paragraph "b", with respect to an  
 20 insured either of the following:

21 (1) The state in which an insured maintains its principal  
 22 place of business or, in the case of an individual, the  
 23 individual's principal residence.

24 (2) If one hundred percent of the insured risk is located  
 25 out of the state described in subparagraph (1), the state to  
 26 which the greatest percentage of the insured's taxable premium  
 27 for that insurance policy or contract is allocated.

28 b. If more than one insured from an affiliated group is a  
 29 named insured on a single surplus lines insurance policy or  
 30 contract, the home state, as determined pursuant to paragraph  
 31 "a", subparagraph (1), of the member of the affiliated group  
 32 that has the largest percentage of premium attributed to it  
 33 under such insurance policy or contract.

34 10. *"Independently procured insurance"* means insurance  
 35 obtained by a person directly from a nonadmitted insurer.

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1 11. "Insurer" means the same as defined in section 507.1,  
2 subsection 2.

3 12. "Nonadmitted insurer" means an insurer not licensed to  
4 do insurance business in this state. "Nonadmitted insurer" does  
5 not include a risk retention group as defined in chapter 515E.

6 13. "Person" means the same as defined in section 507.1,  
7 subsection 2.

8 14. "Placement" or "placed" means that an eligible surplus  
9 lines insurer has accepted a premium and issued an insurance  
10 policy or contract for a particular risk.

11 15. "Premium tax" means the tax imposed by the state on  
12 a contract of insurance equal to the applicable percent, as  
13 provided in section 432.1.

14 16. "Qualified risk manager" means a person who meets all  
15 of the following requirements:

16 a. The person is an employee of, or third party consultant  
17 retained by a commercial insurance policyholder.

18 b. The person provides skilled services in loss prevention,  
19 loss reduction, or risk and insurance coverage analysis, and  
20 purchase of insurance.

21 c. The person meets one of the following requirements:

22 (1) The person has a bachelor's degree from an accredited  
23 college or university in risk management, business  
24 administration, finance, economics, or any other field  
25 determined by the commissioner to demonstrate minimum  
26 competence in risk management; and meets both of the following  
27 requirements:

28 (a) Has three years of experience in risk financing, claims  
29 administration, loss prevention, risk and insurance coverage  
30 analysis, or purchasing commercial lines of insurance.

31 (b) Has one of the following designations:

32 (i) Chartered property and casualty underwriter.

33 (ii) Associate in risk management.

34 (iii) Certified risk manager.

35 (iv) Risk and insurance management society fellow.

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1 (v) Any other designation, certification, or license  
2 determined by the commissioner to demonstrate minimum  
3 competency in risk management.

4 (2) The person has at least seven years of experience in  
5 risk financing, claims administration, loss prevention, risk  
6 and insurance coverage analysis, or purchasing commercial lines  
7 of insurance; and has any one of the designations specified in  
8 subparagraph (1), subparagraph division (b).

9 (3) The person has at least ten years of experience in risk  
10 financing, claims administration, loss prevention, risk and  
11 insurance coverage analysis, or purchasing commercial lines of  
12 insurance.

13 (4) The person has a graduate degree from an accredited  
14 college or university in risk management, business  
15 administration, finance, economics, or any other field  
16 determined by the commissioner to demonstrate minimum  
17 competence in risk management.

18 17. *“Surplus lines insurance”* means any property and  
19 casualty insurance in this state on properties, risks, or  
20 exposures, located or to be performed in this state, that is  
21 placed through a surplus lines insurance producer with an  
22 eligible surplus lines insurer. For purposes of this chapter  
23 only, *“surplus lines insurance”* also includes disability  
24 insurance that is in excess of policy limits available from an  
25 admitted insurer.

26 18. *“Surplus lines insurance producer”* means a person  
27 licensed pursuant to chapter 522B to sell, solicit, or  
28 negotiate surplus lines insurance.

29 **Sec. 3. NEW SECTION. 515I.3 Placement of surplus lines**  
30 **insurance business with nonadmitted insurers.**

31 1. Surplus lines insurance may be placed by a surplus lines  
32 insurance producer with a nonadmitted insurer only if all of  
33 the following requirements are met:

34 a. The proposed nonadmitted insurer is an eligible surplus  
35 lines insurer.



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1     *b.* The proposed nonadmitted insurer is authorized to write  
2 the type of insurance sought in this state in its domiciliary  
3 jurisdiction.

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

7     *d.* All other requirements of this chapter are met.

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

16    *b.* The tax on any portion of the premium unearned at the  
17 termination of the surplus lines insurance that has been  
18 credited by the state shall be returned to the policyholder  
19 directly by the surplus lines insurance producer. The surplus  
20 lines insurance producer is prohibited from rebating, for any  
21 reason, any part of the tax.

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

31    4. Insurance placed under this section shall be valid and  
32 enforceable as to all parties.

33    Sec. 4. NEW SECTION. **515I.4 Requirements for eligible**  
34 **surplus lines insurers.**

35    1. When this state is the home state of the insured, a



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1 nonadmitted insurer shall not place any surplus lines insurance  
2 business in this state unless the insurer has been approved  
3 for such activity by the commissioner. A nonadmitted insurer  
4 seeking to qualify as an eligible surplus lines insurer shall  
5 submit a request to so qualify in a form and format as directed  
6 by the commissioner which demonstrates all of the following:

7     *a.* Capital and surplus or its equivalent under the laws of  
8 the insurer's domiciliary jurisdiction which equals the greater  
9 of either of the following:

10         (1) The minimum capital and surplus requirements under the  
11 laws of this state.

12         (2) Fifteen million dollars.

13     *b.* If the nonadmitted insurer is not domiciled in a state or  
14 territory of the United States, verification of the insurer's  
15 listing on the national association of insurance commissioners  
16 quarterly listing of alien insurers as maintained by the  
17 national association of insurance commissioners international  
18 insurers department.

19     *c.* Evidence that the nonadmitted insurer is in good standing  
20 with its domiciliary regulator.

21     2. The commissioner may waive the requirements of this  
22 section or set specific requirements on a case-by-case  
23 basis upon an affirmative finding of acceptability by  
24 the commissioner that the placement of insurance with the  
25 nonadmitted insurer is necessary and will not be detrimental  
26 to the public and to policyholders. In determining whether  
27 business may be placed with a nonadmitted insurer, the  
28 commissioner shall consider all of the following:

29         *a.* The interests of the public and policyholders.

30         *b.* The length of time the insurer has been licensed to  
31 do insurance business in its domiciliary jurisdiction and  
32 elsewhere.

33         *c.* The unavailability of particular coverages from other  
34 admitted insurers or eligible surplus lines insurers in this  
35 state.

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1     *d.* The size of the nonadmitted insurer as measured by  
2 the insurer's assets, capital and surplus, reserves, premium  
3 writings, insurance in force, or other appropriate criteria.

4     *e.* The kinds of business the nonadmitted insurer writes, the  
5 insurer's net exposure, and the extent to which the insurer's  
6 business is diversified among several lines of insurance and  
7 geographic locations.

8     *f.* The past and projected trend in the size of the  
9 nonadmitted insurer's capital and surplus considering such  
10 factors as premium growth, operating history, loss and expense  
11 ratios, or other appropriate criteria.

12     3. Eligible surplus lines insurers shall not be required to  
13 file or seek approval of their forms and rates.

14     Sec. 5. NEW SECTION. 515I.5 **Duties of surplus lines**  
15 **insurance producers.**

16     1. A surplus lines insurance producer shall not issue  
17 or deliver any evidence of insurance or purport to insure  
18 or represent that insurance will be or has been written by  
19 an eligible surplus lines insurer, unless the producer has  
20 authority from the insurer to bind the risk to be insured, or  
21 has received information from the insurer in the regular course  
22 of business that the coverage has been granted.

23     2. Upon placement of surplus lines insurance, the surplus  
24 lines insurance producer shall promptly deliver to the insured  
25 the policy or contract, or if the policy or contract is not  
26 then available, a certificate cover note, binder, or other  
27 evidence of insurance. The certificate cover note, binder,  
28 or other evidence of insurance shall contain information as  
29 specified by the commissioner by rule.

30     3. As soon as is reasonably possible after the placement  
31 of the insurance, the surplus lines insurance producer shall  
32 deliver a copy of the policy or contract or, if not available,  
33 a certificate of insurance to the insured to replace any  
34 evidence of insurance previously issued. Each policy or  
35 contract or certificate of insurance shall contain or have



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1 attached a complete record of all policy or contract insuring  
2 agreements, conditions, exclusions, clauses, endorsements, or  
3 any other material facts that would regularly be included in  
4 the policy or contract.

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

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

26 6. A surplus lines insurance producer shall file a report  
27 and remit all premium taxes due to this state for all surplus  
28 lines insurance placed by an eligible surplus lines insurer and  
29 issued or delivered by that person during the reporting period  
30 established by the commissioner. The specific requirements  
31 for the timing of and content of the report and the manner of  
32 filing shall be specified by the commissioner by rule.

33 **Sec. 6. NEW SECTION. 515I.6 Actions against eligible**  
34 **surplus lines insurers.**

35 An eligible surplus lines insurer may be sued upon a cause of



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1 action arising in this state under a surplus lines insurance  
2 policy or contract placed by the insurer or upon evidence of  
3 insurance placed by the insurer and issued or delivered in  
4 this state by a surplus lines insurance producer. A policy  
5 or contract issued by an eligible surplus lines insurer shall  
6 contain a provision stating the substance of this section and  
7 designating the person upon whom service of process can be made  
8 on behalf of the insurer.

9     **Sec. 7. NEW SECTION. 515I.7 Effect of payment to surplus**  
10 **lines insurance producer.**

11     A payment of premium to a surplus lines insurance producer  
12 acting for a person other than the producer in procuring,  
13 continuing, or renewing any policy or contract of surplus lines  
14 insurance procured under this chapter shall be deemed to be  
15 payment to the eligible surplus lines insurer, notwithstanding  
16 any other conditions or stipulations that are inserted in the  
17 policy or contract of insurance.

18     **Sec. 8. NEW SECTION. 515I.8 Referrals to surplus lines**  
19 **insurance producers.**

20     A surplus lines insurance producer may accept referrals  
21 to place surplus lines insurance from any other licensed  
22 insurance producer and the surplus lines insurance producer may  
23 compensate the referring insurance producer for the referral.

24     **Sec. 9. NEW SECTION. 515I.9 Exempt commercial purchasers.**

25     A surplus lines insurance producer seeking to procure or  
26 place surplus lines insurance in this state for an exempt  
27 commercial purchaser is not required to make a diligent search  
28 to determine whether the full amount or type of insurance  
29 sought by such exempt commercial purchaser can be obtained from  
30 an admitted insurer if both of the following requirements are  
31 met:

- 32     1. The surplus lines insurance producer has disclosed
- 33     to the exempt commercial purchaser that such insurance may
- 34     be available from an admitted insurer that may provide the
- 35     purchaser with greater protection and with more regulatory



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1 oversight.

2 2. The exempt commercial purchaser has subsequently  
3 requested in writing that the surplus lines insurance producer  
4 place such insurance with an eligible surplus lines insurer.

5 **Sec. 10. NEW SECTION. 515I.10 Independently procured**  
6 **surplus lines insurance — premium tax — penalty.**

7 1. When this state is the home state of the insured, a  
8 person who directly procures, continues, or renews a surplus  
9 lines insurance policy or contract independently and without  
10 using a surplus lines insurance producer on properties,  
11 risks, or exposures located or to be performed in whole or in  
12 part in this state shall file a written report regarding the  
13 transaction with the commissioner, in a manner and method as  
14 directed by the commissioner by rule.

15 2. When this state is the home state of the insured,  
16 each person who has independently procured a surplus lines  
17 insurance policy or contract shall pay a premium tax at a  
18 rate appropriate to the amount of premium tax equal to the  
19 applicable percent, as provided in section 432.1. The tax  
20 shall be remitted via a method and schedule and in a manner as  
21 directed by the commissioner by rule.

22 3. The commissioner may assess a penalty of one percent of  
23 the delinquent amount of taxes owed per month as specified in  
24 section 507A.9.

25 **Sec. 11. NEW SECTION. 515I.11 Violations and penalties.**

26 1. The commissioner may declare a surplus lines insurer  
27 ineligible to place surplus lines insurance in the state if at  
28 any time the commissioner has reason to believe that a surplus  
29 lines insurer meets any of the following conditions:

- 30 a. Is in unsound financial condition or has acted in an  
31 untrustworthy manner.
- 32 b. No longer meets the standards set forth in this chapter.
- 33 c. Has willfully violated the laws of this state.
- 34 d. Does not conduct its claims settlement practices in a  
35 fair and reasonable manner.

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1     *e.* Has committed an unfair or deceptive insurance trade  
2 practice under chapter 507B.

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

7     *a.* Removal of the resident surplus lines insurance  
8 producer's principal place of business from this state without  
9 notice to the commissioner.

10    *b.* Removal of the resident surplus lines insurance  
11 producer's office accounts and records from this state during  
12 the period for which the accounts and records are required to  
13 be maintained.

14    *c.* Closure of the surplus lines insurance producer's  
15 office for a period of more than thirty business days, unless  
16 permission is granted by the commissioner.

17    *d.* Failure to file required reports with the commissioner  
18 or the commissioner's designee.

19    *e.* Failure to remit surplus lines insurance premium taxes to  
20 this state as directed by the commissioner.

21    *f.* Violating any provision of this chapter.

22    *g.* For any cause for which an insurance producer license  
23 could be denied, revoked, or suspended, or renewal refused or a  
24 civil penalty imposed under chapter 522B.

25    3. The commissioner may initiate an administrative  
26 proceeding against a surplus lines insurance producer for the  
27 collection of unpaid premium taxes. The commissioner may  
28 assess a penalty of one percent of the delinquent amount of  
29 taxes owed per month as specified in section 507A.9 and any  
30 other penalties allowed by law.

31    4. A person that represents or aids a nonadmitted insurer  
32 in violation of this chapter shall be subject to criminal  
33 penalties as set forth in section 507A.10.

34    Sec. 12. NEW SECTION. 515I.12 **Cease and desist orders —**  
35 **civil and criminal penalties.**



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1     1. Upon a determination by the commissioner, after a  
2 hearing conducted pursuant to chapter 17A, that a surplus lines  
3 insurance producer, an eligible surplus lines insurer, or a  
4 nonadmitted insurer has violated a provision of this chapter,  
5 the commissioner shall reduce the findings of the hearing to  
6 writing and deliver a copy of the findings to the producer  
7 or insurer. The commissioner may issue an order requiring  
8 the producer or insurer to cease and desist from engaging in  
9 the conduct resulting in the violation and may assess a civil  
10 penalty of not more than fifty thousand dollars against the  
11 producer or insurer.

12     2. *a.* Upon a determination by the commissioner that a  
13 surplus lines insurance producer, an eligible surplus lines  
14 insurer, or a nonadmitted insurer has engaged, is engaging,  
15 or is about to engage in any act or practice constituting a  
16 violation of this chapter or a rule adopted or order issued  
17 under this chapter, the commissioner may issue a summary order,  
18 including a brief statement of findings of fact, conclusions  
19 of law, and policy reasons for the decision, and directing the  
20 producer or insurer to cease and desist from engaging in the  
21 act or practice or to take other affirmative action as is in  
22 the judgment of the commissioner necessary to comply with the  
23 requirements of this chapter.

24     *b.* A surplus lines insurance producer, an eligible surplus  
25 lines insurer, or a nonadmitted insurer to whom a summary order  
26 has been issued under this subsection may contest the order by  
27 filing a request for a contested case proceeding and hearing as  
28 provided in chapter 17A and in accordance with rules adopted by  
29 the commissioner. However, the producer or insurer shall have  
30 at least thirty days from the date that the order is issued in  
31 order to file the request. Section 17A.18A is inapplicable to  
32 a summary order issued under this subsection. If a hearing  
33 is not timely requested, the summary order becomes final by  
34 operation of law. The order shall remain effective from the  
35 date of issuance until the date the order becomes final by

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1 A policy or contract of insurance issued or delivered by an  
2 eligible surplus lines insurer or a nonadmitted insurer which  
3 is otherwise valid and contains a condition or provision not  
4 in compliance with the requirements of this chapter is not  
5 thereby rendered invalid but shall be construed and applied in  
6 accordance with the conditions and provisions which would have  
7 applied had the policy or contract been issued or delivered in  
8 full compliance with this chapter.

9 Sec. 14. NEW SECTION. 515I.14 **Severability.**

10 If any provision of this chapter, or the application of the  
11 provision of this chapter to any person or circumstance, is  
12 held invalid, the remainder of the chapter and the application  
13 of the provision to persons or circumstances other than those  
14 as to which it is held invalid, shall not be affected by that  
15 holding.

16 Sec. 15. NEW SECTION. 515I.15 **Rulemaking authority.**

17 The commissioner shall adopt rules pursuant to chapter 17A  
18 to implement the purposes of this chapter.

19

DIVISION II

20

COORDINATING PROVISIONS

21 Sec. 16. Section 507A.4, subsection 1, Code Supplement  
22 2011, is amended to read as follows:

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

25 Sec. 17. Section 515E.9, Code Supplement 2011, is amended  
26 to read as follows:

27 **515E.9 Purchasing group restrictions.**

28 A purchasing group shall not purchase insurance from an  
29 insurer not admitted in this state unless the purchase is  
30 effected through a duly licensed ~~agent or broker~~ insurance  
31 producer acting pursuant to ~~sections 515.120 through~~  
32 ~~515.122~~ chapter 515I.

33 Sec. 18. Section 522B.6, subsection 2, paragraph g, Code  
34 2011, is amended to read as follows:

35 g. Excess and surplus lines insurance provided by certain



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1 nonadmitted insurers pursuant to ~~section 515.120~~ chapter 515I.  
 2 Sec. 19. REPEAL. Sections 515.120 through 515.122, Code and  
 3 Code Supplement 2011, are repealed.  
 4 Sec. 20. EFFECTIVE UPON ENACTMENT. This Act, being deemed  
 5 of immediate importance, takes effect upon enactment.

6 EXPLANATION

7 This bill establishes new regulations to permit increased  
 8 access to surplus lines insurance in the state, and contains  
 9 penalties, coordinating provisions, repeals, and effective date  
 10 provisions.

11 The bill creates new Code chapter 515I which contains  
 12 regulations that permit the sale of surplus lines insurance  
 13 in the state by insurers who are not licensed to do insurance  
 14 business in the state. Such insurers shall be listed as  
 15 eligible surplus lines insurers if they meet the requirements  
 16 of the Code chapter and are approved to sell such insurance by  
 17 the commissioner of insurance.

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

25 Surplus lines insurance producers may sell insurance issued  
 26 by an insurer that is not admitted to do business in this  
 27 state if the insurer is an eligible surplus lines insurer, the  
 28 insurer is authorized to write the type of insurance being sold  
 29 in its domiciliary jurisdiction, and a diligent search by the  
 30 producer indicates that the type of insurance being sold cannot  
 31 be obtained from an insurer admitted to do insurance business  
 32 in this state. Surplus lines insurance producers may sell  
 33 commercial surplus lines insurance, without determining whether  
 34 the coverage is available from an insurer admitted to do  
 35 business in the state, to certain exempt commercial purchasers

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1 that employ qualified risk managers to negotiate the coverage  
2 and meet certain financial and size parameters.

3 When this state is the home state of the insured, a person  
4 who procures surplus lines insurance independently without  
5 using the services of a surplus lines insurance producer is  
6 required to file a written report about the transaction and  
7 pay the appropriate premium taxes that are due in the manner  
8 that is required by the commissioner by rule. Delinquent taxes  
9 shall be increased by a penalty of 1 percent per month of the  
10 delinquent amount.

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

20 The commissioner may also suspend, revoke, or refuse to  
21 renew the license of a surplus lines insurance producer or  
22 impose any penalty under Code chapter 507B for specified  
23 reasons. The commissioner may initiate an administrative  
24 proceeding against a surplus lines insurance producer for  
25 the collection of unpaid premium taxes and assess a penalty  
26 of 1 percent per month of the delinquent amount. A person  
27 who represents or aids a nonadmitted insurer in violation of  
28 the new Code chapter is subject to criminal penalties. Upon  
29 a determination by the commissioner that a surplus lines  
30 producer, an eligible surplus lines insurance insurer, or  
31 a nonadmitted insurer is violating or about to violate the  
32 provisions of Code chapter 515I, the commissioner may issue a  
33 summary order directing the producer or insurer to cease and  
34 desist, and may impose civil penalties.

35 Willful violation of the provisions of the Code chapter by

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**Senate Study Bill 3024 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
CORRECTIONS BILL)

**A BILL FOR**

1 An Act relating to reimbursements for certain state prisoners  
2 confined in a county jail.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 904.513, subsection 2, Code 2011, is  
2 amended to read as follows:

3 2. Upon request by the director, a county shall provide  
4 temporary confinement for offenders allegedly violating the  
5 conditions of assignment to a program under this chapter,  
6 if space is available in the county. The department shall  
7 negotiate a reimbursement rate with each county. The amount  
8 to be reimbursed shall be determined by multiplying the number  
9 of days a person is confined by the average daily cost of  
10 confining a person in the county facility as negotiated with  
11 the department. A county holding offenders in jail due to  
12 insufficient space in a community residential facility shall  
13 be reimbursed. Payment shall be made upon submission of a  
14 voucher executed by the sheriff and approved by the director.  
15 A voucher seeking payment shall be submitted within ~~fifteen~~  
16 thirty-five days of the end of a calendar quarter. If a  
17 voucher seeking payment is not made within ~~fifteen~~ thirty-five  
18 days of the end of the calendar quarter, the request may be  
19 denied by the department.

20 Sec. 2. Section 904.908, subsection 3, Code 2011, is amended  
21 to read as follows:

22 3. Any request for reimbursement under subsection 2 shall be  
23 made within ~~fifteen~~ thirty-five days of the end of a calendar  
24 quarter. If a request for reimbursement is not made within  
25 ~~fifteen~~ thirty-five days of the end of the calendar quarter,  
26 the request may be denied by the department.

27 Sec. 3. Section 906.17, subsection 3, Code 2011, is amended  
28 to read as follows:

29 3. Any request for reimbursement under subsection 2 shall be  
30 made within ~~fifteen~~ thirty-five days of the end of a calendar  
31 quarter. If a request for reimbursement is not made within  
32 ~~fifteen~~ thirty-five days of the end of the calendar quarter,  
33 the request may be denied by the department of corrections.

34 EXPLANATION

35 This bill relates to reimbursements for state prisoners



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1 confined in a county jail.  
2 The bill lengthens the time period a county may request  
3 reimbursement from the department of corrections for confining  
4 a person sentenced to the custody of the department of  
5 corrections who is temporarily confined in a county jail due to  
6 alleged violations of an assignment at a treatment facility or  
7 violations of work release or parole. The time period a county  
8 may request reimbursement from the department of corrections  
9 is extended by the bill from within 15 days of the end of the  
10 calendar quarter to within 35 days of the end of the calendar  
11 quarter. Under the bill and in current law, if a request is not  
12 timely made by a county, the department of corrections may deny  
13 the request for reimbursement.



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Senate Study Bill 3025 - Introduced

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
CORRECTIONS BILL)

A BILL FOR

1 An Act relating to sexual misconduct committed by agents and  
2 employees of the department of corrections and judicial  
3 district departments of correctional services, and providing  
4 a penalty.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5324DP (1) 84  
jm/rj



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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Section 1. Section 709.16, subsection 1, Code 2011, is  
2 amended to read as follows:

3 1. An officer, employee, contractor, vendor, volunteer,  
4 or agent of the department of corrections, or an officer,  
5 employee, or agent of a judicial district department of  
6 correctional services, who engages in a sex act with an  
7 individual committed to the custody of the department of  
8 corrections or a judicial district department of correctional  
9 services commits an ~~aggravated misdemeanor~~ a class "D" felony.

10 EXPLANATION

11 This bill relates to sexual misconduct committed by  
12 employees and agents of the department of corrections and  
13 judicial district departments of correctional services.

14 The bill increases the criminal penalty for an officer,  
15 employee, contractor, vendor, volunteer, or agent of the  
16 department of corrections who engages in a sex act with  
17 an inmate committed to the custody of the department of  
18 corrections from an aggravated misdemeanor to a class "D"  
19 felony.

20 The bill also increases the criminal penalty for such an  
21 act by an officer, employee, or agent of a judicial district  
22 department of correctional services with a person in the  
23 custody of the judicial district from an aggravated misdemeanor  
24 to a class "D" felony.

25 The bill does not increase the criminal penalties for sexual  
26 misconduct committed by the personnel or agents of a juvenile  
27 placement agency or county jail.

28 The bill also does not modify the requirement that a person  
29 convicted of sexual misconduct shall register as a sex offender  
30 and is subject to a special sentence pursuant to Code section  
31 903B.2.

32 An aggravated misdemeanor is punishable by confinement for  
33 no more than two years and a fine of at least \$625 but not more  
34 than \$6,250. A class "D" felony is punishable by confinement  
35 for no more than five years and a fine of at least \$750 but not



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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 more than \$7,500.



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**Senate Study Bill 3026 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
CORRECTIONS BILL)

**A BILL FOR**

1 An Act relating to the confidentiality of an arrest warrant.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5322DP (2) 84  
jm/rj



**Iowa General Assembly  
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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Section 1. Section 804.29, Code 2011, is amended to read as  
2 follows:

3 **804.29 Confidentiality.**

4 1. All information filed with the court for the purpose of  
5 securing a warrant for an arrest, including but not limited  
6 to a citation and affidavits, shall be a confidential record  
7 until such time as a peace officer has made the arrest and  
8 has made the officer's return on the warrant. During the  
9 period of time that information is confidential, ~~it~~ the record  
10 shall be sealed by the court and the information contained  
11 ~~therein in the record~~ shall not be disseminated to any person  
12 ~~other than a peace officer, employee of a county attorney's~~  
13 ~~office, magistrate, or another court employee, in the course~~  
14 ~~of official duties.~~

15 2. However, during the period of confidentiality in  
16 subsection 1, the information in the record may be disseminated  
17 during the course of official duties to the following persons:

- 18 a. A peace officer.
- 19 b. An employee of the county attorney's office.
- 20 c. A judicial officer or other court employees.
- 21 d. An employee of the department of corrections or judicial  
22 district department of correctional services, if authorized by  
23 the director of the department of corrections.

24 EXPLANATION

25 This bill relates to the confidentiality of an arrest  
26 warrant.

27 The bill authorizes an employee of the department of  
28 corrections or judicial district department of correctional  
29 services, if authorized by the director of the department of  
30 corrections, to receive confidential information filed with  
31 the court relating to an arrest warrant during the course of  
32 official duties of the employee.

33 Current law authorizes a peace officer, an employee of  
34 the county attorney's office, a judicial officer, or court  
35 employees to receive confidential information relating to an



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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 arrest warrant during the course of official duties.



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**Senate Study Bill 3027 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
PUBLIC SAFETY BILL)

**A BILL FOR**

1 An Act relating to a person's refusal to submit to a chemical  
2 test of the person's blood in an operating-while-intoxicated  
3 case.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5308DP (2) 84  
rh/nh





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**Senate Study Bill 3028 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
PUBLIC SAFETY BILL)

**A BILL FOR**

1 An Act requiring an aggravated misdemeanor to submit a DNA  
2 sample and including effective date provisions.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5306DP (2) 84  
jm/rj



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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Section 1. Section 81.2, subsection 1, Code 2011, is amended  
2 to read as follows:

3 1. A person who receives a deferred judgment for a  
4 felony, aggravated misdemeanor, or against whom a judgment or  
5 conviction for a felony or aggravated misdemeanor has been  
6 entered shall be required to submit a DNA sample for DNA  
7 profiling pursuant to section 81.4.

8 Sec. 2. Section 81.10, subsection 1, Code 2011, is amended  
9 to read as follows:

10 1. A defendant who has been convicted of a felony or  
11 aggravated misdemeanor and who has not been required to submit  
12 a DNA sample for DNA profiling may make a motion to the court  
13 for an order to require that DNA analysis be performed on  
14 evidence collected in the case for which the person stands  
15 convicted.

16 Sec. 3. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
17 3, shall not apply to this Act.

18 Sec. 4. EFFECTIVE DATE. This Act takes effect January 1,  
19 2013.

20 EXPLANATION

21 This bill requires an aggravated misdemeanant to submit a  
22 DNA sample.

23 The bill requires a person convicted of or who receives  
24 a deferred judgment for an offense that is classified as  
25 an aggravated misdemeanor to submit a DNA sample for DNA  
26 profiling.

27 Current law provides that a person who is convicted of or  
28 who receives a deferred judgment for an offense classified as a  
29 felony shall submit a DNA sample for DNA profiling.

30 The bill may include a state mandate as defined in Code  
31 section 25B.3. The bill makes inapplicable Code section 25B.2,  
32 subsection 3, which would relieve a political subdivision from  
33 complying with a state mandate if funding for the cost of  
34 the state mandate is not provided or specified. Therefore,  
35 political subdivisions are required to comply with any state

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jm/rj

1/2



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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

- 1 mandate included in the bill.
- 2 The bill takes effect January 1, 2013.



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**Senate Study Bill 3029 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED ATTORNEY GENERAL  
BILL)

**A BILL FOR**

1 An Act requiring a person convicted of or receiving a deferred  
2 judgment for an aggravated misdemeanor to submit a DNA  
3 sample and including a contingent effective date.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5148DP (2) 84  
jm/rj



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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Section 1. Section 81.2, subsection 1, Code 2011, is amended  
2 to read as follows:

3 1. A person who receives a deferred judgment for a  
4 felony, aggravated misdemeanor, or against whom a judgment or  
5 conviction for a felony or aggravated misdemeanor has been  
6 entered shall be required to submit a DNA sample for DNA  
7 profiling pursuant to section 81.4.

8 Sec. 2. Section 81.10, subsection 1, Code 2011, is amended  
9 to read as follows:

10 1. A defendant who has been convicted of a felony or  
11 aggravated misdemeanor and who has not been required to submit  
12 a DNA sample for DNA profiling may make a motion to the court  
13 for an order to require that DNA analysis be performed on  
14 evidence collected in the case for which the person stands  
15 convicted.

16 Sec. 3. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
17 3, shall not apply to this Act.

18 Sec. 4. CONTINGENT EFFECTIVE DATE — DEPARTMENT OF PUBLIC  
19 SAFETY AND CODE EDITOR RESPONSIBILITIES.

20 1. This Act takes effect the later of July 1, 2012, or on  
21 the date sufficient funds have been appropriated or received to  
22 pay the costs to implement this Act.

23 2. The commissioner of public safety shall notify the Code  
24 editor when sufficient funds have been appropriated or are  
25 received to pay the costs to implement this Act.

26 EXPLANATION

27 This bill requires a person convicted of an aggravated  
28 misdemeanor to submit a DNA sample.

29 The bill requires a person convicted of or who receives  
30 a deferred judgment for an offense that is classified as  
31 an aggravated misdemeanor to submit a DNA sample for DNA  
32 profiling.

33 Current law provides that a person who is convicted of or  
34 who receives a deferred judgment for an offense classified as a  
35 felony shall submit a DNA sample for DNA profiling.



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1 The bill may include a state mandate as defined in Code  
2 section 25B.3. The bill makes inapplicable Code section 25B.2,  
3 subsection 3, which would relieve a political subdivision from  
4 complying with a state mandate if funding for the cost of  
5 the state mandate is not provided or specified. Therefore,  
6 political subdivisions are required to comply with any state  
7 mandate included in the bill.

8 The bill takes effect the later of July 1, 2012, or when  
9 sufficient funds are appropriated or received by the department  
10 of public safety to implement the bill.



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**Senate Study Bill 3030 - Introduced**

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

**A BILL FOR**

- 1 An Act relating to the compilation of a presentence
- 2 investigation report in a criminal proceeding.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5294DP (8) 84  
jm/rj



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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Section 1. Section 901.2, Code 2011, is amended to read as  
2 follows:

3 **901.2 Presentence investigation.**

4 1. Upon a plea of guilty, a verdict of guilty, or a special  
5 verdict upon which a judgment of conviction of a public offense  
6 may be rendered, the court shall receive from the state, from  
7 the judicial district department of correctional services,  
8 and from the defendant any information which may be offered  
9 which is relevant to the question of sentencing. The court may  
10 consider information from other sources.

11 2. The court shall not order a presentence investigation  
12 when the offense is a class "A" felony. If, however, the board  
13 of parole determines that the Iowa medical and classification  
14 center reception report for a class "A" felon is inadequate,  
15 the board may request and shall be provided with additional  
16 information from the appropriate judicial district department  
17 of correctional services. The court shall order a presentence  
18 investigation when the offense is any felony punishable under  
19 section 902.9, subsection 1, or a class "B", class "C", or  
20 class "D" felony. A presentence investigation for any felony  
21 punishable under section 902.9, subsection 1, or a class "B",  
22 class "C", or class "D" felony shall not be waived. The  
23 court may order, with the consent of the defendant, that the  
24 presentence investigation begin prior to the acceptance of a  
25 plea of guilty, or prior to a verdict of guilty. The court  
26 may order a presentence investigation when the offense is an  
27 aggravated misdemeanor. The court may order a presentence  
28 investigation when the offense is a serious misdemeanor only  
29 upon a finding of exceptional circumstances warranting an  
30 investigation. Notwithstanding section 901.3, a presentence  
31 investigation ordered by the court for a serious misdemeanor  
32 shall include information concerning only the following:

- 33 ~~1-~~ a. A brief personal and social history of the defendant.
- 34 ~~2-~~ b. The defendant's criminal record.
- 35 ~~3-~~ c. The harm to the victim, the victim's immediate

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jm/rj

1/4



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1 family, and the community, including any completed victim  
2 impact statement or statements and restitution plan.  
3 d. The results of a validated risk assessment that includes  
4 a risk category taken from a model approved by the department  
5 of corrections.

6 3. The court may withhold execution of any judgment or  
7 sentence for such time as shall be reasonably necessary for an  
8 investigation with respect to deferment of judgment, deferment  
9 of sentence, or suspension of sentence and probation. The  
10 investigation shall be made by the judicial district department  
11 of correctional services.

12 4. The purpose of the report by the judicial district  
13 department of correctional services is to provide the court  
14 pertinent information for purposes of sentencing and to include  
15 suggestions for correctional planning for use by correctional  
16 authorities subsequent to sentencing.

17 Sec. 2. Section 901.3, Code Supplement 2011, is amended to  
18 read as follows:

19 **901.3 Presentence investigation report.**

20 1. If a presentence investigation is ordered by the court,  
21 the investigator shall promptly inquire into all of the  
22 following:

23 ~~1-~~ a. The defendant's characteristics, family and financial  
24 circumstances, needs, and potentialities.

25 ~~2-~~ b. The defendant's criminal record and social history.

26 ~~3-~~ c. The circumstances of the offense.

27 ~~4-~~ d. The time the defendant has been in detention.

28 ~~5-~~ e. The harm to the victim, the victim's immediate  
29 family, and the community. Additionally, the presentence  
30 investigator shall provide a victim impact statement form to  
31 each victim, if one has not already been provided, and shall  
32 file the completed statement or statements with the presentence  
33 investigation report.

34 ~~6-~~ f. The defendant's potential as a candidate for the  
35 community service sentence program established pursuant to



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1 section 907.13.

2 ~~7.~~ g. Any mitigating circumstances relating to the offense  
3 and the defendant's potential as a candidate for deferred  
4 judgment, deferred sentencing, a suspended sentence, or  
5 probation, if the defendant is charged with or convicted of  
6 assisting suicide pursuant to section 707A.2.

7 ~~8.~~ h. Whether the defendant has a history of mental  
8 health or substance abuse problems. If so, the investigator  
9 shall inquire into the treatment options available in both the  
10 community of the defendant and the correctional system.

11 2. The presentence investigation report shall contain the  
12 results of a validated risk assessment that includes a risk  
13 category taken from a model approved by the department of  
14 corrections.

15 3. All local and state mental and correctional  
16 institutions, courts, and police agencies shall furnish to  
17 the investigator on request the defendant's criminal record  
18 and other relevant information. The originating source of  
19 specific mental health or substance abuse information including  
20 the histories, treatment, and use of medications shall  
21 not be released to the presentence investigator unless the  
22 defendant authorizes the release of such information. If the  
23 defendant refuses to release the information, the presentence  
24 investigator may note the defendant's refusal to release mental  
25 health or substance abuse information in the presentence  
26 investigation report and rely upon other mental health or  
27 substance abuse information available to the presentence  
28 investigator. With the approval of the court, a physical  
29 examination or psychiatric evaluation of the defendant may be  
30 ordered, or the defendant may be committed to an inpatient  
31 or outpatient psychiatric facility for an evaluation of the  
32 defendant's personality and mental health. The results of any  
33 such examination or evaluation shall be included in the report  
34 of the investigator.

35

EXPLANATION

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jm/rj

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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 This bill relates to the compilation of a presentence  
2 investigation report in a criminal proceeding.  
3 The bill requires a presentence investigation report  
4 to contain the results of a validated risk assessment that  
5 includes a risk category taken from a model approved by the  
6 department of corrections.  
7 A presentence investigation report details the background of  
8 a defendant and is reviewed by the court prior to sentencing.



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**Senate Study Bill 3031 - Introduced**

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

**A BILL FOR**

1 An Act relating to the controlled substance of marijuana,  
2 including an effective date provision, and providing a  
3 penalty.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5292DP (2) 84  
jm/nh



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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Section 1. Section 124.204, subsection 4, paragraph m, Code  
2 Supplement 2011, is amended to read as follows:

3 ~~m. Marijuana, except as otherwise provided by rules of the~~  
4 ~~board for medicinal purposes.~~

5 Sec. 2. Section 124.204, subsection 4, paragraph u,  
6 unnumbered paragraph 1, Code Supplement 2011, is amended to  
7 read as follows:

8 ~~Tetrahydrocannabinols, except as otherwise provided~~  
9 ~~by rules of the board for medicinal purposes,~~ meaning  
10 tetrahydrocannabinols naturally contained in a plant of  
11 the genus Cannabis (Cannabis plant) as well as synthetic  
12 equivalents of the substances contained in the Cannabis plant,  
13 or in the resinous extractives of such plant, and synthetic  
14 substances, derivatives, and their isomers with similar  
15 chemical structure and pharmacological activity to those  
16 substances contained in the plant, such as the following:

17 Sec. 3. Section 124.204, subsection 7, Code Supplement  
18 2011, is amended by striking the subsection.

19 Sec. 4. Section 124.206, subsection 7, Code 2011, is amended  
20 to read as follows:

21 7. *Hallucinogenic substances.* Unless specifically excepted  
22 or unless listed in another schedule, any material, compound,  
23 mixture, or preparation which contains any quantity of ~~the~~  
24 ~~following substances:~~

25 ~~a. Marijuana when used for medicinal purposes pursuant to~~  
26 ~~rules of the board.~~

27 ~~b. Nabilone nabilone~~ [another name for nabilone:  
28 (+-) - trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-  
29 hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one].

30 Sec. 5. EFFECTIVE UPON ENACTMENT. This Act, being deemed of  
31 immediate importance, takes effect upon enactment.

EXPLANATION

33 This bill relates to the control of marijuana.

34 Under the bill, all types of marijuana and  
35 tetrahydrocannabinols are classified as schedule I controlled



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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 substances. The bill eliminates a provision classifying  
2 marijuana used for medicinal purposes, pursuant to rules of the  
3 board of pharmacy, as a schedule II controlled substance.

4 The bill strikes references to the authority of the board  
5 to establish rules relating to the medicinal use of marijuana  
6 including tetrahydrocannabinols naturally contained in a  
7 cannabis plant.

8 A schedule I controlled substance is a highly addictive  
9 substance that has no accepted medical use in the United States  
10 and a schedule II controlled substance is a highly addictive  
11 substance that has an accepted medical use in the United  
12 States.

13 The penalties for possessing, manufacturing, delivering,  
14 or possessing with intent to deliver marijuana including  
15 tetrahydrocannabinols range from a serious misdemeanor to a  
16 50-year class "B" felony depending on the amount of marijuana  
17 or tetrahydrocannabinols involved in the offense.

18 A serious misdemeanor is punishable by confinement for no  
19 more than one year and a fine of at least \$315 but not more than  
20 \$1,875. An aggravated misdemeanor is punishable by confinement  
21 for no more than two years and a fine of at least \$625 but  
22 not more than \$6,250. A class "D" felony is punishable by  
23 confinement for no more than five years and a fine of at  
24 least \$750 but not more than \$7,500. A class "C" felony is  
25 punishable by confinement for no more than 10 years and a fine  
26 of at least \$1,000 but not more than \$10,000. A class "B"  
27 felony is normally punishable by confinement for no more than  
28 25 years. A 50-year class "B" felony or sometimes referred to  
29 as a "super B" felony is punishable by confinement for no more  
30 than 50 years.

31 The bill takes effect upon enactment.



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**Senate Study Bill 3032 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED JUDICIAL BRANCH  
BILL)

**A BILL FOR**

1 An Act relating to the nomination and appointment of district  
2 judges.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5260DP (6) 84  
jm/nh



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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Section 1. Section 46.14, Code 2011, is amended to read as  
 2 follows:

3 **46.14 Nomination — residence.**

4 1. Each judicial nominating commission shall carefully  
 5 consider the individuals available for judge, and within sixty  
 6 days after receiving notice of a vacancy shall certify to the  
 7 governor and the chief justice the proper number of nominees,  
 8 in alphabetical order. Such nominees shall be chosen by the  
 9 affirmative vote of a majority of the full statutory number  
 10 of commissioners upon the basis of their qualifications and  
 11 without regard to political affiliation. Nominees shall be  
 12 members of the bar of Iowa, shall be residents of the state ~~or~~  
 13 ~~district of the court to which they are nominated,~~ and shall  
 14 be of such age that they will be able to serve an initial and  
 15 one regular term of office to which they are nominated before  
 16 reaching the age of seventy-two years. ~~Nominees for district~~  
 17 ~~judge shall file a certified application form, to be provided~~  
 18 ~~by the supreme court, with the chairperson of the district~~  
 19 ~~judicial nominating commission.~~ Absence of a commissioner or  
 20 vacancy upon the commission shall not invalidate a nomination.  
 21 The chairperson of the commission shall promptly certify the  
 22 names of the nominees, in alphabetical order, to the governor  
 23 and the chief justice.

24 2. An applicant for district judge shall file a certified  
 25 application form, to be provided by the supreme court, with the  
 26 chairperson of the district judicial nominating commission. A  
 27 district judge appointee shall be a resident of the judicial  
 28 district before assuming office or, if the judicial district  
 29 is divided into judicial election districts, the appointee  
 30 shall be a resident of the judicial election district where the  
 31 nomination occurred before assuming office.

32 ~~2.~~ 3. A commissioner shall not be eligible for nomination  
 33 by the commission during the term for which the commissioner  
 34 was elected or appointed to that commission. A commissioner  
 35 shall not be eligible to vote for the nomination of a family



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1 member, current law partner, or current business partner. For  
 2 purposes of this subsection, "*family member*" means a spouse,  
 3 son, daughter, brother, sister, uncle, aunt, first cousin,  
 4 nephew, niece, father-in-law, mother-in-law, son-in-law,  
 5 daughter-in-law, brother-in-law, sister-in-law, father, mother,  
 6 stepfather, stepmother, stepson, stepdaughter, stepbrother,  
 7 stepsister, half brother, or half sister.

8

EXPLANATION

9 This bill relates to the nomination and qualifications of  
 10 district judges. The bill specifies that a district judge  
 11 appointee shall be a resident of the judicial district where  
 12 the nomination occurred before assuming office. If the  
 13 judicial district is divided into judicial election districts,  
 14 the bill specifies the appointee shall be a resident of the  
 15 judicial election district where the nomination occurred before  
 16 assuming office.



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**Senate Study Bill 3033 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED JUDICIAL BRANCH  
BILL)

**A BILL FOR**

1 An Act relating to the appointment and removal of clerks of the  
2 district court.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5246DP (2) 84  
jm/rj



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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Section 1. Section 602.1215, subsection 1, Code 2011, is  
 2 amended to read as follows:  
 3 1. Subject to the provisions of section 602.1209,  
 4 subsection 3, the ~~district judges of each~~ chief judge of  
 5 the judicial election district, after consultation with the  
 6 district judges of the judicial district, shall by majority  
 7 ~~vote~~ appoint persons to serve as clerks of the district court  
 8 within the judicial ~~election~~ district. The ~~district judges of~~  
 9 ~~a judicial election district~~ chief judge may appoint a person  
 10 to serve as clerk of the district court for more than one but  
 11 not more than four contiguous counties in the same judicial  
 12 district. A person does not qualify for appointment to the  
 13 office of clerk of the district court unless the person is at  
 14 the time of application a resident of the state. A clerk of  
 15 the district court may be removed from office for cause or for  
 16 budgetary reasons by a ~~majority vote of the district judges~~  
 17 ~~of the~~ chief judge of the judicial ~~election~~ district. ~~Before~~  
 18 Prior to removal, the clerk of the district court shall be  
 19 notified of the cause for removal.

20 EXPLANATION

21 This bill relates to the appointment of the clerks of the  
 22 district court.  
 23 The amendment to Code section 602.1215 changes the method  
 24 by which the clerk of the district court is appointed. The  
 25 amendment permits the chief judge of each judicial district to  
 26 appoint the clerk of the district court after consultation with  
 27 the district judges of the judicial district. The amendment  
 28 also permits the chief judge to remove the clerk of the  
 29 district court for cause or budgetary reasons.  
 30 The clerk under current law is appointed and may be removed  
 31 by a majority vote of all districts judges in the judicial  
 32 election district.



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**Senate Study Bill 3034 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED ATTORNEY GENERAL  
BILL)

**A BILL FOR**

1 An Act relating to the possession, distribution, and reporting  
2 of obscene material, and making penalties applicable.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5149DP (2) 84  
jm/rj



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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Section 1. Section 728.1, subsection 3, Code 2011, is  
 2 amended to read as follows:

3 3. "*Material*" means any book, magazine, newspaper or  
 4 other printed or written material or any picture, drawing,  
 5 photograph, motion picture, or other pictorial representation  
 6 or any statue or other figure, or any recording, transcription  
 7 or mechanical, chemical or electrical reproduction, or any live  
 8 transmission, or any other articles, equipment, machines or  
 9 materials.

10 Sec. 2. Section 728.1, subsection 7, paragraphs e through g,  
 11 Code 2011, are amended to read as follows:

12 e. Sadomasochistic abuse of a minor for the purpose of  
 13 arousing or satisfying the sexual desires of a person who may  
 14 view a visual depiction of the abuse.

15 f. Sadomasochistic abuse of a person by a minor for the  
 16 purpose of arousing or satisfying the sexual desires of a  
 17 person who may view a visual depiction of the abuse.

18 g. Nudity of a minor for the purpose of arousing or  
 19 satisfying the sexual desires of a person who may view a visual  
 20 depiction of the nude minor.

21 Sec. 3. Section 728.1, Code 2011, is amended by adding the  
 22 following new subsection:

23 NEW SUBSECTION. 11. "*Visual depiction*" means but is  
 24 not limited to any picture, slide, photograph, digital or  
 25 electronic image, negative image, undeveloped film, motion  
 26 picture, videotape, digital or electronic recording, live  
 27 transmission, or other pictorial or three-dimensional  
 28 representation.

29 Sec. 4. Section 728.12, subsection 1, Code 2011, is amended  
 30 to read as follows:

31 1. It shall be unlawful to employ, use, persuade, induce,  
 32 entice, coerce, solicit, knowingly permit, or otherwise cause  
 33 or attempt to cause a minor to engage in a prohibited sexual  
 34 act or in the simulation of a prohibited sexual act. A person  
 35 must know, or have reason to know, or intend that the act



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1 or simulated act may be photographed, filmed, or otherwise  
 2 preserved in a ~~negative, slide, book, magazine, computer,~~  
 3 ~~computer disk, or other print or visual medium, or be preserved~~  
 4 ~~in an electronic, magnetic, or optical storage system, or in~~  
 5 ~~any other type of storage system~~ visual depiction. A person  
 6 who commits a violation of this subsection commits a class  
 7 "C" felony. Notwithstanding section 902.9, the court may  
 8 assess a fine of not more than fifty thousand dollars for each  
 9 offense under this subsection in addition to imposing any other  
 10 authorized sentence.

11 Sec. 5. Section 728.12, subsection 3, unnumbered paragraph  
 12 1, Code 2011, is amended to read as follows:

13 It shall be unlawful to knowingly purchase or possess a  
 14 ~~negative, slide, book, magazine, computer, computer disk, or~~  
 15 ~~other print or visual medium, or an electronic, magnetic, or~~  
 16 ~~optical storage system, or any other type of storage system~~  
 17 ~~which depicts~~ visual depiction of a minor engaging in a  
 18 prohibited sexual act or the simulation of a prohibited sexual  
 19 act. A person who commits a violation of this subsection  
 20 commits an aggravated misdemeanor for a first offense and a  
 21 class "D" felony for a second or subsequent offense. For  
 22 purposes of this subsection, an offense is considered a second  
 23 or subsequent offense if, prior to the person's having been  
 24 convicted under this subsection, any of the following apply:

25 Sec. 6. Section 728.14, Code 2011, is amended to read as  
 26 follows:

27 **728.14 Commercial film and photographic print processor**  
 28 **reports of depictions of minors engaged in prohibited sexual**  
 29 **acts.**

30 1. A commercial film and photographic print processor  
 31 who has knowledge of or observes, within the scope of the  
 32 processor's professional capacity or employment, a ~~film,~~  
 33 ~~photograph, video tape, negative, or slide which depicts~~ visual  
 34 depiction of a minor whom the processor knows or reasonably  
 35 should know to be under the age of eighteen, engaged in a



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1 prohibited sexual act or in the simulation of a prohibited  
 2 sexual act, shall report the visual depiction to the county  
 3 attorney immediately or as soon as possible as required in this  
 4 section. The processor shall not report to the county attorney  
 5 visual depictions involving mere nudity of the minor, but shall  
 6 report visual depictions involving a prohibited sexual act.  
 7 This section shall not be construed to require a processor  
 8 to review all ~~films, photographs, video tapes, negatives, or~~  
 9 ~~slides~~ visual depictions delivered to the processor within the  
 10 processor's professional capacity or employment.

11 2. For purposes of this section, "*prohibited sexual act*"  
 12 means any of the following:

- 13 *a.* A sex act as defined in section 702.17.
- 14 *b.* An act of bestiality involving a minor.
- 15 *c.* Fondling or touching the pubes or genitals of a minor for  
 16 the purpose of arousing or satisfying the sexual desires of a  
 17 person who may view a visual depiction of the act.
- 18 *d.* Fondling or touching the pubes or genitals of a person by  
 19 a minor for the purpose of arousing or satisfying the sexual  
 20 desires of a person who may view a visual depiction of the act.
- 21 *e.* Sadomasochistic abuse of a minor for the purpose of  
 22 arousing or satisfying the sexual desires of a person who may  
 23 view a visual depiction of the abuse.
- 24 *f.* Sadomasochistic abuse of a person by a minor for the  
 25 purpose of arousing or satisfying the sexual desires of a  
 26 person who may view a visual depiction of the abuse.
- 27 *g.* Nudity of a minor for the purpose of arousing or  
 28 satisfying the sexual desires of a person who may view a visual  
 29 depiction of the nude minor.

30 ~~2.~~ 3. A person who violates this section is guilty of a  
 31 simple misdemeanor.

EXPLANATION

33 This bill relates to the possession, distribution, and  
 34 reporting of obscene material.

35 The bill modifies the definition of "material" in Code



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1 chapter 728 to include live transmissions.

2 Under the bill, the modification of the definition of  
 3 the term "material" results in changes to the elements of  
 4 the following criminal offenses within Code chapter 728:  
 5 dissemination of obscene material to minors (Code section  
 6 728.2), admitting minors to premises where obscene material is  
 7 exhibited (Code section 728.3), rental or sale of hard-core  
 8 pornography (Code section 728.4), sexual exploitation of a  
 9 minor (Code section 728.12(2)), and telephone dissemination of  
 10 obscene material (Code section 728.15).

11 The bill also defines the term "visual depiction" within  
 12 Code chapter 728 to include any picture, slide, photograph,  
 13 digital or electronic image, negative image, undeveloped film,  
 14 motion picture, videotape, digital or electronic recording,  
 15 live transmission, or other pictorial or three-dimensional  
 16 representation.

17 The bill modifies the elements of the criminal offense of  
 18 sexual exploitation of a minor in Code section 728.12(1) and  
 19 (3) by substituting references for a computer and other types  
 20 of storage systems with the term "visual depiction" as defined  
 21 by the bill. The bill also substitutes "visual depiction" for  
 22 storage systems referenced in Code section 728.14 to conform  
 23 with the sexual exploitation of a minor changes in Code section  
 24 728.12.

25 In addition, the word "visual" is added before the word  
 26 "depiction" throughout Code chapter 728 to conform with the  
 27 changes made by the bill.

28 The changes in the bill to the criminal offense of sexual  
 29 exploitation of a minor in Code section 728.12(3) are in  
 30 response to the State v. Muhlenbruch, 728 N.W.2d 212 (Iowa  
 31 2007).



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**Senate Study Bill 3035 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT ON  
AGING BILL)

**A BILL FOR**

1 An Act relating to the powers and duties of the department on  
2 aging.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5327DP (13) 84  
pf/nh





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1 with the greatest economic or social needs, with particular  
2 attention to low-income minority older individuals, older  
3 individuals with limited English proficiency, and older  
4 individuals residing in rural areas.

5 Sec. 5. Section 231.22, Code 2011, is amended to read as  
6 follows:

7 **231.22 Director — assistant director.**

8 1. The governor, subject to confirmation by the senate,  
9 shall appoint a director of the department on aging who shall,  
10 subject to chapter 8A, subchapter IV, employ and direct staff  
11 as necessary to carry out the powers and duties created by  
12 this chapter. The director shall serve at the pleasure of the  
13 governor. However, the director is subject to reconfirmation  
14 by the senate as provided in section 2.32, subsection 4. The  
15 governor shall set the salary for the director within the range  
16 set by the general assembly.

17 2. The director shall have the following qualifications and  
18 training:

19 a. Training in the field of gerontology, social work, public  
20 health, public administration, or other related fields.

21 b. Direct experience or extensive knowledge of programs and  
22 services related to older individuals.

23 c. Demonstrated understanding and concern for the welfare of  
24 older individuals.

25 d. Demonstrated competency and recent working experience in  
26 an administrative, supervisory, or management position.

27 3. The director may appoint an assistant director who shall  
28 be in charge of the department in the absence of the director.  
29 The appointment shall be based on the appointee's training,  
30 experience, and capabilities.

31 Sec. 6. Section 231.23, Code 2011, is amended to read as  
32 follows:

33 **231.23 Department on aging — duties and authority.**

34 The department on aging director shall:

35 1. Develop and administer a state plan on aging.



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1     2. Assist the commission in the review and approval of area  
2 plans.

3     3. Pursuant to commission policy, coordinate state  
4 activities related to the purposes of this chapter and all  
5 other chapters under the department's jurisdiction.

6     4. Advocate for older individuals by reviewing and  
7 commenting upon all state plans, budgets, laws, rules,  
8 regulations, and policies which affect older individuals and  
9 by providing technical assistance to any agency, organization,  
10 association, or individual representing the needs of older  
11 individuals.

12    5. Assist the commission in dividing the state into distinct  
13 planning and service areas.

14    6. Assist the commission in designating for each area a  
15 public or private nonprofit agency or organization as the area  
16 agency on aging for that area.

17    7. Pursuant to commission policy, take into account the  
18 views of older Iowans.

19    8. Assist the commission in adopting a formula for the  
20 distribution of funds available from the federal Act and state  
21 appropriations and allocations.

22    9. Assist the commission in assuring that preference will  
23 be given to providing services to older individuals with the  
24 greatest economic or social needs, with particular attention to  
25 low-income minority older individuals, older individuals with  
26 limited English proficiency, and older individuals residing in  
27 rural areas.

28    10. Assist the commission in developing, adopting, and  
29 enforcing administrative rules, by issuing necessary forms and  
30 procedures.

31    11. Apply for, receive, and administer grants, devises,  
32 donations, gifts, or bequests of real or personal property from  
33 any source to conduct projects consistent with the purposes of  
34 the department. Notwithstanding section 8.33, moneys received  
35 by the department pursuant to this section are not subject to



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1 reversion to the general fund of the state.

2 12. Administer state authorized programs.

3 ~~13. Provide annual training for area agency on aging board~~  
4 ~~of directors members.~~

5 ~~14.~~ 13. Establish a procedure for an area agency on  
6 aging to use in selection of members of the agency's board of  
7 directors. The selection procedure shall be incorporated into  
8 the bylaws of the board of directors.

9 ~~15. Provide oversight to ensure that the composition of the~~  
10 ~~area agency on aging board of directors complies with the rules~~  
11 ~~of the department.~~

12 Sec. 7. Section 231.23A, unnumbered paragraph 1, Code 2011,  
13 is amended to read as follows:

14 The department on aging shall provide or administer, but is  
15 not limited to providing or administering, all of the following  
16 programs and services to the extent required by law and subject  
17 to the availability of funding:

18 Sec. 8. Section 231.23A, subsections 1 and 6, Code 2011, are  
19 amended to read as follows:

20 1. Services for older individuals including but not limited  
21 to home and community-based services such as adult day,  
22 assessment and intervention, transportation, chore, counseling,  
23 homemaker, material aid, personal care, reassurance, respite,  
24 visitation, caregiver support, emergency response system,  
25 mental health outreach, and home repair as defined by the  
26 department in the most current version of the department's  
27 reporting manual and pursuant to the federal Act and  
28 regulations.

29 6. The nutrition and health promotion program.

30 Sec. 9. Section 231.33, subsections 7 and 11, Code 2011, are  
31 amended to read as follows:

32 7. Give preference in the delivery of services under the  
33 area plan to older individuals with the greatest economic or  
34 social need, with particular attention to low-income minority  
35 older individuals, older individuals with limited English









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1 EXPLANATION  
2 This bill relates to the department on aging.  
3 The bill includes amendments to definitions based on the  
4 federal Older Americans Act and state practice.  
5 The bill provides explicit authority to the commission on  
6 aging to not only designate but to also revoke the designation  
7 of an area agency on aging with the assistance of the  
8 department and to adopt a formula to distribute federal and  
9 state funds. The bill authorizes the director to appoint an  
10 assistant director to be in charge of the department in the  
11 absence of the director. The appointment is to be based on the  
12 appointee's training, experience, and capabilities.  
13 The bill includes as a basis for preference in the provision  
14 of services, older individuals with the greatest economic  
15 need, with particular attention to low-income minority  
16 older individuals, older individuals with limited English  
17 proficiency, and older individuals residing in rural areas.  
18 The bill specifies the programs and services that the  
19 department shall provide to the extent required by law and  
20 subject to the availability of funding, and provides a basis  
21 for the services and programs the department administers.  
22 The bill changes the elder abuse projects to a prevention of  
23 elder abuse, neglect, and exploitation program.  
24 The bill repeals the Code sections relating to certified  
25 retirement communities and end-of-life care information.



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Senate Study Bill 3036 - Introduced

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
INSPECTIONS AND APPEALS  
BILL)

A BILL FOR

- 1 An Act relating to regular inspections of state-licensed health
- 2 care facilities and including effective date and retroactive
- 3 applicability provisions.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5272DP (2) 84  
ad/nh



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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Section 1. REPEAL. 2011 Iowa Acts, chapter 127, sections  
2 16 and 74, are repealed.

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

5 Sec. 3. RETROACTIVE APPLICABILITY. This Act applies  
6 retroactively to October 24, 2011.

7 EXPLANATION

8 This bill repeals the moratorium on regular  
9 state-licensed-only health care facility inspections.

10 The bill is effective upon enactment and applies retroactively  
11 to October 24, 2011.



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**Senate Study Bill 3037 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
INSPECTIONS AND APPEALS  
BILL)

**A BILL FOR**

1 An Act relating to an exception from state certification for  
2 adult day services programs.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5241DP (5) 84  
ad/rj



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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Section 1. NEW SECTION. 231D.3A **Exception.**  
2 An entity certified by the centers for Medicare and Medicaid  
3 services of the United States department of health and human  
4 services as a federal program of all-inclusive care for the  
5 elderly shall not be required to be certified as an adult day  
6 services program under this chapter.  
7 EXPLANATION  
8 This bill grants an exception from the state certification  
9 requirement applicable to an adult day services program under  
10 Code chapter 231D, if the program is certified as a federal  
11 program for all-inclusive care for the elderly.



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**Senate Study Bill 3038 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
HUMAN SERVICES BILL)

**A BILL FOR**

- 1 An Act relating to the sealing and expungement of child abuse
- 2 registry information.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5282XD (2) 84  
ad/nh



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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Section 1. Section 235A.18, subsection 1, paragraph a, Code  
2 Supplement 2011, is amended to read as follows:  
3 a. Report and disposition data relating to a particular  
4 case of alleged child abuse shall be sealed ten years after  
5 the initial placement of the data in the registry unless good  
6 cause be shown why the data should remain open to authorized  
7 access. If a subsequent report of an alleged case of child  
8 abuse involving the child named in the initial data placed in  
9 the registry as the victim of abuse or a person named in the  
10 data as having abused a child is received by the department  
11 within this ten-year period, the data shall be sealed ten years  
12 after receipt of the subsequent report unless good cause be  
13 shown why the data should remain open to authorized access.  
14 However, such report and a person named in the initial data  
15 placed in the registry as having abused a child shall have the  
16 person's name removed from the registry if that person has  
17 not had a subsequent case of alleged abuse which resulted in  
18 the person's name being placed in the registry as the person  
19 responsible for the abuse within the ten-year period. Report  
20 and disposition data shall be made available to the department  
21 of justice if the department requests access to the alleged  
22 child abuse records for purposes of review by the prosecutor's  
23 review committee or commitment of sexually violent predators  
24 under chapter 229A.

25 EXPLANATION

26 This bill amends Code section 235A.18, relating to sealing  
27 and expungement of founded child abuse information. The bill  
28 requires a person's name to be removed from the child abuse  
29 registry by the department of human services after 10 years as  
30 long as that person has had no subsequent founded child abuse  
31 report or reports during that 10-year time span. The bill  
32 states the person's name will be removed regardless of whether  
33 the report and disposition data relating to the particular case  
34 remain open to authorized access.

LSB 5282XD (2) 84  
ad/nh



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**Senate Study Bill 3039 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT ON  
AGING BILL)

**A BILL FOR**

1 An Act relating to the designation of area agencies on aging,  
2 and including effective date provisions.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5312DP (3) 84  
pf/nh



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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Section 1. Section 231.32, subsections 1 and 2, Code 2011,  
 2 are amended to read as follows:

3 1. The commission shall designate ~~thirteen area agencies~~  
 4 ~~on aging, the same of which existed on July 1, 1985~~ an area  
 5 agency on aging for each planning and service area. The  
 6 commission shall continue the designation until an area agency  
 7 on aging's designation is removed for cause as determined by  
 8 the commission ~~or~~, until the agency voluntarily withdraws as  
 9 an area agency on aging, or until a change in the designation  
 10 of planning and service areas or area agencies on aging  
 11 is required by state or federal law. In that event, the  
 12 commission shall proceed in accordance with subsections 2, 3,  
 13 and 4. Designated area agencies on aging shall comply with the  
 14 requirements of the federal Act.

15 2. The commission shall designate an area agency to serve  
 16 each planning and service area, after consideration of the  
 17 views offered by units of general purpose local government. An  
 18 area agency may be:

19 a. An established office of aging which is operating within  
 20 a planning and service area designated by the commission.

21 b. Any office or agency of a unit of general purpose local  
 22 government, which is designated to function only for the  
 23 purpose of serving as an area agency on aging by the chief  
 24 elected official of such unit.

25 c. Any office or agency designated by the appropriate  
 26 chief elected officials of any combination of units of general  
 27 purpose local government to act only on behalf of ~~the~~ such  
 28 combination for such purpose.

29 d. Any public or nonprofit private agency in a planning  
 30 and service area or any separate organizational unit within  
 31 such agency which is under the supervision or direction for  
 32 this purpose of the department on aging and which can and will  
 33 engage only in the planning or provision of a broad range of  
 34 supportive services or nutrition services within the planning  
 35 and service area.





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1 that purpose or engage only in the functions of an area agency  
2 on aging.

3 The bill also directs the commission on aging to revoke the  
4 designation of the existing area agencies on aging on June 30,  
5 2012, and to designate an area agency on aging to represent  
6 each planning and service area effective July 1, 2012, based on  
7 the plan for reduction in the number of area agencies on aging  
8 submitted pursuant to 2011 Iowa Acts, chapter 122, section  
9 20, and pursuant to procedures established by the department  
10 on aging in accordance with the federal Older Americans Act.  
11 The bill authorizes the department on aging to adopt emergency  
12 rules to implement the revocations of designation and the  
13 designation of new area agencies on aging.

14 The bill takes effect upon enactment.



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Senate Study Bill 3040 - Introduced

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
HUMAN RESOURCES BILL BY  
CHAIRPERSON RAGAN)

A BILL FOR

1 An Act relating to the licensed professionals authorized to  
2 prescribe respiratory care services.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5466XC (1) 84  
jr/sc



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S.F. \_\_\_\_\_

1 Section 1. Section 152B.2, subsection 1, paragraph a,  
2 subparagraph (2), Code 2011, is amended to read as follows:

3 (2) Direct and indirect respiratory care services,  
4 including but not limited to, the administration of  
5 pharmacological and diagnostic and therapeutic agents related  
6 to respiratory care procedures necessary to implement a  
7 treatment, disease prevention, pulmonary rehabilitative, or  
8 diagnostic regimen prescribed by a licensed physician, ~~or~~  
9 surgeon, physician assistant, or advanced registered nurse  
10 practitioner.

11 Sec. 2. Section 152B.2, subsection 1, paragraph b, Code  
12 2011, is amended to read as follows:

13 b. *“Respiratory care as a practice”* does not include  
14 the delivery, assembly, setup, testing, or demonstration of  
15 respiratory care equipment in the home upon the order of a  
16 licensed physician, physician assistant, or advanced registered  
17 nurse practitioner. As used in this paragraph, *“demonstration”*  
18 does not include the actual teaching, administration, or  
19 performance of the respiratory care procedures.

20 Sec. 3. Section 152B.2, subsection 2, Code 2011, is amended  
21 to read as follows:

22 2. *“Respiratory care protocols”* as used in this section  
23 means policies and procedures developed by an organized health  
24 care system through consultation, when appropriate, with  
25 administrators, licensed physicians and surgeons, licensed  
26 physician assistants, licensed registered nurses, licensed  
27 physical therapists, licensed respiratory care practitioners,  
28 and other licensed health care practitioners.

29 Sec. 4. Section 152B.3, subsection 1, unnumbered paragraph  
30 1, Code 2011, is amended to read as follows:

31 The performance of respiratory care shall be in accordance  
32 with the prescription of a licensed physician, ~~or~~ surgeon,  
33 physician assistant, or advanced registered nurse practitioner  
34 and includes but is not limited to the diagnostic and  
35 therapeutic use of the following:





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**Senate Study Bill 3041 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
PUBLIC HEALTH/BOARD OF  
PHARMACY BILL)

**A BILL FOR**

1 An Act making changes to the controlled substance schedules,  
2 and making penalties applicable.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5212DP (6) 84  
jm/rj



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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Section 1. Section 124.204, subsection 9, Code Supplement  
2 2011, is amended by striking the subsection.

3 Sec. 2. Section 124.206, subsection 6, Code 2011, is amended  
4 by adding the following new paragraph:

5 NEW PARAGRAPH. *c.* Immediate precursor to fentanyl:  
6 4-anilino-N-phenethyl-4-piperidine (ANPP).

7 Sec. 3. Section 124.208, subsection 6, Code 2011, is amended  
8 by adding the following new paragraphs:

9 NEW PARAGRAPH. *bh.* Boldione  
10 (androsta-1,4-diene-3,17-dione).

11 NEW PARAGRAPH. *bi.* Desoxymethyltestosterone  
12 (17[alpha]-methyl-5[alpha]-androst-2-en-17[beta]-ol);  
13 also known as madol.

14 NEW PARAGRAPH. *bj.* 19-nor-4,9(10)-androstadienedione  
15 (estra-4,9(10)diene-3,17-dione).

16 Sec. 4. Section 124.210, subsection 3, Code 2011, is amended  
17 by adding the following new paragraph:

18 NEW PARAGRAPH. *oe.* Carisoprodol.

19 Sec. 5. Section 124.212, subsection 5, Code 2011, is amended  
20 by adding the following new paragraph:

21 NEW PARAGRAPH. *oa.* Ezogabine  
22 [N-[2-amino-4(4-fluorobenzylamino)-phenyl]carbamic acid ethyl  
23 ester].

24 Sec. 6. Section 124B.2, subsection 1, Code 2011, is amended  
25 by adding the following new paragraph:

26 NEW PARAGRAPH. *aa.* Ergocristine and its salts.

27 **EXPLANATION**

28 This bill makes changes to the controlled substance  
29 schedules, and makes penalties applicable.

30 The bill removes two controlled substances (benzylfentanyl  
31 and thenylfentanyl) from the schedule I classification of  
32 controlled substances to conform with action undertaken by the  
33 federal drug enforcement administration.

34 The bill classifies ANPP, a precursor substance for  
35 fentanyl, as a schedule II controlled substance.



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1 The bill classifies three anabolic steroids as schedule III  
2 controlled substances.

3 The bill classifies the depressant carisoprodol also  
4 known as "soma" as a schedule IV controlled substance to  
5 conform with action undertaken by the federal drug enforcement  
6 administration.

7 The bill classifies the depressant ezogabine as a schedule V  
8 controlled substance to conform with action undertaken by the  
9 federal drug enforcement administration. The drug is used to  
10 treat epilepsy.

11 The bill classifies ergocristine and its salts as a  
12 precursor substance for lysergic acid diethylamide (LSD).  
13 The classification results in new control and reporting  
14 requirements.

15 It is a class "C" felony pursuant to Code section  
16 124.401(1)(c)(8), for any unauthorized person to violate a  
17 provision of Code section 124.401, involving a classified  
18 substance placed on schedule I, II, or III pursuant to the  
19 bill. A class "C" felony for this particular offense is  
20 punishable by confinement for no more than 10 years and a fine  
21 of at least \$1,000 but not more than \$50,000.

22 If a person possesses a controlled substance in violation of  
23 Code section 124.401(5) as a first offense, the person commits  
24 a serious misdemeanor. A serious misdemeanor is punishable by  
25 confinement for no more than one year and a fine of at least  
26 \$315 but not more than \$1,875.



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**Senate Study Bill 3042 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
PUBLIC HEALTH/BOARD OF  
PHARMACY BILL)

**A BILL FOR**

1 An Act relating to the exchange of information among  
2 prescription databases and monitoring programs.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5223DP (3) 84  
jm/nh



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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Section 1. Section 124.553, subsection 1, Code Supplement  
2 2011, is amended by adding the following new paragraph:

3 NEW PARAGRAPH. d. A prescription database or monitoring  
4 program in another jurisdiction pursuant to subsection 8.

5 Sec. 2. Section 124.553, Code Supplement 2011, is amended by  
6 adding the following new subsection:

7 NEW SUBSECTION. 8. The board may enter into agreements for  
8 the mutual exchange of information among prescription database  
9 or monitoring programs in other jurisdictions. Any agreement  
10 entered into pursuant to this subsection shall specify that all  
11 the information exchanged shall be used and disseminated in  
12 accordance with the laws of this state.

13 EXPLANATION

14 This bill relates to the exchange of information among  
15 prescription databases and monitoring programs.

16 The bill authorizes the board of pharmacy to enter into  
17 agreements with other jurisdictions in order to exchange  
18 information from the Iowa prescription monitoring program with  
19 similar programs in other jurisdictions.

20 The bill requires that any agreement entered into shall  
21 specify that all the information exchanged shall be used and  
22 disseminated in accordance with the laws of this state.

23 The Iowa prescription monitoring program is used by  
24 prescribing practitioners and pharmacists on a need-to-know  
25 basis for facilitating early identification of patients who  
26 may be at risk for addiction, or who may be using, abusing,  
27 or diverting drugs for unlawful or otherwise unauthorized  
28 purposes.



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**Senate Study Bill 3043 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
HUMAN RESOURCES BILL BY  
CHAIRPERSON RAGAN)

**A BILL FOR**

1 An Act relating to physician orders for scope of treatment.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5365XC (8) 84  
pf/nh



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S.F. \_\_\_\_\_

1 Section 1. LEGISLATIVE FINDINGS. The general assembly  
2 recognizes the importance of encouraging individuals to discuss  
3 and make health care decisions before a situation necessitates  
4 an actual decision. The general assembly also recognizes  
5 that health care planning is a process, rather than a single  
6 decision, based upon the individual's values and personal  
7 health status. Advance directives provide the opportunity for  
8 an individual to enunciate and document the individual's wishes  
9 and to identify the person authorized to make decisions for  
10 the individual if the individual is unable to make decisions.  
11 The general assembly recognizes that the physician order for  
12 scope of treatment form, modeled after the national physician  
13 orders for life-sustaining treatment paradigm initiative,  
14 complements advance directives by converting individual wishes  
15 contained in advance directives into medical orders that are  
16 actionable across medical settings, thereby enhancing the  
17 ability of medical providers to understand and honor patients'  
18 wishes. An Iowa physician order for scope of treatment form is  
19 intended for individuals who are frail and elderly or who have  
20 a chronic, critical medical condition or a terminal illness.

21 Sec. 2. NEW SECTION. 144D.1 **Physician orders for scope of**  
22 **treatment.**

23 As used in this chapter, unless the context otherwise  
24 requires:

25 1. *"Advanced registered nurse practitioner"* means an advanced  
26 registered nurse practitioner licensed pursuant to chapter 152  
27 or 152E.

28 2. *"Department"* means the department of public health.

29 3. *"Emergency medical care provider"* means emergency medical  
30 care provider as defined in section 147A.1.

31 4. *"Health care facility"* means health care facility as  
32 defined in section 135C.1, a hospice program as defined in  
33 section 135J.1, an elder group home as defined in section  
34 231B.1, and an assisted living program as defined in section  
35 231C.2.











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1 across medical settings, thereby enhancing the ability of  
2 medical providers to understand and honor patients' wishes.  
3 The POST form is intended for individuals who are frail and  
4 elderly or who have a chronic, critical medical condition or a  
5 terminal illness.

6 The bill provides definitions used in Code chapter 144D,  
7 including the physician order for scope of treatment POST form,  
8 which means a document containing medical orders actionable  
9 across medical settings that consolidates and summarizes  
10 an individual's preferences for life-sustaining treatments  
11 and interventions and acts as a complement to but does not  
12 supersede any valid advance directive.

13 The bill specifies the content of the POST form and that  
14 the department of public health is to post the form on the  
15 department's website for public availability.

16 The bill specifies compliance requirements for the POST  
17 form. A POST form executed in this state or another state  
18 or jurisdiction in compliance with the law of the applicable  
19 state or jurisdiction shall be deemed valid and enforceable in  
20 this state to the extent the form is consistent with the laws  
21 of this state, and may be accepted by a health care provider,  
22 hospital, or health care facility. A health care provider,  
23 hospital, or health care facility may comply with an executed  
24 POST form, even if the physician, advanced registered nurse  
25 practitioner, or physician assistant who signed the POST form  
26 does not have admitting privileges at the hospital or health  
27 care facility providing health care or treatment. The bill  
28 provides an absolute defense to civil or criminal liability  
29 for a health care provider, hospital, health care facility, or  
30 any other person who complies with a POST form if the actions  
31 are in accordance with reasonable medical standards. The bill  
32 requires a health care provider, hospital, or health care  
33 facility that is unwilling to comply with an executed POST form  
34 to take all reasonable steps to transfer the patient to another  
35 health care provider, hospital, or health care facility.



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1 The bill provides for the relation of an executed POST form  
2 to a declaration under the life-sustaining procedures Act and a  
3 durable power of attorney for health care. In both cases, the  
4 declaration and the durable power of attorney control health  
5 care decision making and the POST form does not supersede them.

6 The bill provides that death resulting from the withholding  
7 or withdrawal of life-sustaining procedures pursuant to an  
8 executed POST form and in accordance with the bill does not  
9 constitute a suicide, homicide, or dependent adult abuse and  
10 that executing a POST form does not affect in any manner  
11 the sale, procurement, or issuance of any policy of life  
12 insurance; modify the terms of an existing policy of life  
13 insurance; or legally impair or invalidate the policy. The  
14 bill prohibits the execution of a POST form as a condition for  
15 being insured or receiving health care services and provides  
16 that not executing a POST form does not create a presumption  
17 concerning the intention of an individual with respect to the  
18 use, withholding, or withdrawal of life-sustaining procedures  
19 in the event of a terminal condition.

20 The bill is not to be interpreted to affect the right of  
21 a patient to make decisions regarding use of life-sustaining  
22 procedures as long as the patient is able to do so, nor to  
23 impair or supersede any right or responsibility that any person  
24 has to effect the withholding or withdrawal of medical care in  
25 any lawful manner. The bill is not to be construed to condone,  
26 authorize, or approve mercy killing or euthanasia, or to permit  
27 any affirmative or deliberate act or omission to end life other  
28 than to permit the natural process of dying.

29 The general assembly in 2008 Iowa Acts, chapter 1188,  
30 section 36, established a two-year pilot project in Linn county  
31 and in 2010 Iowa Acts, chapter 1192, section 58, expanded  
32 the pilot project to Jones county and extended the duration  
33 until June 30, 2012, to pilot the use of the POST form. The  
34 legislation also directed the department to convene an advisory  
35 council for the pilot project and directed the advisory council

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1 to report its findings and recommendations to the general  
2 assembly by January 1, 2012. The advisory council recommended  
3 expanding the adoption of the POST form statewide.



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Senate Study Bill 3044 - Introduced

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
PUBLIC HEALTH/BOARD OF  
NURSING BILL)

A BILL FOR

1 An Act relating to the practice of nursing, including defining  
2 the functions of an advanced registered nurse practitioner  
3 and requiring background checks on nursing students.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5268DP (7) 84  
jr/nh



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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Section 1. Section 125.2, subsection 14, Code Supplement  
2 2011, is amended to read as follows:

3 14. *“Psychiatric advanced registered nurse practitioner”*  
4 means an individual currently licensed as a registered nurse  
5 under chapter 152 or 152E who holds a national certification  
6 in psychiatric health care and who is ~~registered with~~ licensed  
7 by the board of nursing as an advanced registered nurse  
8 practitioner.

9 Sec. 2. Section 147.74, subsection 21, Code 2011, is amended  
10 to read as follows:

11 21. A registered nurse licensed under chapter 152 may use  
12 the words “registered nurse” or the letters “R.N.” after the  
13 person’s name. A licensed practical nurse licensed under  
14 chapter 152 may use the words “licensed practical nurse” or  
15 the letters “L.P.N.” after the person’s name. An advanced  
16 registered nurse practitioner licensed under chapter 152 may  
17 use the words “advanced registered nurse practitioner” or the  
18 letters “A.R.N.P.” after the person’s name.

19 Sec. 3. Section 147.107, subsection 8, Code Supplement  
20 2011, is amended to read as follows:

21 8. Notwithstanding subsection 1, but subject to the  
22 limitations contained in subsections 2 and 3, a registered  
23 nurse who is licensed ~~and registered~~ as an advanced registered  
24 nurse practitioner and who qualifies for and is registered  
25 in a recognized nursing specialty may prescribe substances  
26 or devices, including controlled substances or devices, if  
27 the nurse is engaged in the practice of a nursing specialty  
28 regulated under rules adopted by the board of nursing in  
29 consultation with the board of medicine and the board of  
30 pharmacy.

31 Sec. 4. Section 152.1, Code 2011, is amended by adding the  
32 following new subsection:

33 NEW SUBSECTION. 3A. The *“practice of an advanced registered*  
34 *nurse practitioner”* means the practice of an independent  
35 practitioner who is licensed by the board to do all of the



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1 following:

2     *a.* Use the title "advanced registered nurse practitioner"  
 3 and the letters "A.R.N.P." pursuant to section 152.6.

4     *b.* Practice independently in a specialty area approved by  
 5 the board.

6     *c.* Prescribe, deliver, distribute, or dispense prescription  
 7 drugs, devices, and medical gases when the nurse is engaged in  
 8 the practice of a specialty area approved by the board pursuant  
 9 to section 147.107.

10    *d.* Perform a physical or an advanced assessment; order  
 11 and interpret diagnostic procedures; formulate a primary and  
 12 differential diagnosis; order therapeutic treatments; educate  
 13 and counsel patients and family members; delegate and assign  
 14 therapeutic measures to assistive personnel; maintain hospital  
 15 privileges; consult with other disciplines; provide referrals  
 16 to health care agencies, health care providers, and community  
 17 resources; and promote health maintenance.

18    *e.* Perform acts or nursing specialties that require  
 19 education as prescribed by the board, commensurate with the  
 20 advanced registered nurse practitioner's education, continuing  
 21 education, demonstrated competencies, and experience.

22    *f.* Sign death certificates, pursuant to section 144.26 or  
 23 144.28.

24    Sec. 5. Section 152.1, subsections 4 and 5, Code 2011, are  
 25 amended to read as follows:

26    4. The "*practice of a licensed practical nurse*" means the  
 27 practice of a natural person who is licensed by the board to do  
 28 all of the following:

29    *a.* Perform services in the provision of supportive or  
 30 restorative care under the supervision of a registered nurse  
 31 or a physician.

32    *b.* Perform ~~additional acts under emergency or other~~  
 33 ~~conditions which require education and training and which are~~  
 34 ~~recognized by the medical and nursing professions and are~~  
 35 ~~approved by the board, as being proper to be performed by a~~



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1 ~~licensed practical nurse that require education as prescribed~~  
2 ~~by the board, commensurate with the licensed practical nurse's~~  
3 ~~education, continuing education, demonstrated competencies, and~~  
4 ~~experience.~~

5     c. Make the pronouncement of death for a patient whose death  
6 is anticipated if the death occurs in a licensed hospital, a  
7 licensed health care facility, a Medicare-certified home health  
8 agency, a Medicare-certified hospice program or facility, or  
9 an assisted living facility or residential care facility,  
10 with notice of the death to a physician ~~and in accordance~~  
11 ~~with any directions of a physician,~~ advanced registered nurse  
12 practitioner, or physician assistant.

13     5. The "practice of nursing" means the practice of a  
14 registered nurse, or a licensed practical nurse, or an advanced  
15 registered nurse practitioner. It does not mean any of the  
16 following:

17     a. The practice of medicine and surgery and the practice of  
18 osteopathic medicine and surgery, as defined in chapter 148,  
19 or the practice of pharmacy as defined in chapter 155A, ~~except~~  
20 ~~practices which are recognized by the medical and nursing~~  
21 ~~professions and approved by the board as proper to be performed~~  
22 ~~by a registered nurse.~~

23     b. The performance of nursing services by an unlicensed  
24 student enrolled in a nursing education program if performance  
25 is part of the course of study. Individuals who have been  
26 licensed as registered nurses, ~~or~~ licensed practical or  
27 vocational nurses, or advanced registered nurse practitioners  
28 in any state or jurisdiction of the United States are not  
29 subject to this exemption.

30     c. The performance of services by unlicensed workers  
31 employed in offices, hospitals, or health care facilities, as  
32 defined in section 135C.1, under the supervision of a physician  
33 or a nurse licensed under this chapter, or employed in the  
34 office of a psychologist, podiatric physician, optometrist,  
35 chiropractor, speech pathologist, audiologist, or physical



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1 therapist licensed to practice in this state, and when acting  
2 while within the scope of the employer's license.

3 *d.* The practice of a nurse licensed in another state  
4 and employed in this state by the federal government if the  
5 practice is in discharge of official employment duties.

6 *e.* The care of the sick rendered in connection with the  
7 practice of the religious tenets of any church or order by  
8 the adherents thereof which is not performed for hire, or if  
9 performed for hire by those who depend upon prayer or spiritual  
10 means for healing in the practice of the religion of their  
11 church or denomination, so long as they do not otherwise engage  
12 in the practice of nursing as practical nurses.

13 Sec. 6. Section 152.1, subsection 6, paragraphs d and e,  
14 Code 2011, are amended to read as follows:

15 *d.* Perform ~~additional~~ acts or nursing specialties ~~which~~  
16 ~~that~~ require education and training under emergency or other  
17 ~~conditions which are recognized by the medical and nursing~~  
18 ~~professions and are approved by the board as being proper to be~~  
19 ~~performed by a registered nurse, as prescribed by the board,~~  
20 commensurate with the registered nurse's education, continuing  
21 education, demonstrated competencies, and experience.

22 *e.* Make the pronouncement of death for a patient whose death  
23 is anticipated if the death occurs in a licensed hospital, a  
24 licensed health care facility, a Medicare-certified home health  
25 agency, a Medicare-certified hospice program or facility, an  
26 assisted living facility, or a residential care facility, with  
27 notice of the death to a physician ~~and in accordance with any~~  
28 directions of a, advanced registered nurse practitioner, or  
29 physician assistant.

30 Sec. 7. Section 152.2, Code 2011, is amended to read as  
31 follows:

32 **152.2 Executive director — assistants.**

33 The board shall appoint a full-time executive director. The  
34 executive director shall be a registered nurse and shall not  
35 be a member of the board. The governor, with the approval of



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1 the executive council pursuant to section 8A.413, subsection 3,  
2 under the pay plan for exempt positions in the executive branch  
3 of government, shall set the salary of the executive director.

4 Sec. 8. Section 152.4, Code 2011, is amended to read as  
5 follows:

6 **152.4 ~~Appropriations~~ Use of funds.**

7 The board may ~~apply appropriated~~ use any available funds to  
8 and moneys retained by the board pursuant to section 147.82  
9 for:

- 10 1. The administration and enforcement of the applicable  
11 provisions of this chapter and of ~~chapter~~ chapters 147, 152E,  
12 and 272C.
- 13 2. The elevation of the standards of the schools of nursing.
- 14 3. The promotion of educational and professional standards  
15 of nurses in this state.
- 16 4. The collection, analysis, and dissemination of nursing  
17 workforce data.

18 Sec. 9. Section 152.5, subsections 1 and 2, Code 2011, are  
19 amended to read as follows:

20 1. All programs preparing a person to be a registered nurse,  
21 ~~or~~ a licensed practical nurse, or an advanced registered nurse  
22 practitioner shall be approved by the board. The board shall  
23 not recognize a program unless it:

- 24 *a.* Is of recognized standing.
- 25 *b.* Has provisions for adequate physical and clinical  
26 facilities and other resources with which to conduct a sound  
27 education program.
- 28 *c.* Requires, for graduation of a registered nurse applicant,  
29 the completion of at least a two academic year course of study.
- 30 *d.* Requires, for graduation of a licensed practical nurse  
31 applicant, the completion of at least a one academic year  
32 course of study as prescribed by the board.
- 33 *e.* Requires, for graduation of an advanced registered nurse  
34 practitioner, satisfactory completion of a formal advanced  
35 practice educational program of study in a nursing specialty



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1 area approved by the board and appropriate clinical experience  
2 as approved by the board.

3 2. All ~~advanced~~ postlicensure formal academic nursing  
4 education programs shall ~~also~~ be approved by the board.

5 Sec. 10. Section 152.5, subsection 3, Code 2011, is amended  
6 by striking the subsection.

7 Sec. 11. NEW SECTION. **152.5A Student record checks.**

8 1. For the purposes of this section:

9 a. *"Nursing program"* means a nursing program that is  
10 approved by the board pursuant to section 152.5.

11 b. *"Student"* means a person applying for, enrolled in, or  
12 returning to the clinical education component of a nursing  
13 program.

14 2. All nursing programs shall conduct record checks on  
15 students as provided in this section.

16 3. A nursing program may access the single contact  
17 repository established pursuant to section 135C.33 as necessary  
18 for the nursing program to initiate record checks of students.

19 4. A nursing program shall request that the department  
20 of public safety perform a criminal history check and the  
21 department of human services perform child and dependent adult  
22 abuse record checks in this state on the nursing program's  
23 students.

24 5. If a student has a criminal record or a record of founded  
25 child or dependent adult abuse, upon request of the nursing  
26 program, the department of human services shall perform an  
27 evaluation to determine whether the record warrants prohibition  
28 of the person's involvement in a clinical education component  
29 of a nursing program involving children or dependent adults.  
30 The department of human services shall utilize the criteria  
31 provided in section 135C.33 in performing the evaluation and  
32 shall report the results of the evaluation to the nursing  
33 program. The department of human services has final authority  
34 in determining whether prohibition of the person's involvement  
35 in a clinical education component is warranted.

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1     Sec. 12. Section 152.6, Code 2011, is amended to read as  
2 follows:

3     **152.6 Licenses — professional abbreviations.**

4     The board may license a natural person to practice as a  
5 registered nurse, ~~or as a licensed practical nurse, or an~~  
6 advanced registered nurse practitioner. However, only a person  
7 currently licensed as a registered nurse in this state may  
8 use that title and the ~~abbreviation "RN"~~ letters "R.N." after  
9 the person's name; ~~and only a person currently licensed as a~~  
10 licensed practical nurse in this state may use that title and  
11 the abbreviation "LPN" letters "L.P.N." after the person's  
12 name; and only a person currently licensed as an advanced  
13 registered nurse practitioner may use that title and the  
14 letters "A.R.N.P." after the person's name. For purposes of  
15 this section, "currently licensed" includes persons licensed  
16 in another state and recognized for licensure in this state  
17 pursuant to the nurse licensure compact contained in section  
18 152E.1 or pursuant to the advanced practice registered nurse  
19 compact contained in section 152E.3.

20     Sec. 13. Section 152.7, Code 2011, is amended by adding the  
21 following new subsection:

22     NEW SUBSECTION. 1A. An applicant to be licensed as an  
23 advanced registered nurse practitioner shall have the following  
24 qualifications:

25     a. Hold a current license as a registered nurse pursuant to  
26 this chapter.

27     b. Complete an advanced practice educational program as set  
28 out in section 152.5.

29     Sec. 14. Section 152.10, subsection 2, paragraph d, Code  
30 2011, is amended to read as follows:

31     d. (1) Having a license to practice nursing ~~as a registered~~  
32 ~~nurse or licensed practical nurse~~ revoked or suspended, or  
33 having other disciplinary action taken by a licensing authority  
34 of another state, territory, or country. A certified copy of  
35 the record or order of suspension, revocation, or disciplinary



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1 action is prima facie evidence of such fact.

2 (2) Having a license to practice nursing ~~as a registered~~  
3 ~~nurse or licensed practical nurse~~ revoked or suspended,  
4 or having other disciplinary action taken, by a licensing  
5 authority in another state which has adopted the nurse  
6 licensure compact contained in section 152E.1 or the advanced  
7 practice registered nurse compact contained in section 152E.3  
8 and which has communicated information relating to such  
9 action pursuant to the coordinated licensure information  
10 system established by the compact. If the action taken by  
11 the licensing authority occurs in a jurisdiction which does  
12 not afford the procedural protections of chapter 17A, the  
13 licensee may object to the communicated information and shall  
14 be afforded the procedural protections of chapter 17A.

15 Sec. 15. Section 152.11, Code 2011, is amended to read as  
16 follows:

17 **152.11 Investigators ~~for nurses~~.**

18 The board of nursing may appoint investigators, who shall  
19 not be members of the board, to administer and aid in the  
20 enforcement of the provisions of law related to those licensed  
21 to practice nursing. The amount of compensation for the  
22 investigators shall be determined pursuant to chapter 8A,  
23 subchapter IV. Investigators authorized by the board of  
24 nursing have the powers and status of peace officers when  
25 enforcing this chapter and chapters 147 and 272C.

26 Sec. 16. Section 229.1, subsection 12, Code Supplement  
27 2011, is amended to read as follows:

28 12. *"Psychiatric advanced registered nurse practitioner"*  
29 means an individual currently licensed as a registered nurse  
30 under chapter 152 or 152E who holds a national certification  
31 in psychiatric health care and who is ~~registered with~~ licensed  
32 by the board of nursing as an advanced registered nurse  
33 practitioner.

34 Sec. 17. Section 231B.21, subsection 2, paragraph a, Code  
35 2011, is amended to read as follows:



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1     *a.* If administration of medications is delegated to  
2 the elder group home by the tenant or tenant's legal  
3 representative, the medications shall be administered by  
4 a registered nurse, licensed practical nurse, or advanced  
5 registered nurse practitioner licensed ~~or registered~~ in Iowa  
6 or by the individual to whom such licensed ~~or registered~~  
7 individuals may properly delegate administration of  
8 medications.

9     Sec. 18. Section 231C.16A, subsection 2, paragraph a, Code  
10 2011, is amended to read as follows:

11     *a.* If administration of medications is delegated to the  
12 program by the tenant or tenant's legal representative,  
13 the medications shall be administered by a registered  
14 nurse, licensed practical nurse, or advanced registered  
15 nurse practitioner licensed ~~or registered~~ in Iowa or by the  
16 individual to whom such licensed ~~or registered~~ individuals may  
17 properly delegate administration of medications.

18     Sec. 19. Section 231D.13A, subsection 2, paragraph a, Code  
19 2011, is amended to read as follows:

20     *a.* If administration of medications is delegated to  
21 the program by the participant or the participant's legal  
22 representative, the medications shall be administered by  
23 a registered nurse, licensed practical nurse, or advanced  
24 registered nurse practitioner licensed ~~or registered~~ in Iowa  
25 or by the individual to whom such licensed ~~or registered~~  
26 individuals may properly delegate administration of  
27 medications.

28     Sec. 20. Section 321.186, subsection 4, Code Supplement  
29 2011, is amended to read as follows:

30     4. A physician licensed under chapter 148, an advanced  
31 registered nurse practitioner licensed under chapter 152 ~~and~~  
32 ~~registered with the board of nursing~~, a physician assistant  
33 licensed under chapter 148C, or an optometrist licensed under  
34 chapter 154 may report to the department the identity of a  
35 person who has been diagnosed as having a physical or mental

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1 condition which would render the person physically or mentally  
 2 incompetent to operate a motor vehicle in a safe manner. The  
 3 physician, advanced registered nurse practitioner, physician  
 4 assistant, or optometrist shall make reasonable efforts  
 5 to notify the person who is the subject of the report, in  
 6 writing. The written notification shall state the nature of  
 7 the disclosure and the reason for the disclosure. A physician,  
 8 advanced registered nurse practitioner, physician assistant, or  
 9 optometrist making a report under this section shall be immune  
 10 from any liability, civil or criminal, which might otherwise  
 11 be incurred or imposed as a result of the report. A physician,  
 12 advanced registered nurse practitioner, physician assistant,  
 13 or optometrist has no duty to make a report or to warn third  
 14 parties with regard to any knowledge concerning a person's  
 15 mental or physical competency to operate a motor vehicle in  
 16 a safe manner. Any report received by the department from a  
 17 physician, advanced registered nurse practitioner, physician  
 18 assistant, or optometrist under this section shall be kept  
 19 confidential. Information regulated by chapter 141A shall be  
 20 subject to the confidentiality provisions and remedies of that  
 21 chapter.

22 Sec. 21. Section 514F.6, subsection 2, Code 2011, is amended  
 23 to read as follows:

24 2. For purposes of this section, "*physician*" means a  
 25 licensed doctor of medicine and surgery or a licensed doctor  
 26 of osteopathic medicine and surgery; "*advanced registered*  
 27 *nurse practitioner*" means ~~a licensed~~ an advanced registered  
 28 ~~nurse who is also registered to practice in an advanced role~~  
 29 practitioner licensed under chapter 152, "*physician assistant*"  
 30 means a person who is licensed to practice as a physician  
 31 assistant under the supervision of one or more physicians;  
 32 and "*credentialing period*" means the time period between the  
 33 health insurer's receipt of a physician's, advanced registered  
 34 nurse practitioner's, or physician assistant's application for  
 35 credentialing and approval of that application by the health



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1 insurer. *“Credentialing”* means a process through which a health  
2 insurer makes a determination based on criteria established by  
3 the health insurer concerning whether a physician, advanced  
4 registered nurse practitioner, or physician assistant is  
5 eligible to provide health care services to an insured and to  
6 receive reimbursement for the health care services provided  
7 under an agreement entered into between the physician, advanced  
8 registered nurse practitioner, or physician assistant and the  
9 health insurer. *“Clean claim”* means the same as defined in  
10 section 507B.4A, subsection 2, paragraph *“b”*.

11 Sec. 22. TRANSITION PROVISIONS — CONTINUING VALIDITY OF  
12 REGISTRATIONS. A registration as an advanced registered nurse  
13 practitioner issued prior to July 1, 2012, remains valid until  
14 its expiration. A renewal shall be by license as provided in  
15 this Act.

16 EXPLANATION

17 This bill contains various revisions to the nurse practice  
18 Act. The bill requires advanced registered nurse practitioners  
19 to be licensed by the board of nursing rather than registered,  
20 and authorizes the professional abbreviation “A.R.N.P.”.

21 Current Code language authorizes nurses to perform acts or  
22 nursing specialties which are recognized by the medical and  
23 nursing professions and are approved by the board. The bill  
24 eliminates this provision and provides that the regulation  
25 of nursing is the authority and responsibility of the board  
26 to determine which acts or specialties may be performed by a  
27 nurse, commensurate with the nurse’s education, continuing  
28 education, demonstrated competencies and experience.

29 The bill specifies the purposes for which licensing fees  
30 which are treated as return receipts may be used by the board.



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**Senate Study Bill 3045 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
REVENUE BILL)

**A BILL FOR**

1 An Act relating to the administration of the streamlined sales  
2 tax agreement by the department of revenue.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 423.1, subsection 51, paragraph a,  
2 subparagraph (2), Code Supplement 2011, is amended to read as  
3 follows:

4 (2) The cost of materials used, labor or service cost,  
5 interest, losses, all costs of transportation to the seller,  
6 all taxes imposed on the seller except as provided in paragraph  
7 "b", subparagraphs (5) and (6), and any other expenses of the  
8 seller.

9 Sec. 2. Section 423.1, subsection 51, paragraph b, Code  
10 Supplement 2011, is amended by adding the following new  
11 subparagraphs:

12 NEW SUBPARAGRAPH. (5) Any state or local tax on a retail  
13 sale that is imposed on the seller if the statute, rule, or  
14 local ordinance imposing the tax provides that the seller may,  
15 but is not required to, collect such tax from the consumer, and  
16 if the tax is separately stated on the invoice, bill of sale,  
17 or similar document given to the purchaser.

18 NEW SUBPARAGRAPH. (6) Any tribal tax on a retail sale that  
19 is imposed on the seller if the tribal law imposing the tax  
20 provides that the seller may but is not required to collect  
21 such tax from the consumer, and if the tax is separately stated  
22 on the invoice, bill of sale, or similar document given to the  
23 purchaser.

24 Sec. 3. Section 423.1, subsection 51, Code Supplement 2011,  
25 is amended by adding the following new paragraph:

26 NEW PARAGRAPH. *Od.* "Sales price" shall include  
27 consideration received by the seller from third parties if all  
28 of the following apply:

29 (1) The seller actually receives consideration from a party  
30 other than the purchaser and the consideration is directly  
31 related to a price reduction or discount on the sale.

32 (2) The seller has an obligation to pass the price reduction  
33 or discount through to the purchaser.

34 (3) The amount of the consideration attributable to the sale  
35 is fixed and determinable by the seller at the time of the sale





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1 seller not registered under the agreement who is otherwise  
 2 registered in the state, may submit the information collected  
 3 in the second part of the return in one of the following ways:  
 4 Sec. 7. Section 423.52, subsection 1, Code 2011, is amended  
 5 to read as follows:

6 1. Sellers and certified service providers using  
 7 databases derived from zip codes or state or vendor provided  
 8 address-based databases are relieved from liability to this  
 9 state or its local taxing jurisdictions for having charged and  
 10 collected the incorrect amount of sales or use tax resulting  
 11 from the seller or certified service provider relying on  
 12 erroneous data provided by this state on tax rates, boundaries,  
 13 or taxing jurisdiction assignments. If this state provides an  
 14 address-based system for assigning taxing jurisdictions, the  
 15 director is not required to provide liability relief for errors  
 16 resulting from reliance on ~~the information~~ a database derived  
 17 from zip codes and provided by this state if the director has  
 18 given adequate notice, as determined by the governing board, to  
 19 affected parties of the decision to end this relief.

20 EXPLANATION

21 This bill relates to the administration of the sales and use  
 22 taxes under the streamlined sales tax agreement.

23 Iowa is a member of the streamlined sales and use tax  
 24 agreement, which is an effort to administer state sales and  
 25 use taxes in all participating states according to the same  
 26 simplified system. Under the agreement, Iowa must periodically  
 27 make changes in the administration of the sales and use taxes  
 28 in order to remain in compliance.

29 The bill amends the definition of "sales price" to exclude  
 30 any state or local tax on a retail sale that is imposed on the  
 31 seller if by law the seller may but is not required to collect  
 32 the tax from the consumer, and if the tax is separately stated  
 33 on the invoice, bill of sale, or similar document given to the  
 34 purchaser.

35 The bill further amends the definition of "sales price" to

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1 exclude any tribal tax on a retail sale that is imposed on the  
 2 seller if by law the seller may but is not required to collect  
 3 such tax from the consumer, and if the tax is separately stated  
 4 on the invoice, bill of sale, or similar document given to the  
 5 purchaser.

6 The bill also amends the definition of "sales price" to  
 7 include consideration received from third parties if four  
 8 criteria are met. First, the seller must actually receive  
 9 consideration from a party other than the purchaser and the  
 10 consideration must be directly related to a price reduction  
 11 or discount on the sale. Second, the seller must have an  
 12 obligation to pass the price reduction or discount through  
 13 to the purchaser. Third, the amount of the consideration  
 14 attributable to the sale must be fixed and determinable by the  
 15 seller at the time of the sale. Fourth, one of the following  
 16 must apply: the purchaser presents to the seller a coupon,  
 17 certificate, or other documentation acquired from a third party  
 18 to claim a discount; the purchaser is identified to the seller  
 19 as a member of a group or organization entitled to claim a  
 20 price reduction or discount; or the price reduction or discount  
 21 is identified as a third-party price reduction or discount  
 22 on the invoice received by the purchaser or on a coupon,  
 23 certificate, or other documentation presented by the purchaser.

24 The bill allows sellers that have not registered under the  
 25 streamlined sales and use tax agreement but that are otherwise  
 26 registered in the state and required to file sales tax returns  
 27 to elect to file using the simplified electronic return.

28 The bill amends Code section 423.52 relating to liability  
 29 relief for sellers and certified service providers. Under  
 30 current law, relief from liability is granted to sellers and  
 31 certified service providers who charge incorrect sales and  
 32 use tax after relying on erroneous tax rate, boundary, or  
 33 jurisdiction data provided by the state in databases derived  
 34 from zip codes or addresses. However, the state may deny  
 35 liability relief to a seller or certified service provider for

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1 reliance on either database as long as the state maintains an  
2 address-based system for assigning taxing jurisdictions, and  
3 provides adequate notice to the affected parties. The bill  
4 provides that if the state maintains an address-based system  
5 for assigning taxing jurisdictions, it may only deny liability  
6 relief to sellers and certified service providers for errors  
7 resulting from the seller's or certified service provider's  
8 reliance on a database derived from zip codes.