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January 29, 2013

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House Concurrent Resolution 5 - Introduced

HOUSE CONCURRENT RESOLUTION NO. 5
BY COMMITTEE ON ADMINISTRATION AND RULES
(SUCCESSOR TO HSB 1)

1 A Concurrent Resolution relating to joint rules of
2 the Senate and House of Representatives for the
3 Eighty-fifth General Assembly.
4 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, THE
5 SENATE CONCURRING, That the joint rules of the Senate
6 and House of Representatives for the ~~Eighty-fourth~~
7 Eighty-fifth General Assembly shall be:
8 JOINT RULES OF THE SENATE AND HOUSE
9 Rule 1
10 Suspension of Joint Rules
11 The joint rules of the general assembly may be
12 suspended by concurrent resolution, duly adopted by a
13 constitutional majority of the senate and the house.
14 Rule 2
15 Designation of Sessions
16 Each regular session of a general assembly shall be
17 designated by the year in which such regular session
18 commences.
19 Rule 3
20 Sessions of a General Assembly
21 The election of officers, organization, hiring and
22 compensation of employees, and standing committees in
23 each house of the general assembly and action taken
24 by each house shall carry over from the first to the
25 second regular session and to any extraordinary session
26 of the same general assembly. The status of each
27 bill and resolution shall be the same at the beginning

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1 of each second session as it was immediately before
2 adjournment of the previous regular or extraordinary
3 session; however the rules of either house may provide
4 for re-referral of some or all bills and resolutions
5 to standing committees upon adjournment of each
6 session or at the beginning of a subsequent regular or
7 extraordinary session, except those which have been
8 adopted by both houses in different forms.
9 Upon final adoption of a concurrent resolution at
10 any extraordinary session affecting that session, or at
11 a regular session affecting any extraordinary session
12 which may be held before the next regular session,
13 the creation of any calendar by either house shall be
14 suspended and the business of the session shall consist
15 solely of those bills or subject matters stated in the
16 resolution adopted. Bills named in the resolution, or
17 bills containing the subject matter provided for in the
18 resolution, may, at any time, be called up for debate
19 in either house by the majority leader of that house.
20 Rule 3A
21 International Relations Protocol
22 The senate and the house of representatives shall
23 comply with the international relations protocol policy
24 adopted by the international relations committee of the
25 legislative council.
26 Rule 4
27 Presentation of Messages
28 All messages between the two houses shall be sent
29 and accepted, as soon as practicable, by the secretary
30 of the senate and the chief clerk of the house of

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1 representatives. The messages shall be communicated
2 to and received by the presiding officer of the other
3 house at the earliest appropriate time when that house
4 is in session.
5 Rule 5
6 Printing and Form of Bills and Other Documents
7 Bills and joint resolutions shall be introduced,
8 numbered, prepared, and printed as provided by
9 law, or in the absence of such law, in a manner
10 determined by the secretary of the senate and the
11 chief clerk of the house of representatives. Proposed
12 bills and resolutions which are not introduced but
13 are referred to committee shall be tracked in the
14 legislative computer system as are introduced bills
15 and resolutions. The referral of proposed bills
16 and resolutions to committee shall be entered in the
17 journal.
18 All bills and joint resolutions introduced shall be
19 in a form and number approved by the secretary of the
20 senate and chief clerk of the house.
21 The legal counsel´s office of each house shall
22 approve all bills before introduction.
23 Rule 6
24 Companion Bills
25 Identical bills introduced in one or both houses
26 shall be called companion bills. Each house shall
27 designate the sponsor in the usual way followed in
28 parentheses by the sponsor of any companion bill or
29 bills in the other house. The house where a companion
30 bill is first introduced shall print the complete text.

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1 Rule 7
2 Reprinting of Bills
3 Whenever any bill has been substantially amended by
4 either house, the secretary of the senate or the chief
5 clerk of the house shall order the bill reprinted on
6 paper of a different color. All adopted amendments
7 shall be distinguishable.
8 The secretary of the senate or the chief clerk
9 of the house may order the printing of a reasonable
10 number of additional copies of any bill, resolution,
11 amendment, or journal.
12 Rule 8
13 Daily Clip Sheet
14 The secretary of the senate and the chief clerk of
15 the house shall prepare a daily clip sheet covering all
16 amendments filed.
17 Rule 9
18 Reintroduction of Bills and Other Measures
19 A bill or resolution which has passed one house and
20 is rejected in the other shall not be introduced again
21 during that general assembly.
22 Rule 10
23 Certification of Bills and Other Enrollments
24 When any bill or resolution which has passed one
25 house is rejected or adopted in the other, notice of
26 such action and the date thereof shall be given to the
27 house of origin in writing signed by the secretary of
28 the senate or the chief clerk of the house.
29 Rule 11
30 Code Editor´s Correction Bills

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1 A bill recommended by the Code editor which is
2 passed out of committee to the floor for debate by a
3 committee of the house or senate and which contains
4 Code corrections of a nonsubstantive nature shall
5 not be amended on the floor of either house except
6 pursuant to corrective or nonsubstantive amendments
7 filed by the judiciary committee of the senate or
8 the house. Such committee amendments, whether filed
9 at the time of initial committee passage of the bill
10 to the floor for debate or after rereferral to the
11 committee, shall not be incorporated into the bill in
12 the originating house but shall be filed separately.
13 Amendments filed from the floor to strike sections of
14 the bill or the committee amendments shall be in order.
15 Following amendment and passage by the second house,
16 only amendments filed from the floor which strike
17 sections of the amendment of the second house shall be
18 in order.
19 A bill recommended by the Code editor which is
20 passed out of committee to the floor for debate by a
21 committee of the house or senate and which contains
22 Code corrections beyond those of a nonsubstantive
23 nature shall not be amended on the floor of either
24 house except pursuant to amendments filed by the
25 judiciary committee of the senate or the house. Such
26 committee amendments, whether filed at the time of
27 initial committee passage of the bill to the floor for
28 debate or after rereferral to the committee, shall
29 not be incorporated into the bill in the originating
30 house but shall be filed separately. Such a bill shall

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1 be limited to corrections which: Adjust language to
2 reflect current practices, insert earlier omissions,
3 delete redundancies and inaccuracies, delete temporary
4 language, resolve inconsistencies and conflicts,
5 update ongoing provisions, and remove ambiguities.
6 Amendments filed from the floor to strike sections of
7 the bill or the committee amendments shall be in order.
8 Following amendment and passage by the second house,
9 only amendments filed from the floor which strike
10 sections of the amendment of the second house shall be
11 in order.
12 It is the intent of the house and the senate that
13 such bills be passed out of committee to the floor for
14 debate within the first four weeks of convening of a
15 legislative session.
16 Rule 12
17 Amendments by Other House
18 1. When a bill which originated in one house is
19 amended in the other house, the house originating
20 the bill may amend the amendment, concur in full in
21 the amendment, or refuse to concur in full in the
22 amendment. Precedence of motions shall be in that
23 order. The amendment of the other house shall not be
24 ruled out of order based on a question of germaneness.
25 a. If the house originating the bill concurs in the
26 amendment, the bill shall then be immediately placed
27 upon its final passage.
28 b. If the house originating the bill refuses to
29 concur in the amendment, the bill shall be returned to
30 the amending house which shall either:

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1 (1) Recede, after which the bill shall be read for
2 the last time and immediately placed upon its final
3 passage; or
4 (2) Insist, which will send the bill to a
5 conference committee.
6 c. If the house originating the bill amends the
7 amendment, that house shall concur in the amendment
8 as amended and the bill shall be immediately placed
9 on final passage, and shall be returned to the other
10 house. The other house cannot further amend the bill.
11 (1) If the amending house which gave second
12 consideration to the bill concurs in the amendment
13 to the amendment, the bill shall then be immediately
14 placed upon its final passage.
15 (2) If the amending house refuses to concur in the
16 amendment to the amendment, the bill shall be returned
17 to the house originating the bill which shall either:
18 (a) Recede, after which the bill shall be read for
19 the last time as amended and immediately placed upon
20 its final passage; or
21 (b) Insist, which will send the bill to a
22 conference committee.
23 2. A motion to recede has precedence over a motion
24 to insist. Failure to recede means to insist; and
25 failure to insist means to recede.
26 3. A motion to lay on the table or to indefinitely
27 postpone shall be out of order with respect to motions
28 to recede from or insist upon and to amendments to
29 bills which have passed both houses.
30 4. A motion to concur, refuse to concur, recede,

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1 insist, or adopt a conference committee report is in
2 order even though the subject matter has previously
3 been acted upon.
4 Rule 13
5 Conference Committee
6 1. Within one legislative day after either house
7 insists upon an amendment to a bill, the presiding
8 officer of the house, after consultation with the
9 majority leader, shall appoint three majority party
10 members and, after consultation with the minority
11 leader, shall appoint two minority party members
12 to a conference committee. The majority leader of
13 the senate, after consultation with the president,
14 shall appoint three majority party members and,
15 after consultation with and approval by the minority
16 leader, shall appoint two minority party members to a
17 conference committee. The papers shall remain with the
18 house that originated the bill.
19 2. The conference committee shall meet before
20 the end of the next legislative day after their
21 appointment, shall select a chair and shall discuss the
22 controversy.
23 3. The authority of the first conference committee
24 shall cover only issues related to provisions of the
25 bill and amendments to the bill which were adopted
26 by either the senate or the house of representatives
27 and on which the senate and house of representatives
28 differed. If a conference committee report is not
29 acted upon because such action would violate this
30 subsection of this rule, the inaction on the report

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1 shall constitute refusal to adopt the conference
2 committee report and shall have the same effect as if
3 the conference committee had disagreed.
4 4. An agreement on recommendations must be approved
5 by a majority of the committee members from each house.
6 The committee shall submit two originals of the report
7 signed by a majority of the committee members of each
8 house with one signed original and three copies to be
9 submitted to each house. The report shall first be
10 acted upon in the house originating the bill. Such
11 action, including all papers, shall be immediately
12 referred by the secretary of the senate or the chief
13 clerk of the house of representatives to the other
14 house.
15 5. The report of agreement is debatable, but
16 cannot be amended. If the report contains recommended
17 amendments to the bill, adoption of the report shall
18 automatically adopt all amendments contained therein.
19 After the report is adopted, there shall be no more
20 debate, and the bill shall immediately be placed upon
21 its final passage.
22 6. Refusal of either house to adopt the conference
23 committee report has the same effect as if the
24 committee had disagreed.
25 7. If the conference committee fails to reach
26 agreement, a report of such failure signed by a
27 majority of the committee members of each house shall
28 be given promptly to each house. The bill shall
29 be returned to the house that originated the bill,
30 the members of the committee shall be immediately

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1 discharged, and a new conference committee appointed in
2 the same manner as the first conference committee.
3 8. The authority of a second or subsequent
4 conference committee shall cover free conference during
5 which the committee has authority to propose amendments
6 to any portion of a bill provided the amendment is
7 within the subject matter content of the bill as passed
8 by the house of origin or as amended by the second
9 house.
10 Rule 14
11 Enrollment and Authentication of Bills
12 A bill or resolution which has passed both houses
13 shall be enrolled in the house of origin under the
14 direction of either the secretary of the senate or the
15 chief clerk of the house and its house of origin shall
16 be certified by the endorsement of the secretary of the
17 senate or the chief clerk of the house.
18 After enrollment, each bill shall be signed by the
19 president of the senate and by the speaker of the
20 house.
21 Rule 15
22 Concerning Other Enrollments
23 All resolutions and other matters which are to
24 be presented to the governor for approval shall be
25 enrolled, signed, and presented in the same manner as
26 bills.
27 All resolutions and other matters which are not to
28 be presented to the governor or the secretary of state
29 shall be enrolled, signed, and retained permanently
30 by the secretary of the senate or chief clerk of the

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1 house.
2 Rule 16
3 Transmission of Bills to the Governor
4 After a bill has been signed in each house, it shall
5 be presented by the house of origin to the governor by
6 either the secretary of the senate or the chief clerk
7 of the house. The secretary or the chief clerk shall
8 report the date of the presentation, which shall be
9 entered upon the journal of the house of origin.
10 Rule 17
11 Fiscal Notes
12 A fiscal note shall be attached to any bill or joint
13 resolution which reasonably could have an annual effect
14 of at least one hundred thousand dollars or a combined
15 total effect within five years after enactment of
16 five hundred thousand dollars or more on the aggregate
17 revenues, expenditures, or fiscal liability of the
18 state or its subdivisions. This rule does not apply
19 to appropriation and ways and means measures where the
20 total effect is stated in dollar amounts.
21 Each fiscal note shall state in dollars the
22 estimated effect of the bill on the revenues,
23 expenditures, and fiscal liability of the state or
24 its subdivisions during the first five years after
25 enactment. The information shall specifically note
26 the fiscal impact for the first two years following
27 enactment and the anticipated impact for the succeeding
28 three years. The fiscal note shall specify the source
29 of the information. Sources of funds for expenditures
30 under the bill shall be stated, including federal

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1 funds. If an accurate estimate cannot be made, the
2 fiscal note shall state the best available estimate or
3 shall state that no dollar estimate can be made and
4 state concisely the reason.
5 The preliminary determination of whether the bill
6 appears to require a fiscal note shall be made by
7 the legal services staff of the legislative services
8 agency. Unless the requestor specifies the request is
9 to be confidential, upon completion of the bill draft,
10 the legal services staff shall immediately send a copy
11 to the fiscal services director for review.
12 When a committee reports a bill to the floor, the
13 committee shall state in the report whether a fiscal
14 note is or is not required.
15 The fiscal services director or the director´s
16 designee shall review all bills placed on the senate
17 or house calendars to determine whether the bills are
18 subject to this rule.
19 Additionally, a legislator may request the
20 preparation of a fiscal note by the fiscal services
21 staff for any bill or joint resolution introduced which
22 reasonably could be subject to this rule.
23 The fiscal services director or the director´s
24 designee shall cause to be prepared and shall approve
25 a fiscal note within a reasonable time after receiving
26 a request or determining that a bill is subject to
27 this rule. All fiscal notes approved by the fiscal
28 services director shall be transmitted immediately to
29 the secretary of the senate or the chief clerk of the
30 house, after notifying the sponsor of the bill that a

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1 fiscal note has been prepared, for publication in the
2 daily clip sheet. The secretary of the senate or chief
3 clerk of the house shall attach the fiscal note to the
4 bill as soon as it is available.
5 The fiscal services director may request the
6 cooperation of any state department or agency in
7 preparing a fiscal note.
8 A revised fiscal note may be requested by a
9 legislator if the fiscal effect of the bill has been
10 changed by adoption of an amendment. However, a
11 request for a revised fiscal note shall not delay
12 action on a bill unless so ordered by the presiding
13 officer of the house in which the bill is under
14 consideration.
15 If a date for adjournment has been set, then a
16 constitutional majority of the house in which the
17 bill is under consideration may waive the fiscal note
18 requirement during the three days prior to the date set
19 for adjournment.
20 Rule 18
21 Legislative Interns
22 Legislators may arrange student internships during
23 the legislative session with Iowa college, university,
24 or law school students, for which the students may
25 receive college credit at the discretion of their
26 schools. Each legislator is allowed only one intern
27 at a time per legislative session, and all interns must
28 be registered with the offices of the secretary of the
29 senate and the chief clerk of the house.
30 The purpose of the legislative intern program shall

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1 be: to provide useful staff services to legislators
2 not otherwise provided by the general assembly; to give
3 interested college, graduate, and law school students
4 practical experience in the legislative process as well
5 as providing a meaningful educational experience; and
6 to enrich the curriculum of participating colleges and
7 universities.
8 The secretary of the senate and the chief clerk of
9 the house or their designees shall have the following
10 responsibilities as regards the legislative intern
11 program:
12 1. Identify a supervising faculty member at each
13 participating institution who shall be responsible
14 for authorizing students to participate in the intern
15 program.
16 2. Provide legislators with a list of participating
17 institutions and the names of supervising professors to
18 contact if interested in arranging for an intern.
19 3. Provide interns with name badges which will
20 allow them access to the floor of either house when
21 required to be present by the legislators for whom they
22 work.
23 4. Provide orientation materials to interns prior
24 to the convening of each session.
25 Rule 19
26 Administrative Rules Review Committee Bills and Rule
27 Referrals
28 A bill which relates to departmental rules and
29 which is approved by the administrative rules review
30 committee by a majority of the committee's members

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1 of each house is eligible for introduction in either
2 house at any time and must be referred to a standing
3 committee, which must take action on the bill within
4 three weeks of referral, except bills referred to
5 appropriations and ways and means committees.
6 If, on or after July 1, 1999, the administrative
7 rules review committee delays the effective date of a
8 rule until the adjournment of the next regular session
9 of the general assembly and the speaker of the house
10 or the president of the senate refers the rule to a
11 standing committee, the standing committee shall review
12 the rule within twenty-one days of the referral and
13 shall take formal committee action by sponsoring a
14 joint resolution to disapprove the rule, by proposing
15 legislation relating to the rule, or by refusing to
16 propose a joint resolution or legislation concerning
17 the rule. The standing committee shall inform the
18 administrative rules review committee of the committee
19 action taken concerning the rule.
20 Rule 20
21 Time of Committee Passage and Consideration of Bills
22 1. This rule does not apply to concurrent or
23 simple resolutions, joint resolutions nullifying
24 administrative rules, senate confirmations, bills
25 embodying redistricting plans prepared by the
26 legislative services agency pursuant to chapter
27 42, or bills passed by both houses in different
28 forms. Subsection 2 of this rule does not apply to
29 appropriations bills, ways and means bills, government
30 oversight bills, legalizing acts, administrative

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1 rules review committee bills, bills sponsored by
2 standing committees in response to a referral from
3 the president of the senate or the speaker of the
4 house of representatives relating to an administrative
5 rule whose effective date has been delayed until the
6 adjournment of the next regular session of the general
7 assembly by the administrative rules review committee,
8 bills cosponsored by majority and minority floor
9 leaders of one house, bills in conference committee,
10 and companion bills sponsored by the majority floor
11 leaders of both houses after consultation with the
12 respective minority floor leaders. For the purposes of
13 this rule, a joint resolution is considered as a bill.
14 To be considered an appropriations, ways and means,
15 or government oversight bill for the purposes of this
16 rule, the appropriations committee, the ways and means
17 committee, or the government oversight committee must
18 either be the sponsor of the bill or the committee of
19 first referral in the originating house.
20 2. To be placed on the calendar in the house of
21 origin, a bill must be first reported out of a standing
22 committee by Friday of the 8th week of the first
23 session and the 8th week of the second session. To be
24 placed on the calendar in the other house, a bill must
25 be first reported out of a standing committee by Friday
26 of the 12th week of the first session and the 11th week
27 of the second session.
28 3. During the 10th week of the first session and
29 the 9th week of the second session, each house shall
30 consider only bills originating in that house and

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1 unfinished business. During the 13th week of the
2 first session and the 12th week of the second session,
3 each house shall consider only bills originating in
4 the other house and unfinished business. Beginning
5 with the 14th week of the first session and the 13th
6 week of the second session, each house shall consider
7 only bills passed by both houses, bills exempt from
8 subsection 2, and unfinished business.
9 4. A motion to reconsider filed and not disposed
10 of on an action taken on a bill or resolution which is
11 subject to a deadline under this rule may be called up
12 at any time before or after the day of the deadline by
13 the person filing the motion or after the deadline by
14 the majority floor leader, notwithstanding any other
15 rule to the contrary.
16 Rule 21
17 Resolutions
18 1. A "concurrent resolution" is a resolution to
19 be adopted by both houses of the general assembly
20 which expresses the sentiment of the general assembly
21 or deals with temporary legislative matters. It
22 may authorize the expenditure, for any legislative
23 purpose, of funds appropriated to the general assembly.
24 A concurrent resolution is not limited to, but may
25 provide for a joint convention of the general assembly,
26 adjournment or recess of the general assembly, or
27 requests to a state agency or to the general assembly
28 or a committee. A concurrent resolution requires
29 the affirmative vote of a majority of the senators or
30 representatives present and voting unless otherwise

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1 specified by statute. A concurrent resolution does
2 not require the governor's approval unless otherwise
3 specified by statute. A concurrent resolution shall
4 be filed with the secretary of the senate or the chief
5 clerk of the house. A concurrent resolution shall be
6 printed in the bound journal after its adoption.
7 2. A "joint resolution" is a resolution which
8 requires for approval the affirmative vote of a
9 constitutional majority of each house of the general
10 assembly. A joint resolution which appropriates funds
11 or enacts temporary laws must contain the clause "Be It
12 Enacted by the General Assembly of the State of Iowa:",
13 is equivalent to a bill, and must be transmitted to
14 the governor for approval. A joint resolution which
15 proposes amendments to the Constitution of the State
16 of Iowa, ratifies amendments to the Constitution of
17 the United States, proposes a request to Congress
18 or an agency of the government of the United States
19 of America, proposes to Congress an amendment to the
20 Constitution of the United States of America, nullifies
21 an administrative rule, or creates a special commission
22 or committee must contain the clause "Be It Resolved by
23 the General Assembly of the State of Iowa:" and shall
24 not be transmitted to the governor. A joint resolution
25 shall not amend a statute in the Code of Iowa.
26 Rule 22
27 Nullification Resolutions
28 A "nullification resolution" is a joint resolution
29 which nullifies all of an administrative rule, or
30 a severable item of an administrative rule adopted

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1 pursuant to chapter 17A of the Code. A nullification
2 resolution shall not amend an administrative rule by
3 adding language or by inserting new language in lieu of
4 existing language.
5 A nullification resolution is debatable, but cannot
6 be amended on the floor of the house or senate. The
7 effective date of a nullification resolution shall
8 be stated in the resolution. Any motions filed to
9 reconsider adoption of a nullification resolution
10 must be disposed of within one legislative day of the
11 filing.
12 Rule 23
13 Consideration of Vetoes
14 1. The senate and house calendar shall include a
15 list known as the "Veto Calendar." The veto calendar
16 shall consist of:
17 a. Bills returned to that house by the governor
18 in accordance with Article III, section 16 of the
19 Constitution of the State of Iowa.
20 b. Appropriations items returned to that house by
21 the governor in accordance with Article III, section 16
22 of the Constitution of the State of Iowa.
23 c. Bills and appropriations items received from the
24 other house after that house has voted to override a
25 veto of them by the governor.
26 2. Vetoed bills and appropriations items shall
27 automatically be placed on the veto calendar upon
28 receipt. Vetoed bills and appropriations items shall
29 not be referred to committee.
30 3. Upon first publication in the veto calendar, the

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1 senate majority leader or the house majority leader
2 may call up a vetoed bill or appropriations item at any
3 time.
4 4. The affirmative vote of two-thirds of the
5 members of the body by record roll call is required on
6 a motion to override an executive veto or item veto.
7 5. A motion to override an executive veto or item
8 veto is debatable. A vetoed bill or appropriation item
9 cannot be amended in this case.
10 6. The vote by which a motion to override an
11 executive veto or item veto passes or fails to pass
12 either house is not subject to reconsideration under
13 senate rule 24 or house rule 73.
14 7. The secretary of the senate or the chief clerk
15 of the house shall immediately notify the other house
16 of the adoption or rejection of a motion to override an
17 executive veto or item veto.
18 8. All bills and appropriations items on the veto
19 calendar shall be disposed of before adjournment sine
20 die, unless the house having a bill or appropriation
21 item before it declines to do so by unanimous consent.
22 9. Bills and appropriations items on the veto
23 calendar are exempt from deadlines imposed by joint
24 rule 20.
25 Rule 24
26 Special Rules Regarding Redistricting ~~for 2010~~
27 1. If, pursuant to chapter 42, either the senate or
28 the house of representatives rejects a redistricting
29 plan submitted by the legislative services agency, the
30 house rejecting the plan shall convey the reasons for

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1 the rejection of the plan to the legislative services
2 agency by resolution.
3 2. If, pursuant to chapter 42, the legislative
4 services agency submits a third redistricting plan
5 as provided by law, the senate and the house of
6 representatives, when considering a bill embodying the
7 third plan, shall be allowed to accept for filing as
8 amendments only such amendments which constitute the
9 total text of a congressional plan without striking
10 a legislative redistricting plan, the total text of
11 a legislative redistricting plan without striking a
12 congressional plan, or the combined total text of a
13 congressional plan and a legislative redistricting
14 plan, and nonsubstantive, technical corrections to the
15 text of any such bills or amendments.

House File 80 - Introduced

HOUSE FILE 80
BY WINDSCHITL, KLEIN, SANDS, HIGHFILL, WORTHAN, BRANDENBURG, HUSEMAN, STANERSON, HEARTSILL, WATTS, FISHER, SALMON, MAXWELL, ALONS, and SHEETS

A BILL FOR

1 An Act mandating drug testing of applicants for and certain
2 recipients of assistance under the family investment
3 program.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1087YH (2) 85
jp/nh

H.F. 80

1 Section 1. NEW SECTION. **239B.2D Drug testing for**
2 **applicants.**
3 1. For the purposes of this section, unless the context
4 otherwise requires:
5 *a. "Confirmed positive test result"* means the results of
6 a urine, oral fluid, or blood test in which the level of
7 controlled substances or their metabolites in the sample
8 analyzed meets or exceeds nationally accepted standards for
9 determining detectable levels of controlled substances as
10 adopted by the federal substance abuse and mental health
11 services administration. If nationally accepted standards for
12 oral fluid tests have not been adopted by the federal substance
13 abuse and mental health services administration, the standards
14 for determining detectable levels of controlled substances for
15 purposes of determining a confirmed positive test result shall
16 be the same standard that has been established by the federal
17 food and drug administration for the measuring instrument used
18 to perform the oral fluid test.
19 *b. "Licensed substance abuse treatment program"* means an
20 inpatient or outpatient substance abuse treatment program
21 licensed by the department of public health under chapter 125.
22 *c. "Sample"* means a sample from the human body capable
23 of revealing the presence of controlled substances, or their
24 metabolites, which shall include only urine, saliva, or blood.
25 2. *a.* The drug testing requirements of this section apply
26 to the following applicants for and recipients of assistance
27 under this chapter:
28 (1) Each adult parent, guardian, or specified relative who
29 is included in the applicant family, including both parents of
30 a two-parent family, or an individual who may be exempt from
31 work activity requirements due to the age of the youngest child
32 or who may be exempt from work activity requirements under the
33 PROMISE JOBS program.
34 (2) A minor parent who is not required to live with a
35 parent, guardian, or other adult caretaker in accordance with

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1 this chapter.
2 (3) A recipient of assistance who provided a written
3 acknowledgment of the drug testing requirements of this
4 section at the time of application for assistance and for whom
5 there is information indicating a significant likelihood the
6 recipient is using a controlled substance, as determined by the
7 department, shall be subject to random drug testing.
8 *b.* Dependent children under the age of eighteen years are
9 exempt from the drug testing requirements of this section.
10 *c.* The department shall require a drug test that is similar
11 to a drug test as a condition of employment under section 730.5
12 to screen the persons subject to this section for the presence
13 of controlled substances. The person is responsible for the
14 cost of the person's drug test.
15 3. *a.* A person who is subject to this section is ineligible
16 to receive assistance under this chapter if the person does not
17 participate in the required drug testing.
18 *b.* A person who is subject to this section is ineligible
19 to receive assistance under this chapter if the person has a
20 confirmed positive test result for the presence of either of
21 the following:
22 (1) A substance listed in schedule I under section 124.204.
23 (2) A substance listed in schedule II, III, or IV under
24 chapter 124 that was not prescribed for the person.
25 *c.* The period of ineligibility for an applicant or recipient
26 who is ineligible for assistance under paragraph "*b*" is one year
27 after the date of the confirmed positive test result.
28 4. The department shall do all of the following in
29 implementing this section:
30 *a.* (1) Provide notice of drug testing to each person who is
31 subject to this section at the time of application. The notice
32 must advise the person that drug testing will be conducted as a
33 condition for receiving assistance under this chapter and that
34 the person must bear the cost of testing. The applicant shall
35 be advised that the required drug testing may be avoided if the

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applicant does not complete or withdraws the application for assistance.

(2) Advise each person to be tested, before the test is conducted, that the person may, but is not required to, inform the agent administering the test of any prescription or over-the-counter medication the person is taking.

(3) Require each person to be tested to sign a written acknowledgment that the person has received and understood the notice and advice provided under this paragraph *"a"*.

b. Assure each person being tested a reasonable degree of dignity while producing and submitting a sample for drug testing, consistent with the department's need to ensure the reliability of the sample.

c. Specify circumstances under which a person with a confirmed positive test result has the right to take one or more additional tests.

d. Inform a person who has a confirmed positive test result and is deemed ineligible for assistance that the person may not reapply for assistance until one year after the date of the confirmed positive test result unless the person meets the requirements of paragraph *"f"*. If the person has a subsequent confirmed positive test result, the person shall be ineligible to receive assistance for three years after the date of the subsequent result unless the person meets the requirements of paragraph *"f"*.

e. Provide any person with a confirmed positive test result with a list of licensed substance abuse treatment programs available in the area in which the person resides. Neither the department nor the state is responsible for providing or paying for substance abuse treatment as part of the drug testing conducted under this section.

f. A person with a confirmed positive test result who is denied assistance under this chapter may reapply for assistance after six months if the person can document the successful completion of a licensed substance abuse treatment program.

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1 A person who has met the requirements of this paragraph and
2 reapplies for assistance must also pass the initial drug test
3 required under subsection 2. Any drug test conducted while the
4 person is undergoing substance abuse treatment must meet the
5 requirements for a drug test under subsection 2. The cost of
6 any drug testing or substance abuse treatment provided under
7 this subsection shall be the responsibility of the person being
8 tested or receiving treatment. A person with a confirmed
9 positive test result from the drug test required under
10 subsection 2 may reapply for assistance under this paragraph
11 only once.
12 5. If an applicant or recipient parent is deemed ineligible
13 for assistance as a result of having a confirmed positive test
14 result from a drug test conducted under this section, all of
15 the following apply:
16 *a.* The eligibility of the applicant's or recipient's
17 dependent child for assistance is not affected.
18 *b.* An appropriate protective payee shall be designated
19 to receive assistance on behalf of the dependent child.
20 The parent may choose to designate an individual as the
21 protective payee. The individual designated by the parent as
22 the protective payee must be a specified relative or other
23 immediate family member unless such family member is not
24 available or the family member declines the designation. In
25 which case another individual, approved by the department,
26 shall be designated as the protective payee. The individual
27 must also undergo drug testing before being approved to be
28 the protective payee. If the designated individual has a
29 confirmed positive test result, the designated individual shall
30 be ineligible to be the protective payee.
31 6. The department shall adopt rules to implement this
32 section.
33 EXPLANATION
34 This bill requires drug testing of applicants for and
35 certain recipients of assistance under the family investment

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1 program (FIP) in new Code section 239B.2D. The program
2 provides cash assistance and employment-related services to
3 low-income families with children under the federal temporary
4 assistance for needy families (TANF) block grant. The
5 department of human services administers the program and block
6 grant for this state.
7 The bill utilizes the following terms that are defined in
8 Code section 239B.1:
9 "Applicant" means a person who files an application for
10 participation in FIP under Code chapter 239B.
11 "Assistance" means a FIP payment.
12 "Family" means a family unit that includes at least one
13 child and at least one parent or other specified relative of
14 the child.
15 "Minor parent" means an applicant or participant parent who
16 is less than 18 years of age and has never been married.
17 "PROMISE JOBS program" or "JOBS program" means the promoting
18 independence and self-sufficiency through employment job
19 opportunities and basic skills program, a part of FIP.
20 "Specified relative" means a person who is, or was at any
21 time, a relative of an applicant or participant child, by means
22 of blood relationship, marriage, or adoption, or is a spouse of
23 a relative listed in the definition.
24 The bill defines "confirmed positive test result", "licensed
25 substance abuse treatment program", and "sample".
26 The drug testing requirement applies to each applicant for
27 FIP assistance who is an adult parent, guardian, or specified
28 relative who is included in the applicant family, including
29 both parents of a two-parent family, or an individual who may
30 be exempt from work activity requirements due to the age of the
31 youngest child or who may be exempt from work activity under
32 the PROMISE JOBS program. The requirement also applies to
33 each minor parent applicant who is not required to live with
34 a parent, guardian, or other adult caretaker. In addition,
35 a recipient of assistance who accepted the drug testing

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1 requirements at the time of application and for whom there is
2 information indicating a significant likelihood the recipient
3 is using a controlled substance is subject to random drug
4 testing. Dependent children under the age of 18 years are
5 exempt from the drug testing requirements. The department is
6 directed to require a drug test of each person who is subject
7 to the requirements to screen for the presence of controlled
8 substances. The person is responsible for the cost of the drug
9 test.
10 A person subject to the requirement who does not participate
11 in the required drug testing is ineligible for cash assistance
12 through FIP. A person who has a confirmed positive test result
13 is ineligible for one year unless the test result was for a
14 controlled substance for which the person has a prescription.
15 The department is required to do all of the following
16 in administering the drug testing requirement: implement
17 notification provisions; allow for additional testing following
18 a confirmed positive test result; apply a three-year period
19 of ineligibility if a person reapplies but has a subsequent
20 confirmed positive test result; provide a listing of licensed
21 substance abuse treatment programs available in the area of a
22 person's residence if the person has a confirmed positive test
23 result; and allow for a person who has a confirmed positive
24 test result to reapply one time after six months if the person
25 provides documentation of completing a licensed substance abuse
26 treatment program within six months of the confirmed positive
27 test result and passes another drug test.
28 If a parent is deemed ineligible for assistance as a result
29 of having a confirmed positive test result, the dependent child
30 remains eligible for assistance and a protective payee may be
31 designated by the parent to receive the assistance on behalf of
32 the child. If a specified relative or other immediate family
33 member declines to be designated, the department must designate
34 the protective payee. The protective payee is then subject
35 to drug testing before being approved to receive assistance

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1 on behalf of the child. A protective payee with a confirmed
2 positive test result is ineligible to receive assistance on
3 behalf of the child.
4 The department is required to adopt rules to implement the
5 new requirements.

House File 81 - Introduced

HOUSE FILE 81
BY WINDSCHITL, KLEIN, SANDS, HIGHFILL, BALTIMORE, BRANDENBURG, WORTHAN, HUSEMAN, STANERSON, HEARTSILL, WATTS, FISHER, GASSMAN, SALMON, ROGERS, MAXWELL, HANUSA, ALONS, and SHEETS

A BILL FOR

1 An Act concerning the confidentiality of certain information
2 relating to holders of nonprofessional permits to carry
3 weapons and permits to acquire pistols and revolvers.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1501YH (3) 85
rh/rj

H.F. 81

1 Section 1. Section 724.23, Code 2013, is amended to read as
2 follows:
3 **724.23 Records kept by commissioner and issuing officers.**
4 1. The commissioner of public safety shall maintain a
5 permanent record of all valid permits to carry weapons and of
6 current permit revocations.
7 2. Notwithstanding any other law or rule to the contrary,
8 the commissioner of public safety and any issuing officer
9 shall keep confidential the names and addresses of holders of
10 nonprofessional permits to carry weapons and permits to acquire
11 pistols or revolvers.
12 EXPLANATION
13 Current law requires the commissioner of public safety
14 to maintain a permanent record of all valid permits to
15 carry weapons and of current permit revocations. This bill
16 provides that, notwithstanding any other law or rule to the
17 contrary, the commissioner of public safety and any issuing
18 officer (county sheriff) shall keep confidential the names
19 and addresses of holders of nonprofessional permits to carry
20 weapons and permits to acquire pistols or revolvers.

House File 82 - Introduced

HOUSE FILE 82
BY WINDSCHITL

A BILL FOR

1 An Act establishing a lifetime fur harvester license for
2 residents who are sixty-five years of age or older.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1861YH (2) 85
av/nh

H.F. 82

1 Section 1. Section 483A.1, subsection 1, Code 2013, is
2 amended by adding the following new paragraph:
3 NEW PARAGRAPH. *0q.* Fur harvester license, lifetime,
4 sixty-five years or older.....$ 50.50
5 EXPLANATION
6 This bill establishes a lifetime fur harvester license for
7 residents who are 65 years of age or older. The license costs
8 $50.50. There are currently lifetime fishing licenses and
9 lifetime hunting licenses available for such residents at the
10 same cost.

House File 83 - Introduced

HOUSE FILE 83
BY HEDDENS, WESSEL-KROESCHELL, ISENHART, MURPHY, BERRY, GASKILL, HUNTER, WOOD, COHOON, DAWSON, M. SMITH, BEARINGER, KRESSIG, T. TAYLOR, STAED, MASCHER, OURTH, WINCKLER, STUTSMAN, THEDE, H. MILLER, ANDERSON, STECKMAN, HANSON, LENSING, OLDSON, and THOMAS

A BILL FOR

1 An Act relating to integrated care models for the delivery
2 of health care, including but not limited to required
3 utilization of a medical home by individuals currently and
4 newly eligible for coverage under the Medicaid program and
5 including effective date provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1441YH (2) 85
pf/rj

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1 Section 1. Section 135.157, subsections 4 and 6, Code 2013,
2 are amended to read as follows:
3 4. *"Medical home"* means a team approach to providing health
4 care that originates in a primary care setting; fosters a
5 partnership among the patient, the personal provider, and
6 other health care professionals, and where appropriate, the
7 patient's family; utilizes the partnership to access and
8 integrate all medical and nonmedical health-related services
9 across all elements of the health care system and the patient's
10 community as needed by the patient and the patient's family
11 to achieve maximum health potential; maintains a centralized,
12 comprehensive record of all health-related services to
13 promote continuity of care; and has all of the characteristics
14 specified in section 135.158.
15 6. *"Personal provider"* means the patient's first point of
16 contact in the health care system with a primary care provider
17 who identifies the patient's ~~health~~ health-related needs and,
18 working with a team of health care professionals and providers
19 of medical and nonmedical health-related services, provides
20 for and coordinates appropriate care to address the ~~health~~
21 health-related needs identified.
22 Sec. 2. Section 135.158, subsection 2, paragraphs b, c, and
23 d, Code 2013, are amended to read as follows:
24 *b.* A provider-directed team-based medical practice. The
25 personal provider leads a team of individuals at the practice
26 level who collectively take responsibility for the ongoing
27 ~~health care~~ health-related needs of patients.
28 *c.* Whole person orientation. The personal provider is
29 responsible for providing for all of a patient's ~~health care~~
30 health-related needs or taking responsibility for appropriately
31 arranging ~~health care~~ for health-related services provided
32 by other qualified health care professionals and providers
33 of medical and nonmedical health-related services. This
34 responsibility includes ~~health~~ health-related care at all
35 stages of life including provision of preventive care,

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1 acute care, chronic care, ~~preventive services~~ long-term
2 care, transitional care between providers and settings, and
3 end-of-life care. This responsibility includes whole-person
4 care consisting of physical health care including but not
5 limited to oral, vision, and other specialty care, pharmacy
6 management, and behavioral health care.
7 *d.* Coordination and integration of care. Care is
8 coordinated and integrated across all elements of the
9 complex health care system and the patient's community. Care
10 coordination and integration provides linkages to community
11 and social supports to address social determinants of health,
12 to engage and support patients in managing their own health,
13 and to track the progress of these community and social
14 supports in providing whole-person care. Care is facilitated
15 by registries, information technology, health information
16 exchanges, and other means to assure that patients receive the
17 indicated care when and where they need and want the care in a
18 culturally and linguistically appropriate manner.
19 Sec. 3. Section 135.159, subsections 1, 9, and 11, Code
20 2013, are amended to read as follows:
21 1. The department shall administer the medical home system.
22 The department shall collaborate with the department of human
23 services in administering medical homes under the medical
24 assistance program. The department shall adopt rules pursuant
25 to chapter 17A necessary to administer the medical home system,
26 and shall collaborate with the department of human services in
27 adopting rules for medical homes under the medical assistance
28 program.
29 9. The department shall coordinate the requirements and
30 activities of the medical home system with the requirements
31 and activities of the dental home for children as described
32 in section 249J.14, and shall recommend financial incentives
33 for dentists and nondental providers to promote oral health
34 care coordination through preventive dental intervention, early
35 identification of oral disease risk, health care coordination

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and data tracking, treatment, chronic care management, education and training, parental guidance, and oral health promotions for children. Additionally, the department shall establish requirements for the medical home system to provide linkages to accessible dental homes for adults and older individuals.

ll. *Implementation ~~phases~~.*

a. ~~Initial implementation shall~~ No later than July 1, 2014, the department shall collaborate with the department of human services to require participation in the medical home system of ~~children~~ all of the following:

(1) Children who are recipients of full benefits under the medical assistance program. ~~The department shall work with the department of human services and shall recommend to the general assembly a reimbursement methodology to compensate providers participating under the medical assistance program for participation in the medical home system.~~

~~*b.*~~ (2) ~~The department shall work with the department of human services to expand the medical home system to adults~~ Adults who are recipients of full benefits under the medical assistance program ~~and the expansion population under the IowaCare program~~ including those adults who are recipients of benefits under section 249A.3, subsection 1, paragraph *"v"*, in accordance with the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148, § 2001, as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152.

(3) ~~The department shall work with~~ Medicare and dually eligible Medicare and Medicaid recipients, to the extent approved by the centers for Medicare and Medicaid services of the United States department of health and human services ~~to allow Medicare recipients to utilize the medical home system~~.

~~*c.*~~ *b.* The department shall work with the department of administrative services to allow state employees to utilize the medical home system.

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1 ~~d.~~ c. The department shall work with insurers and
2 self-insured companies, if requested, to make the medical
3 home system available to individuals with private health care
4 coverage.
5 Sec. 4. Section 249A.3, subsection 1, Code 2013, is amended
6 by adding the following new paragraph:
7 NEW PARAGRAPH. *v.* Beginning January 1, 2014, is an
8 individual who is nineteen years of age or older and under
9 age sixty-five; is not pregnant; is not entitled to or
10 enrolled for Medicare benefits under part A, or enrolled
11 for Medicare benefits under part B, of Tit. XVIII of the
12 federal Social Security Act; is not otherwise described in
13 section 1902a(a)(10)(A)(i) of the federal Social Security
14 Act; and whose income is at or below one hundred thirty-three
15 percent of the federal poverty level as defined by the most
16 recently revised poverty income guidelines published by the
17 United States department of health and human services for the
18 applicable family size and as calculated in accordance with
19 the federal Patient Protection and Affordable Care Act, Pub.
20 L. No. 111-148, § 2001, as amended by the federal Health Care
21 and Education Reconciliation Act of 2010, Pub. L. No. 111-152.
22 Individuals eligible for medical assistance under this
23 paragraph shall receive benefits which are at a minimum those
24 included in the medical assistance state plan benefit package
25 offered in the state, to be adjusted as necessary to provide
26 essential health benefits as required pursuant to section 1302
27 of the federal Patient Protection and Affordable Care Act, Pub.
28 L. No. 111-148, and as approved by the United States secretary
29 of health and human services.
30 Sec. 5. Section 249J.26, subsection 2, Code 2013, is amended
31 to read as follows:
32 2. This chapter is repealed ~~October~~ December 31, 2013. The
33 department shall prepare a plan for the transition of expansion
34 population members to other health care coverage options.
35 The options shall include the option of coverage through the

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1 medical assistance program as provided in section 249A.3,
2 subsection 1, paragraph "v", relating to coverage for adults who
3 are nineteen years of age or older and under age sixty-five,
4 and the option of coverage through the health benefits exchange
5 established pursuant to the federal Patient Protection and
6 Affordable Care Act, Pub. L. No. 111-148, as amended by the
7 federal Health Care and Education Reconciliation Act of 2010,
8 Pub. L. No. 111-152. To the greatest extent possible, the plan
9 shall maintain and incorporate utilization of the existing
10 medical home and service delivery structure as developed
11 under this chapter, including the utilization of federally
12 qualified health centers, public hospitals, and other safety
13 net providers, in providing access to care. The department
14 shall submit the plan to the governor and the general assembly
15 no later than September 1, 2013.
16 Sec. 6. LEGISLATIVE COMMISSION ON INTEGRATED CARE MODELS.
17 1. No later than thirty days after the effective date
18 of this Act, the legislative council shall establish a
19 legislative commission to review and make recommendations
20 relating to the formation and operation of integrated care
21 models (ICMs) in the state. The models include any care
22 delivery model that integrates providers and incorporates a
23 financial incentive to improve patient health outcomes, improve
24 care, and reduce costs. Integrated care models include but
25 are not limited to patient-centered medical homes or health
26 homes, accountable care organizations (ACOs), ACO-like models,
27 community and regional care networks, and other integrated and
28 accountable delivery models that utilize value-based financing
29 methodologies and emphasize person-centered, coordinated, and
30 comprehensive care.
31 2. a. In developing the recommendations, the legislative
32 commission shall review models created in other states that
33 integrate both clinical services and nonclinical community
34 and social supports utilizing patient-centered medical homes
35 and community care teams as basic components. These models

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1 may include but are not limited to the ACO demonstration
2 program based on the Camden Coalition of Healthcare Providers
3 in Camden, New Jersey; the Medical Home Network in Chicago,
4 Illinois; the Health Commons model in New Mexico; the
5 Accountable Care Collaborative in Colorado; Community Care of
6 North Carolina, in North Carolina; the Blueprint for Health and
7 the Community Health Teams in Vermont; and the Coordinated Care
8 Organizations in Oregon.
9 b. The legislative commission shall specifically focus
10 on recommending the best means of providing care through
11 integrated delivery models throughout the state including to
12 vulnerable populations and how best to incorporate safety net
13 providers, including but not limited to federally qualified
14 health centers, rural health clinics, community mental health
15 centers, public hospitals, and other nonprofit and public
16 providers that have long experience in caring for vulnerable
17 populations, into the integrated system.
18 c. The legislative commission shall review opportunities
19 under the federal Patient Protection and Affordable Care Act
20 (Affordable Care Act), Pub. L. No. 11-148, as amended, for
21 the development of ICMs including the Medicare Shared Savings
22 program for accountable care organizations, community-based
23 collaborative care networks that include safety net providers,
24 consumer-operated and oriented plans, and opportunities
25 through the Center for Medicare and Medicaid Innovation
26 (CMI) established pursuant to section 3021 of the Affordable
27 Care Act. The legislative commission shall also review
28 existing and proposed integrated care models in the state
29 including commercial models and those developed or proposed
30 under the Accountable Care Act including the Medicare Shared
31 Savings Program, the Pioneer ACO, and the application for
32 the multipayer Medicaid ACO developed through the CMI State
33 Innovation Models Initiative.
34 d. The legislative commission shall address the issues
35 relative to ICMs including those relating to consumer

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1 protection including those that relate to confidentiality,
2 quality assurance, grievance procedures, and appeals of patient
3 care decisions; payment methodologies, multipayer alignment,
4 coordination of funding streams, and financing methods that
5 support full integration of clinical and nonclinical services
6 and providers; organizational, management, and governing
7 structures; access, quality, outcomes, utilization, and
8 other appropriate performance standards; patient attribution
9 or assignment models; health information exchange, data,
10 reporting, and infrastructure standards; and regulatory
11 issues including clinical integration limitations, physician
12 self-referral, antikickback provisions, gain-sharing,
13 beneficiary inducements, antitrust issues, tax exemption
14 issues, and application of insurance regulations.
15 3. The legislative commission shall consult with advocates
16 representing patients, health care providers, health care
17 payers, and other appropriate parties in developing the
18 recommendations relating to ICMs.
19 4. The legislative commission may request from any state
20 agency or official information and assistance as needed to
21 perform the review and make recommendations.
22 5. The legislative commission shall submit a final report
23 summarizing the legislative commission's activities, analyzing
24 the issues reviewed, and making recommendations to the governor
25 and the general assembly by September 1, 2013.
26 Sec. 7. MEDICAID STATE PLAN.
27 1. The department of human services shall amend the medical
28 assistance state plan to reflect the required provision of a
29 medical home to medical assistance recipients as provided in
30 this Act.
31 2. The department of human services shall amend the medical
32 assistance state plan to provide for coverage of adults up to
33 133 percent of the federal poverty level as provided in this
34 Act and in accordance with the federal Patient Protection and
35 Affordable Care Act, Pub. L. No. 111-148, § 2001, as amended

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1 by the federal Health Care and Education Reconciliation Act of
2 2010, Pub. L. No. 111-152.
3 3. The department of human services shall amend the medical
4 assistance state plan to provide that the benchmark benefit
5 plan provided to the newly covered adults under the medical
6 assistance program is the option of secretary-approved coverage
7 which is at a minimum the Medicaid state plan benefit package
8 offered in the state, to be adjusted as necessary to provide
9 essential health benefits as required pursuant to section
10 1302(b) of the Patient Protection and Affordable Care Act, Pub.
11 L. No. 111-148.
12 Sec. 8. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
13 immediate importance, takes effect upon enactment.
14 EXPLANATION
15 This bill relates to integrated health care delivery models.
16 The bill amends provisions relating to medical homes to
17 require a team-based, multidisciplinary approach to health
18 care delivery. The bill requires the department of human
19 services (DHS) to collaborate with the department of public
20 health (DPH) in administering medical homes under the Medicaid
21 program. The bill amends provisions relating to implementation
22 of medical homes in the state by requiring all children and
23 adults who are recipients of full benefits under the medical
24 assistance program, including adults up to 133 percent of
25 the federal poverty level who are eligible under the federal
26 Patient Protection and Affordable Care Act (ACA), Pub. L. No.
27 111-148, § 2001, as amended by the federal Health Care and
28 Education Reconciliation Act of 2010, Pub. L. No. 111-152, and
29 individuals who are dually eligible to the extent approved by
30 the centers for Medicare and Medicaid services of the United
31 States department of health and human services (CMS), to
32 participate in a medical home not later than July 1, 2014.
33 The bill does not amend the Code provisions directing DPH to
34 work with the department of administrative services to allow
35 state employees to utilize the medical home system and to work

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1 with insurers and self-insured companies, if requested, to make
2 the medical home system available to individuals with private
3 health care coverage.
4 The bill provides for Medicaid eligibility of certain adults
5 with incomes at or below 133 percent of the federal poverty
6 level in accordance with the ACA. Additionally, the bill
7 requires that these newly eligible adults receive benefits
8 which are included in the medical assistance state plan
9 benefit package offered in the state as adjusted to provide
10 the essential health benefits required under the ACA, and as
11 approved by the United States secretary of health and human
12 services.
13 The bill directs the legislative council to establish a
14 legislative commission to review and make recommendations
15 for the formation and operation of integrated care models
16 (ICM) in the state. The bill describes ICMs as any care
17 delivery model that integrates providers and incorporates
18 a financial incentive to improve patient health outcomes,
19 improve care, and reduce costs. ICMs include but are not
20 limited to patient-centered medical homes or health homes,
21 accountable care organizations (ACOs), ACO-like models, and
22 other integrated and accountable health delivery models that
23 utilize value-based financing methodologies and emphasize
24 person-centered, coordinated, comprehensive care. The
25 legislative commission is directed to consult with advocates
26 representing patients, health care providers, health care
27 payers, and other appropriate parties in developing the
28 recommendations for ICMs; to specifically address certain
29 issues to review existing ICMs in other states as well as
30 those existing or proposed in the state Medicare Shared
31 Savings Program, the Pioneer ACO, and the Center for
32 Medicare and Medicaid Innovation State Innovation Models
33 Initiative application to implement a multipayer ACO including
34 Medicaid. The legislative commission is required to make its
35 recommendations to the governor and the general assembly by

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1 September 1, 2013.
2 The bill requires DHS to amend the medical assistance state
3 plan to implement the bill with respect to the provision of
4 medical homes and the coverage of certain low-income adults.
5 The bill takes effect upon enactment.

House File 84 - Introduced

HOUSE FILE 84
BY BRANDENBURG

A BILL FOR

1 An Act relating to and requiring the return of stolen
2 merchandise in the possession of a pawn shop owner or
3 operator, and providing penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1125YH (1) 85
rn/nh

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1 Section 1. NEW SECTION. **714.28 Pawn shops — stolen**
2 **merchandise — return to rightful owner.**
3 1. The governing body of a political subdivision which has
4 adopted an ordinance regulating the operation of pawn shops
5 shall include within the ordinance a provision requiring the
6 owner or operator of a pawn shop to return merchandise held
7 or offered for sale by the owner or operator which local,
8 state, or federal law enforcement officials have determined
9 to be stolen to the rightful owner of the merchandise. The
10 merchandise shall be returned by the owner or operator of the
11 pawn shop, or local law enforcement officials, to the owner
12 of the merchandise at no charge or cost to the owner. The
13 ordinance shall specify procedures and requirements regarding
14 verifying the identity of the owner of the stolen merchandise,
15 and that the merchandise was in fact reported as stolen
16 pursuant to a police report, national electronic database, or
17 other applicable means of notification.
18 2. In addition to any other penalty imposed for violation
19 of an ordinance described in subsection 1, if the political
20 subdivision issues a license or permit for the operation of
21 a pawn shop, the ordinance shall provide for the suspension,
22 revocation, or nonrenewal of the license or permit in the
23 event the ordinance is violated by an owner or operator. A
24 suspension, revocation, or nonrenewal shall not take effect
25 without notice and hearing.
26 *a.* Notice shall be delivered to the licensee or permittee
27 by regular mail addressed to the licensee or permittee at the
28 licensed premises a minimum of ten days prior to a date set
29 for hearing before a magistrate or district associate judge.
30 The notice shall inform the licensee or permittee of the time,
31 date, and place of hearing and the purpose of the hearing, and
32 shall set out briefly the reasons for the hearing.
33 *b.* A decision regarding whether to suspend or revoke
34 a license or permit, or deny its renewal, shall be at the
35 discretion of the magistrate or district associate judge,

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1 based upon the circumstances surrounding the violation and its
2 severity.
3 *c.* A licensee or permittee whose license or permit or
4 renewal has been revoked or denied because of a violation of
5 this section shall not be eligible for another such license
6 or permit for a period of one hundred eighty days after the
7 revocation or denial.
8 EXPLANATION
9 This bill requires the governing body of a political
10 subdivision in which an ordinance has been adopted regulating
11 the operation of pawn shops to include within the ordinance
12 a provision requiring the owner or operator of a pawn shop
13 to return merchandise held or offered for sale which local,
14 state, or federal law enforcement officials have determined to
15 be stolen. The bill requires the merchandise to be returned
16 to the owner of the merchandise without charge or cost to
17 the owner. The bill states that the ordinance shall specify
18 procedures and requirements regarding verifying the identity
19 of the owner of the stolen merchandise, and verifying that the
20 merchandise was in fact reported as stolen pursuant to a police
21 report, national electronic database, or other applicable means
22 of notification.
23 The bill provides that, in addition to any other penalty
24 imposed for violation of such an ordinance, if the political
25 subdivision issues a license or permit for the operation of
26 a pawn shop, the ordinance shall provide for the suspension,
27 revocation, or nonrenewal of the license or permit in the event
28 of a violation.

House File 85 - Introduced

HOUSE FILE 85
BY BRANDENBURG

A BILL FOR

1 An Act placing limitations on fees imposed for failure to
2 redeem a gift certificate, and including an applicability
3 date provision.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1149YH (1) 85
rn/nh

H.F. 85

Section 1. Section 556.9, subsection 2, Code 2013, is amended to read as follows:

2. An issuer of a gift certificate shall not deduct from the face value of the gift certificate any charge imposed due to the failure of the owner of the gift certificate to present the gift certificate in a timely manner~~,~~ for a period of three years from the date of issuance. Thereafter, an issuer shall not deduct any charge imposed due to the failure to present the gift certificate in a timely manner unless a valid and enforceable written contract exists between the issuer and the owner of the gift certificate pursuant to which the issuer regularly imposes such charges and does not regularly reverse or otherwise cancel them. For purposes of this subsection, *"gift certificate"* means a merchandise certificate or electronic gift card conspicuously designated as a gift certificate or electronic gift card, and generally purchased by a buyer for use by a person other than the buyer.

Sec. 2. APPLICABILITY. This Act applies to gift certificates issued on or after July 1, 2013.

EXPLANATION

This bill relates to amounts which the issuer of a gift certificate may deduct from the face value of the certificate based on the failure of the owner to present the certificate for payment in a timely manner.

Currently, an amount may not be deducted unless a valid and enforceable written contract exists between the issuer and the owner of the gift certificate pursuant to which the issuer regularly imposes charges for failure to present and does not regularly reverse or otherwise cancel them. The bill makes this provision applicable only after a three-year time frame has elapsed from the date of issuance of the gift certificate, for gift certificates issued on or after July 1, 2013. The result is that no deduction is authorized from the face amount of a gift certificate for the three-year period following issuance for certificates issued on or after July 1, 2013.

House File 86 - Introduced

HOUSE FILE 86
BY GASKILL

A BILL FOR

1 An Act relating to the validity of a power of attorney.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1376YH (2) 85
rh/nh

H.F. 86

1 Section 1. NEW SECTION. **633B.3 Notarized acknowledgment**
2 **— training.**
3 1. A power of attorney is not valid unless the attorney in
4 fact or agent provides a signed, notarized affidavit, along
5 with the power of attorney, acknowledging an understanding
6 of the fiduciary responsibilities of the attorney in fact or
7 agent to the principal. Such acknowledgment of fiduciary
8 responsibilities shall include but not be limited to statements
9 that the attorney in fact or agent will act in good faith on the
10 principal's behalf, avoid any act of self-dealing, act only as
11 authorized by the power of attorney, and provide all material
12 facts to the principal.
13 2. Prior to signing the required affidavit pursuant to
14 subsection 1, the attorney in fact or agent shall complete
15 training regarding the specific fiduciary duties and
16 responsibilities relating to the power of attorney.
17 EXPLANATION
18 This bill relates to the validity of a power of attorney.
19 The bill provides that a power of attorney is not
20 valid unless the attorney in fact or agent provides a
21 signed, notarized affidavit, along with the power of
22 attorney, acknowledging an understanding of the fiduciary
23 responsibilities of the attorney in fact or agent to the
24 principal. Such acknowledgment of fiduciary responsibilities
25 shall include but not be limited to statements that the
26 attorney in fact or agent will act in good faith on the
27 principal's behalf, avoid any act of self-dealing, act only
28 as authorized by the power of attorney, and provide all
29 material facts to the principal. Prior to signing the required
30 affidavit, the attorney in fact or agent is required to
31 complete training regarding the specific fiduciary duties and
32 responsibilities relating to the power of attorney.
33 A power of attorney is a written document whereby a person
34 (the principal) gives another person (attorney in fact or
35 agent) the authority to act on the person's behalf in certain

H.F. 86

1 financial or health care matters.

House File 87 - Introduced

HOUSE FILE 87
BY GASKILL

A BILL FOR

1 An Act requiring that certain intergovernmental agreements
2 include a provision for mediation and arbitration.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1027HH (3) 85
aw/sc

H.F. 87

1 Section 1. Section 28E.5, Code 2013, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 5A. For an agreement entered into with a
4 political subdivision of this state on or after July 1, 2013,
5 that the parties agree to submit controversies arising under
6 the agreement to mediation, conducted pursuant to chapter 679C,
7 and, if unresolved, to arbitration, conducted pursuant to
8 chapter 679A. This subsection shall not apply to agreements
9 entered into under this chapter with any public agency of any
10 other state or the United States or to agreements between
11 administrative departments, commissions, or boards of the state
12 government as contemplated in section 679A.19.
13 EXPLANATION
14 This bill requires that intergovernmental agreements
15 entered into pursuant to Code chapter 28E with a political
16 subdivision include a provision that the parties agree to
17 submit controversies arising under the agreement to mediation,
18 and, if unresolved, to arbitration. The requirements of the
19 bill shall not apply to 28E agreements with any public agency
20 of any other state or the United States or to agreements
21 between administrative departments, commissions, or boards of
22 the state government.

House File 88 - Introduced

HOUSE FILE 88
BY FISHER

A BILL FOR

1 An Act relating to a right of subrogation by an insurer in a
2 criminal case.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1575YH (2) 85
jm/nh

H.F. 88

Section 1. Section 602.8107, subsection 2, paragraph c, subparagraph (1), Code 2013, is amended to read as follows:

(1) Pecuniary damages as defined in section 910.1, subsection 3, payable to a victim other than an insurer.

Sec. 2. Section 602.8107, subsection 2, paragraph c, Code 2013, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) Pecuniary damages as defined in section 910.1, subsection 3, payable to an insurer.

Sec. 3. Section 910.1, subsections 3 and 5, Code 2013, are amended to read as follows:

3. *"Pecuniary damages"* means all damages ~~to the extent not paid by an insurer,~~ which a victim could recover against the offender in a civil action arising out of the same facts or event, except punitive damages and damages for pain, suffering, mental anguish, and loss of consortium. Without limitation, *"pecuniary damages"* includes damages for wrongful death and expenses incurred for psychiatric or psychological services or counseling or other counseling for the victim which became necessary as a direct result of the criminal activity.

5. *"Victim"* means a person who has suffered pecuniary damages as a result of the offender's criminal activities. ~~However, for purposes of this chapter, an~~ An insurer ~~is not~~ shall be considered a victim and ~~does not have~~ has a right of subrogation. ~~The crime victim compensation program is not an insurer for purposes of this chapter, and~~ In addition, the right of subrogation provided to the crime victim compensation program by section 915.92 does not prohibit restitution to the crime victim compensation program.

Sec. 4. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

EXPLANATION

This bill relates to a right of subrogation by an insurer in a criminal case.

The bill provides that an insurer has the right of subrogation against the perpetrator of a crime if the insurer

H.F. 88

1 reimburses the victim as a result of the perpetrator's crime.
2 Under the bill, an insurer may also be considered a victim of
3 the perpetrator's crime and shall be included in the statement
4 of pecuniary damages to victims prepared by the county attorney
5 pursuant to Code section 910.3.
6 Current law grants the crime victim compensation fund a
7 right of subrogation against the perpetrator of a crime but
8 prohibits an insurer from having a right of subrogation.
9 If the perpetrator of a crime makes a restitution payment
10 through the clerk of the district court under the bill, Code
11 section 602.8107 specifies that the insurer be reimbursed after
12 all other restitution and costs have been paid.
13 The bill may include a state mandate as defined in Code
14 section 25B.3. The bill makes inapplicable Code section 25B.2,
15 subsection 3, which would relieve a political subdivision from
16 complying with a state mandate if funding for the cost of
17 the state mandate is not provided or specified. Therefore,
18 political subdivisions are required to comply with any state
19 mandate included in the bill.

House File 89 - Introduced

HOUSE FILE 89
BY ABDUL-SAMAD

A BILL FOR

1 An Act relating to a foreign language requirement at the
2 elementary school level and including effective date
3 provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1372HH (3) 85
kh/sc

H.F. 89

1 Section 1. Section 256.11, subsection 3, Code 2013, is
2 amended to read as follows:
3 3. The following areas shall be taught in grades one through
4 six: English-language arts, social studies, mathematics,
5 science, health, age-appropriate and research-based human
6 growth and development, physical education, traffic safety,
7 music, and visual art. The health curriculum shall include the
8 characteristics of communicable diseases including acquired
9 immune deficiency syndrome. At least one foreign language
10 shall be taught in grades one through six in school districts.
11 The state board as part of accreditation standards shall adopt
12 curriculum definitions for implementing the elementary program.
13 Sec. 2. FOREIGN LANGUAGE FOR ELEMENTARY STUDENTS —— SCHOOL
14 DISTRICT PLAN. The board of directors of each school district
15 shall develop and implement a plan to teach at least one
16 foreign language in grades one through six by the school year
17 beginning July 1, 2015.
18 Sec. 3. STATE MANDATE FUNDING SPECIFIED. In accordance
19 with section 25B.2, subsection 3, the state cost of requiring
20 compliance with any state mandate included in this Act shall
21 be paid by a school district from state school foundation aid
22 received by the school district under section 257.16. This
23 specification of the payment of the state cost shall be deemed
24 to meet all of the state funding-related requirements of
25 section 25B.2, subsection 3, and no additional state funding
26 shall be necessary for the full implementation of this Act
27 by and enforcement of this Act against all affected school
28 districts.
29 Sec. 4. EFFECTIVE DATE. The following provision or
30 provisions of this Act take effect July 1, 2015:
31 1. The section of this Act amending section 256.11,
32 subsection 3.
33 EXPLANATION
34 This bill requires school districts to develop and implement
35 a plan to teach at least one foreign language in grades one

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1 through six by the school year beginning July 1, 2015. The
2 provision that amends the educational standards to require
3 school districts to teach at least one foreign language in
4 grades one through six takes effect July 1, 2015.
5 The bill may include a state mandate as defined in Code
6 section 25B.3. The bill requires that the state cost of
7 any state mandate included in the bill be paid by a school
8 district from state school foundation aid received by the
9 school district under Code section 257.16. The specification
10 is deemed to constitute state compliance with any state mandate
11 funding-related requirements of Code section 25B.2. The
12 inclusion of this specification is intended to reinstate the
13 requirement of political subdivisions to comply with any state
14 mandates included in the bill.

House File 90 - Introduced

HOUSE FILE 90
BY ALONS, ROGERS, GASSMAN,
SHAW, COWNIE, and SHEETS

A BILL FOR

1 An Act allowing the use of a trained dog to retrieve a wounded
2 deer and providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1147YH (5) 85
av/nh

H.F. 90

Section 1. NEW SECTION. **481A.56A Retrieval of wounded deer by trained dogs.**

A person having a valid hunting license and a valid deer hunting license who has wounded a deer while hunting may use a trained blood-scent tracking dog to locate and retrieve the wounded animal. The hunter or any person in the company of the hunter shall have the dog leashed and under control at all times during the search. A person shall obtain permission from the owner or tenant of private property before using such a dog to locate a wounded deer on the private property. The commission shall adopt rules pursuant to chapter 17A to implement this section.

Sec. 2. Section 805.8B, subsection 3, paragraph c, Code 2013, is amended to read as follows:

c. For violations of sections 481A.6, 481A.21, 481A.22, 481A.26, 481A.50, 481A.56, 481A.56A, 481A.60 through 481A.62, 481A.83, 481A.84, 481A.92, 481A.123, 481A.145, subsection 3, sections 483A.7, 483A.8, 483A.23, 483A.24, and 483A.28, the scheduled fine is twenty-five dollars.

EXPLANATION

This bill creates new Code section 481A.56A to allow a hunter with a valid hunting license and deer hunting license who wounds a deer while hunting to use a trained blood-scent tracking dog to locate and retrieve the wounded animal. The hunter or any person in the company of the hunter shall have the dog leashed and under control at all times during the search. A person must obtain permission from the owner or tenant before using such a dog to locate a wounded deer on private property. The natural resource commission shall adopt rules pursuant to Code chapter 17A to implement this provision.

A violation of the new provision is punishable by a scheduled fine of $25.

House File 91 - Introduced

HOUSE FILE 91
BY ALONS, HIGHFILL, SCHULTZ, SHEETS, DOLECHECK, FRY, BRANDENBURG, GASSMAN, SALMON, and KOESTER

A BILL FOR

1 An Act relating to the exclusion from the computation of net
2 income of the net capital gain from the sale of a business
3 or of certain business property and including retroactive
4 applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1067YH (6) 85
mm/sc

H.F. 91

1 Section 1. Section 422.7, subsection 21, paragraph a, Code
2 2013, is amended to read as follows:
3 *a.* (1) Net capital gain from the sale of real property or
4 equipment used in a business, in which the taxpayer materially
5 participated for ~~ten~~ three years, as defined in section 469(h)
6 of the Internal Revenue Code, and which has been held for a
7 minimum of ~~ten~~ three years, or from the sale of a business,
8 as defined in section 423.1, in which the taxpayer materially
9 participated for ~~ten~~ three years, as defined in section 469(h)
10 of the Internal Revenue Code, and which has been held for a
11 minimum of ~~ten~~ three years. The sale of a business means the
12 sale of all or substantially all of the tangible personal
13 property or service of the business.
14 (a) However, where the business is sold to individuals who
15 are all lineal descendants of the taxpayer, the taxpayer does
16 not have to have materially participated in the business in
17 order for the net capital gain from the sale to be excluded
18 from taxation.
19 (b) However, in lieu of the net capital gain deduction
20 in this paragraph and paragraphs *"b"*, *"c"*, and *"d"*, where the
21 business is sold to individuals who are all lineal descendants
22 of the taxpayer, the amount of capital gain from each capital
23 asset may be subtracted in determining net income.
24 (2) For purposes of this paragraph *"a"*, *"lineal descendant"*
25 means children of the taxpayer, including legally adopted
26 children and biological children, stepchildren, grandchildren,
27 great-grandchildren, and any other lineal descendants of the
28 taxpayer.
29 Sec. 2. RETROACTIVE APPLICABILITY. This Act applies
30 retroactively to January 1, 2013, for assets acquired, and for
31 tax years beginning, on or after that date.
32 EXPLANATION
33 Current law provides an exclusion from the computation of
34 net income for the net capital gain from the sale of a business
35 or from the sale of real property used in a business if the

H.F. 91

1 taxpayer materially participated in the business for 10 years
2 and if the property is held for 10 years or more.
3 This bill expands the exclusion to include the sale of
4 business equipment and reduces the required holding and
5 participation periods to three years.
6 The bill applies retroactively to January 1, 2013, for
7 assets acquired and for tax years beginning on or after that
8 date.

House File 92 - Introduced

HOUSE FILE 92
BY ISENHART

A BILL FOR

1 An Act relating to the natural resources and outdoor recreation
2 trust fund by increasing the sales and use tax rates and
3 including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1104YH (4) 85
da/sc

H.F. 92

1 Section 1. Section 423.2, subsection 1, unnumbered
2 paragraph 1, Code 2013, is amended to read as follows:
3 There is imposed a tax of six and three-eighths percent upon
4 the sales price of all sales of tangible personal property,
5 consisting of goods, wares, or merchandise, sold at retail in
6 the state to consumers or users except as otherwise provided
7 in this subchapter.
8 Sec. 2. Section 423.2, subsections 2 and 3, Code 2013, are
9 amended to read as follows:
10 2. A tax of six and three-eighths percent is imposed upon
11 the sales price of the sale or furnishing of gas, electricity,
12 water, heat, pay television service, and communication service,
13 including the sales price from such sales by any municipal
14 corporation or joint water utility furnishing gas, electricity,
15 water, heat, pay television service, and communication service
16 to the public in its proprietary capacity, except as otherwise
17 provided in this subchapter, when sold at retail in the state
18 to consumers or users.
19 3. A tax of six and three-eighths percent is imposed upon
20 the sales price of all sales of tickets or admissions to places
21 of amusement, fairs, and athletic events except those of
22 elementary and secondary educational institutions. A tax of
23 six and three-eighths percent is imposed on the sales price of
24 an entry fee or like charge imposed solely for the privilege of
25 participating in an activity at a place of amusement, fair, or
26 athletic event unless the sales price of tickets or admissions
27 charges for observing the same activity are taxable under this
28 subchapter. A tax of six and three-eighths percent is imposed
29 upon that part of private club membership fees or charges paid
30 for the privilege of participating in any athletic sports
31 provided club members.
32 Sec. 3. Section 423.2, subsection 4, paragraph a, Code 2013,
33 is amended to read as follows:
34 *a.* A tax of six and three-eighths percent is imposed upon
35 the sales price derived from the operation of all forms of

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amusement devices and games of skill, games of chance, raffles, and bingo games as defined in chapter 99B, and card game tournaments conducted under section 99B.7B, that are operated or conducted within the state, the tax to be collected from the operator in the same manner as for the collection of taxes upon the sales price of tickets or admission as provided in this section. Nothing in this subsection shall legalize any games of skill or chance or slot-operated devices which are now prohibited by law.

Sec. 4. Section 423.2, subsection 5, Code 2013, is amended to read as follows:

5. There is imposed a tax of six and three-eighths percent upon the sales price from the furnishing of services as defined in section 423.1.

Sec. 5. Section 423.2, subsection 7, paragraph a, unnumbered paragraph 1, Code 2013, is amended to read as follows:

A tax of six and three-eighths percent is imposed upon the sales price from the sales, furnishing, or service of solid waste collection and disposal service.

Sec. 6. Section 423.2, subsection 8, paragraph a, Code 2013, is amended to read as follows:

a. A tax of six and three-eighths percent is imposed on the sales price from sales of bundled transactions. For the purposes of this subsection, a *"bundled transaction"* is the retail sale of two or more distinct and identifiable products, except real property and services to real property, which are sold for one nonitemized price. A *"bundled transaction"* does not include the sale of any products in which the sales price varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction.

Sec. 7. Section 423.2, subsection 9, Code 2013, is amended to read as follows:

9. A tax of six and three-eighths percent is imposed upon the sales price from any mobile telecommunications service,

H.F. 92

1 including all paging services, that this state is allowed
2 to tax pursuant to the provisions of the federal Mobile
3 Telecommunications Sourcing Act, Pub. L. No. 106-252, 4 U.S.C.
4 § 116 et seq. For purposes of this subsection, taxes on mobile
5 telecommunications service, as defined under the federal Mobile
6 Telecommunications Sourcing Act that are deemed to be provided
7 by the customer's home service provider, shall be paid to
8 the taxing jurisdiction whose territorial limits encompass
9 the customer's place of primary use, regardless of where the
10 mobile telecommunications service originates, terminates,
11 or passes through and shall in all other respects be taxed
12 in conformity with the federal Mobile Telecommunications
13 Sourcing Act. All other provisions of the federal Mobile
14 Telecommunications Sourcing Act are adopted by the state of
15 Iowa and incorporated into this subsection by reference. With
16 respect to mobile telecommunications service under the federal
17 Mobile Telecommunications Sourcing Act, the director shall, if
18 requested, enter into agreements consistent with the provisions
19 of the federal Act.
20 Sec. 8. Section 423.2, subsection 11, paragraph b,
21 subparagraph (2), Code 2013, is amended to read as follows:
22 (2) Transfer from the remaining revenues the amounts
23 required under Article VII, section 10, of the Constitution
24 of the State of Iowa to the natural resources and outdoor
25 recreation trust fund created in section 461.31~~, if applicable~~.
26 Sec. 9. Section 423.2, subsection 13, Code 2013, is amended
27 to read as follows:
28 13. The sales tax rate of six and three-eighths percent is
29 reduced to five and three-eighths percent on January 1, 2030.
30 Sec. 10. Section 423.5, unnumbered paragraph 1, Code 2013,
31 is amended to read as follows:
32 Except as provided in subsection 3, an excise tax at the
33 rate of six and three-eighths percent of the purchase price or
34 installed purchase price is imposed on the following:
35 Sec. 11. Section 423.5, subsection 9, Code 2013, is amended

H.F. 92

to read as follows:

9. The use tax rate of six and three-eighths percent is reduced to five and three-eighths percent on January 1, 2030.

Sec. 12. Section 423.43, subsection 1, paragraph b, Code 2013, is amended to read as follows:

b. Subsequent to the deposit into the general fund of the state ~~and after the transfer of such~~ pursuant to paragraph *"a"*, the department shall do the following in the order prescribed:

(1) Transfer the revenues collected under chapter 423B~~, the department shall transfer~~.

(2) Transfer from the remaining revenues the amounts required under Article VII, section 10, of the Constitution of the State of Iowa to the natural resources and outdoor recreation trust fund created in section 461.31.

(3) Transfer one-sixth of such remaining revenues to the secure an advanced vision for education fund created in section 423F.2. This ~~paragraph~~ subparagraph (3) is repealed December 31, 2029.

Sec. 13. PURPOSE. The purpose of this Act is to provide for the implementation of Article VII, section 10, of the Constitution of the State of Iowa by fully funding the natural resources and outdoor recreation trust fund as created in section 461.31, pursuant to Article VII, section 10, of the Constitution of the State of Iowa.

Sec. 14. EMERGENCY RULES. The department of revenue shall adopt emergency rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this Act. The rules shall be effective immediately upon filing with the administrative rules coordinator unless a later date is specified in the rules, but not later than July 1, 2013. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 15. EFFECTIVE DATE. The following provision or provisions of this Act take effect:

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1 1. Except as provided in subsection 2, this Act takes effect
2 on July 1, 2013.
3 2. The section of this Act requiring the department of
4 revenue to adopt emergency rules, being deemed of immediate
5 importance, takes effect upon enactment.
6 EXPLANATION
7 This bill relates to the sales tax imposed on the sale of
8 tangible personal property and the furnishing of enumerated
9 services and to an amendment to the Constitution of the State
10 of Iowa ratified on November 2, 2010, dedicating a portion of
11 state revenue for purposes of benefiting natural resources,
12 outdoor recreation, and soil conservation (Article VII,
13 section 10). The amendment authorizes the general assembly to
14 implement its provisions.
15 The constitutional amendment creates a natural resources and
16 outdoor recreation trust fund (trust fund) within the state
17 treasury. The trust fund and allocations from the fund are
18 codified in Code chapter 461. Moneys in the trust fund cannot
19 be used for any purpose other than protecting and enhancing
20 water quality and natural areas in this state including
21 parks, trails, and fish and wildlife habitat, and conserving
22 agricultural soils in this state. No revenue is credited to
23 the trust fund until the sales tax rate is increased. Whenever
24 the rate is increased, the amount generated by the increase is
25 credited to the fund, but the amount credited cannot exceed the
26 amount that a rate of 3/8 of 1 percent would generate.
27 Currently, the tax on sales and services in Iowa is imposed
28 at the rate of 6 percent. The bill provides for an increase
29 in the rate to 6 and 3/8 percent, and the transfer of these
30 moneys into the trust fund. In 2012, the General Assembly
31 enacted S.F. 2329 (2012 Iowa Acts, ch. 1098) which provided for
32 the transfer of sales tax revenues deposited into the general
33 fund of the state (general fund) into the trust fund when
34 applicable. The bill provides for the same tax rate increase
35 to the use tax and transfer of those revenues from the general

H.F. 92

1 fund to the trust fund.
2 The bill does not affect the 5 percent rate imposed on
3 vehicles subject to the issuance of a certificate of title,
4 the use of manufactured housing, or the use of certain leased
5 vehicles.
6 The bill takes effect on July 1, 2013, except for a provision
7 requiring the department of revenue to adopt emergency rules,
8 which takes effect upon enactment.

House File 93 - Introduced

HOUSE FILE 93
BY MURPHY, HALL, KAJTAZOVIC, RUFF, T. OLSON, STUTSMAN, WESSEL-KROESCHELL, MUHLBAUER, KRESSIG, JACOBY, ISENHART, GASKILL, BERRY, KEARNS, KELLEY, STAED, STECKMAN, BEARINGER, M. SMITH, DAWSON, HANSON, COHOON, H. MILLER, OURTH, LYKAM, LENSING, WINCKLER, WOLFE, THEDE, ANDERSON, RUNNING-MARQUARDT, FORBES, HEDDENS, T. TAYLOR, MASCHER, McCARTHY, DUNKEL, THOMAS, WOOD, GAINES, HUNTER, LUNDBY, RIDING, R. OLSON, OLDSON, and ABDUL-SAMAD

A BILL FOR

1 An Act relating to bidding for purchases through a competitive
2 bidding process by the state or political subdivisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1078YH (10) 85
je/nh

H.F. 93

1 Section 1. Section 8A.311, Code 2013, is amended by adding
2 the following new subsections:
3 NEW SUBSECTION. 12A. *a.* If the lowest responsive bid
4 received by the state or a political subdivision for products
5 or other purchases is from an out-of-state business and totals
6 less than five hundred thousand dollars, and an Iowa-based
7 business submitted a bid which is within five percent or ten
8 thousand dollars of the price of the lowest bid, whichever
9 is less, the Iowa-based business which submitted the lowest
10 responsive bid shall be notified and shall be allowed to match
11 the lowest bid before a contract is awarded.
12 *b.* This subsection does not apply to a request for bids or
13 proposals for products or other purchases associated with the
14 following:
15 (1) Road or bridge construction or repair.
16 (2) Architectural or engineering services.
17 *c.* This subsection does not apply to procurement of or for
18 public improvement projects.
19 NEW SUBSECTION. 12B. *a.* A response to a request for
20 bids or proposals for products or other purchases by the
21 state or a political subdivision which totals less than five
22 hundred thousand dollars in value shall contain the following
23 information:
24 (1) The percentage of the ownership of the submitting
25 business which is held by Iowa residents.
26 (2) The percentage of the employees who will be carrying out
27 work in connection with the contract who are Iowa residents.
28 For the purposes of this paragraph, *"employee"* includes
29 part-time, temporary, contract, and substitute employees, and
30 includes employees of any contractors or subcontractors.
31 (3) An estimate of the percentage of purchases to be made by
32 the submitting business in connection with the contract that
33 will be made from Iowa-based businesses.
34 (4) The amount of property tax paid by the submitting
35 business during the most recently completed fiscal year for

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1 which such a figure is available.
2 *b.* This subsection does not apply to a request for bids or
3 proposals for products or other purchases associated with the
4 following:
5 (1) Road or bridge construction or repair.
6 (2) Architectural or engineering services.
7 *c.* This subsection does not apply to procurement of or for
8 public improvement projects.
9 EXPLANATION
10 This bill provides that for purchases initiated by the
11 state or a political subdivision through a competitive bidding
12 process, if the lowest responsive bid received is from an
13 out-of-state business and totals less than $500,000, and an
14 in-state business submitted a bid which is within 5 percent or
15 $10,000 of the price of the lowest responsive bid, whichever
16 is less, the state or political subdivision shall notify the
17 in-state business which submitted the lowest responsive bid
18 and allow it to match the lowest responsive bid from the
19 out-of-state business before a contract is awarded.
20 The bill also provides that a response to a request for
21 bid or proposal for a purchase by the state or a political
22 subdivision which is less than $500,000 in value must contain
23 certain information. The required information is the
24 percentage of the ownership of the submitting business which is
25 held by Iowa residents; the percentage of employees who will be
26 carrying out work in connection with the contract who are Iowa
27 residents; an estimate of the percentage of purchases to be
28 made by the submitting business in connection with the contract
29 that will be made from Iowa-based businesses; and the amount
30 of property tax paid by the submitting business during the
31 most recently completed fiscal year for which such a figure is
32 available. For the purposes of determining how many employees
33 carrying out work in connection with the contract will be
34 Iowa residents, "employee" includes part-time, temporary,
35 contract, and substitute employees, and includes employees of

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1 any contractors or subcontractors.
2 The bill does not apply to a request for bids or proposals
3 for products or other purchases associated with road or bridge
4 construction or repair, to a request for bids or proposals
5 for products or other purchases associated with architectural
6 or engineering services, or to procurement of or for public
7 improvement projects.

House File 94 - Introduced

HOUSE FILE 94
BY H. MILLER, BERRY, GAINES, HUNTER, KELLEY, LENSING, WINCKLER, WESSEL-KROESCHELL, DAWSON, WOLFE, THEDE, ANDERSON, KEARNS, RUNNING-MARQUARDT, THOMAS, BEARINGER, OURTH, DUNKEL, HEDDENS, MASCHER, M. SMITH, HEATON, MURPHY, and GASKILL

A BILL FOR

1 An Act establishing a notification requirement for mammogram
2 reports.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1137YH (5) 85
ad/nh

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1 Section 1. Section 136C.3, subsection 10, Code 2013, is
2 amended to read as follows:
3 10. *a.* Adopt rules specifying the minimum training and
4 performance standards for an individual using a radiation
5 machine for mammography, and other rules necessary to
6 implement section 136C.15. The rules shall complement federal
7 requirements applicable to similar radiation machinery and
8 shall not be less stringent than those federal requirements.
9 *b.* (1) Adopt rules to require that, by January 1, 2014,
10 a facility where mammography services are performed shall
11 include information on breast density in mammogram reports sent
12 to patients pursuant to regulations implementing the federal
13 Mammography Quality Standards Act of 1992, Pub. L. No. 102-539,
14 as amended, and include in the report sent to a patient who
15 has dense breast tissue, as determined by the interpreting
16 physician based on standards promulgated by the American
17 college of radiology, a notice that contains the following
18 language:
19 Your mammogram demonstrates that you may have dense breast
20 tissue, which can hide cancer or other abnormalities. A
21 report of your mammography results, which contains information
22 about your breast density, has been sent to your referring
23 physician's office, and you should contact your physician if
24 you have any questions or concerns about this report.
25 (2) Nothing in this lettered paragraph "*b*" shall be
26 construed to create or impose liability on a facility where
27 mammography services are performed beyond the duty to provide
28 notice as set forth in this lettered paragraph "*b*".
29 (3) Nothing in this lettered paragraph "*b*" shall be deemed
30 to require a notice that is inconsistent with the provisions
31 of the federal Mammography Quality Standards Act of 1992, Pub.
32 L. No. 102-539, as amended, or any regulations promulgated
33 pursuant to that Act.
34 EXPLANATION
35 This bill establishes a notification requirement for

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1 mammogram reports. The bill directs the department of public
2 health to adopt rules that require a facility performing
3 mammography services to include information on breast density
4 in mammogram reports that are sent to patients pursuant to
5 federal law and rules. If a patient has dense breast tissue,
6 as determined by the standards of the American college of
7 radiology, the facility providing mammography services must
8 send a notice containing the language provided in the bill.
9 The notice informs the patient that the mammogram demonstrates
10 the patient may have dense breast tissue which can hide cancer
11 or other abnormalities and directs the patient to contact the
12 physician with further questions or concerns.
13 The bill states that it does not impose liability on the
14 facility performing mammography services beyond the duty to
15 provide the breast density notice.
16 The facility providing mammography services must comply with
17 the notice requirement by January 1, 2014.

House Joint Resolution 5 - Introduced

HOUSE JOINT RESOLUTION 5
BY ISENHART, GASKILL, KELLEY, ANDERSON, KEARNS, WOLFE, STECKMAN, KAJTAZOVIC, LENSING, HUNTER, WINCKLER, MASCHER, WESSEL-KROESCHELL, GAINES, HANSON, R. OLSON, RIDING, STAED, JACOBY, DAWSON, FORBES, and M. SMITH

HOUSE JOINT RESOLUTION

1 A Joint Resolution requesting the call of a constitutional
2 convention in order to propose an amendment to the
3 Constitution of the United States to allow Congress and the
4 states to prohibit or otherwise regulate the expenditure
5 of funds for political speech by any corporation, limited
6 liability company, or other corporate entity.
7 WHEREAS, by a ruling of the United States supreme court,
8 a corporation, limited liability company, or other type of
9 corporate entity is now accorded greater rights of political
10 activity than was previously lawful; and
11 WHEREAS, those rights now allow a corporation, a limited
12 liability company, or other type of corporate entity to use
13 general treasury funds to make independent expenditures for
14 electioneering communications or for speech that expressly
15 advocates the election or defeat of a candidate for public
16 office; and
17 WHEREAS, this ruling overturns a century of legislative
18 and judicial determinations making a distinction between the
19 political free speech of natural persons and political activity
20 by corporate entities; and
21 WHEREAS, a corporate entity has far greater economic
22 resources than does a natural person and may use those
23 resources to advance political ideas; and

TLSB 1186HH (2) 85
jr/rj

House Joint Resolution 5 - Introduced

24 WHEREAS, restriction and regulation of corporate political
25 activity is essential to prevent domination of the political
26 process by corporate entities; NOW THEREFORE,
27 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1186HH (2) 85
jr/rj

H.J.R. 5

1 That pursuant to Article V of the Constitution of the United
2 States, the general assembly, as the legislature of the state
3 of Iowa, makes application to the Congress of the United States
4 to call a convention for the specific and exclusive purpose
5 of proposing an amendment to the Constitution of the United
6 States, for submission to the states for ratification.
7 BE IT FURTHER RESOLVED, That if, within sixty days after the
8 legislatures of two-thirds of the states make application for
9 such convention, Congress proposes and submits to the states
10 for ratification an amendment to the Constitution of the United
11 States which empowers Congress and the states to regulate the
12 expenditure of funds for political speech by any corporation,
13 limited liability company, or other corporate entity, in a
14 manner substantially similar to the manner contained in this
15 Joint Resolution, then this application for a convention shall
16 no longer be of any force and effect.
17 BE IT FURTHER RESOLVED, That if the convention is not
18 limited to the specific and exclusive purposes of this Joint
19 Resolution, this application and request shall be null and
20 void, and shall be rescinded and of no effect.
21 BE IT FURTHER RESOLVED, That this application constitutes
22 a continuing application in accordance with Article V of the
23 Constitution of the United States, until at least two-thirds of
24 the legislatures of the several states have made application
25 for a similar convention under Article V, or the Congress has
26 proposed the amendment called for by this Joint Resolution, or
27 the general assembly acts to withdraw this application.
28 "ARTICLE
29 SECTION 1. The sovereign right of the people to govern
30 being essential to a free democracy, Congress and the states
31 may prohibit or otherwise regulate the expenditure of funds for
32 political speech by any corporation, limited liability company,
33 or other corporate entity.
34 SEC. 2. Nothing contained in this article shall be construed
35 to abridge the freedom of the press."; and

H.J.R. 5

1 BE IT FURTHER RESOLVED, That the secretary of state
2 shall transmit certified copies of this Joint Resolution
3 to the president and secretary of the United States
4 senate, the speaker and clerk of the United States house of
5 representatives, the presiding officer in each house of the
6 legislature in each of the states in the union, and each member
7 of the Iowa congressional delegation.
8 EXPLANATION
9 This joint resolution constitutes a petition requesting the
10 United States Congress to call a constitutional convention in
11 order to propose an amendment to the Constitution of the United
12 States and submit it to the states to allow Congress and the
13 states to prohibit or regulate the expenditure of funds for
14 political speech by any corporation, limited liability company,
15 or other corporate entity.

House Study Bill 78 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
TRANSPORTATION BILL)

A BILL FOR

1 An Act relating to matters under the purview of the
2 department of transportation, including the use of
3 information contained in electronic driver and nonoperator
4 identification records, grounds for disqualification of
5 commercial vehicle operators, provisions for the issuance
6 of temporary restricted licenses for persons convicted of
7 operating while intoxicated, registration fees for electric
8 vehicles, and the administration of highway contracts, and
9 including applicability date provisions.
10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1298DP (6) 85
dea/nh

S.F. _____ H.F. _____

1 Section 1. Section 22.7, Code 2013, is amended by adding the
2 following new subsection:
3 NEW SUBSECTION. 65. Personal information contained on
4 electronic driver's license or nonoperator's identification
5 card records that is provided by the licensee or card holder to
6 the department of transportation for use by law enforcement,
7 first responders, emergency medical service providers, and
8 other medical personnel responding to or assisting with an
9 emergency.
10 Sec. 2. Section 321.208, subsection 6, unnumbered paragraph
11 1, Code 2013, is amended to read as follows:
12 A person is disqualified from operating a commercial motor
13 vehicle if the person receives convictions for committing
14 within any three-year period two or more of the following
15 offenses while operating a commercial motor vehicle, or
16 while operating a noncommercial motor vehicle and holding
17 a commercial driver's license if the convictions result in
18 the revocation, cancellation, or suspension of the person's
19 commercial driver's license or noncommercial motor vehicle
20 driving privileges:
21 Sec. 3. Section 321.208, subsection 6, Code 2013, is amended
22 by adding the following new paragraphs:
23 NEW PARAGRAPH. *i.* Violating a state or local law or
24 ordinance on motor vehicle traffic control prohibiting texting
25 while driving a commercial motor vehicle.
26 NEW PARAGRAPH. *j.* Violating a state or local law or
27 ordinance on motor vehicle traffic control restricting or
28 prohibiting the use of a hand-held mobile telephone while
29 driving a commercial motor vehicle.
30 Sec. 4. Section 321J.17, subsections 1 and 3, Code 2013, are
31 amended to read as follows:
32 1. If the department revokes a person's driver's license
33 or nonresident operating privilege under this chapter, the
34 department shall assess the person a civil penalty of two
35 hundred dollars. The money collected by the department under

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this section shall be transmitted to the treasurer of state who shall deposit one-half of the money in the separate fund established in section 915.94 and one-half of the money in the general fund of the state. A temporary restricted license shall not be issued unless an ignition interlock device has been installed pursuant to section 321J.4. ~~A driver's license or nonresident operating privilege shall not be reinstated unless proof of deinstallation of an ignition interlock device installed pursuant to section 321J.4 has been submitted to the department.~~ Except as provided in section 321.210B, a temporary restricted license shall not be issued or a driver's license or nonresident operating privilege reinstated until the civil penalty has been paid. A person assessed a penalty under this section may remit the civil penalty along with a processing fee of five dollars to a county treasurer authorized to issue driver's licenses under chapter 321M, or the civil penalty may be paid directly to the department.

3. The department shall also require certification of installation of an ignition interlock device of a type approved by the commissioner of public safety on all motor vehicles owned or operated by any person seeking reinstatement following a second or subsequent revocation under section 321J.4, 321J.9, or 321J.12~~, unless such a person has previously received a temporary restricted license during the term of the revocation as authorized by this chapter~~. The requirement for the installation of an approved ignition interlock device shall be for one year from the date of reinstatement unless a ~~different~~ longer time period is required by statute. The one-year period a person is required to maintain an ignition interlock device under this subsection shall be reduced by any period of time the person held a valid temporary restricted license during the revocation for the occurrence from which the arrest arose. The person shall not operate any motor vehicle which is not equipped with an approved ignition interlock device during the period in which an ignition interlock device must be

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1 maintained, and the department shall not grant reinstatement
2 unless the person certifies installation of an ignition
3 interlock device as required in this subsection.
4 Sec. 5. Section 321J.20, subsection 1, paragraph d, Code
5 2013, is amended to read as follows:
6 *d.* Following the applicable minimum period of ineligibility,
7 a temporary restricted license under this subsection shall
8 not be issued until the applicant installs an ignition
9 interlock device of a type approved by the commissioner of
10 public safety on all motor vehicles owned or operated by the
11 applicant in accordance with section 321J.2, 321J.4, 321J.9,
12 or 321J.12. Installation of an ignition interlock device
13 under this subsection shall be required for the period of time
14 for which the temporary restricted license is issued and for
15 such additional period of time following reinstatement as is
16 required under section 321J.17, subsection 3.
17 Sec. 6. Section 321J.20, subsection 2, Code 2013, is amended
18 to read as follows:
19 2. *a.* Notwithstanding section 321.560, the department may,
20 on application, and upon the expiration of the minimum period
21 of ineligibility for a temporary restricted license provided
22 for under section 321.560, 321J.4, 321J.9, or 321J.12, issue a
23 temporary restricted license to a person whose noncommercial
24 driver's license has either been revoked under this chapter, or
25 revoked or suspended under chapter 321 solely for violations
26 of this chapter, or who has been determined to be a habitual
27 offender under chapter 321 based solely on violations of this
28 chapter or on violations listed in section 321.560, subsection
29 1, paragraph "*b*", and who is not eligible for a temporary
30 restricted license under subsection 1. However, the department
31 may not issue a temporary restricted license under this
32 subsection for a violation of section 321J.2A or to a person
33 under the age of twenty-one whose license is revoked under
34 section 321J.4, 321J.9, or 321J.12. A temporary restricted
35 license issued under this subsection may allow the person to

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drive to and from the person's home and specified places at specified times which can be verified by the department and which are required by the person's full-time or part-time employment~~,~~; continuing education while enrolled in an educational institution on a part-time or full-time basis and while pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion~~,~~; or substance abuse treatment.

~~*b.* Notwithstanding paragraph "*a*", a temporary restricted license issued to a person whose noncommercial driver's license has been revoked under section 321J.4, subsection 2, section 321J.9, subsection 1, paragraph "*b*", or section 321J.12, subsection 1, paragraph "*b*", shall provide for but not exceed the uses permitted by 23 U.S.C. § 164. This restriction applies only during the first three hundred sixty-five days of the person's revocation.~~

~~*c.*~~ *b.* A temporary restricted license issued under this subsection shall ~~be conditioned upon the installation of~~ not be issued until the applicant installs an approved ignition interlock device on all motor vehicles owned or operated by the ~~person~~ applicant. Installation of an ignition interlock device under this subsection shall be required for the period of time for which the temporary restricted license is issued, and for such additional period of time following reinstatement as is required under section 321J.17, subsection 3. However, a person whose driver's license or nonresident operating privilege has been revoked under section 321J.21 may apply to the department for a temporary restricted license without the requirement of an ignition interlock device if at least twelve years have elapsed since the end of the underlying revocation period for a violation of section 321J.2.

Sec. 7. Section 321M.9, subsection 4, Code 2013, is amended by striking the subsection.

Sec. 8. REPEAL. Section 321.116, Code 2013, is repealed.

Sec. 9. REPEAL. 1984 Iowa Acts, chapter 1229, section 2,

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1 is repealed.
2 Sec. 10. APPLICABILITY. The section of this Act that
3 repeals section 321.116 applies for registration years
4 beginning on or after January 1, 2014.
5 EXPLANATION
6 This bill contains provisions relating to a variety of
7 matters administered by the department of transportation.
8 The bill amends Code section 22.7 to provide that personal
9 information contained on electronic driver's license or
10 nonoperator's identification card records that is provided by
11 the licensee or card holder for use by certain law enforcement
12 and medical personnel responding to or assisting with an
13 emergency constitutes a confidential record.
14 Under current law, a person is disqualified from operating
15 a commercial motor vehicle if the person has two or more
16 convictions within a three-year period for certain specified
17 offenses committed while operating a commercial motor vehicle,
18 or committed while operating a noncommercial motor vehicle and
19 holding a commercial driver's license if the convictions result
20 in a sanction of the person's driving privileges. Code section
21 321.208 is amended to add texting and using a hand-held mobile
22 telephone in violation of a state or local law while operating
23 a commercial motor vehicle to that list of specified offenses.
24 Under current law, a person whose driver's license is
25 revoked upon conviction of a second offense of operating while
26 intoxicated may apply for a temporary restricted license 45
27 days after the effective date of revocation if the person
28 submitted to chemical testing, and 90 days after revocation
29 if the person refused testing. The issuance of a temporary
30 restricted license is conditioned upon the installation of
31 an ignition interlock device on all motor vehicles owned
32 or operated by the person. At the end of the period of
33 revocation, an ignition interlock device is required for a
34 period of one year, unless a different period is required
35 by statute; however, an ignition interlock device is not

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1 required for reinstatement if the person had a temporary
2 restricted license during the revocation period. The bill
3 amends Code sections 321J.17 and 321J.20 to provide that a
4 person is required to maintain an ignition interlock device
5 for one year or longer following reinstatement. The one-year
6 period is reduced by any period of time the person held a
7 valid temporary restricted license during the revocation
8 for the occurrence from which the arrest arose. A person
9 is prohibited from operating any motor vehicle not equipped
10 with an ignition interlock device during the period in which
11 a device is required to be maintained, and a person must
12 certify installation of an ignition interlock device before
13 the department can grant reinstatement. The bill also strikes
14 a provision in current law that ties the permissible use of
15 certain temporary restricted licenses to uses permitted under
16 federal law. Finally, the bill strikes the current requirement
17 that a person who was issued a temporary restricted license
18 must submit proof of deinstallation of an ignition interlock
19 device as a condition for reinstatement of a full driver's
20 license.
21 The bill strikes a provision in Code section 321M.9
22 requiring the auditor of state to conduct periodic studies of
23 the county driver's license issuance program.
24 Code section 321.116, which establishes an annual
25 registration fee of $25 for electric motor vehicles, is
26 repealed. As a result, electric motor vehicles will be subject
27 to registration fees based on the weight and value of the
28 vehicle. The change applies for registration years beginning
29 on or after January 1, 2014.
30 The bill repeals a provision in 1984 Acts, chapter 1229,
31 that linked the contingent repeal of Code section 314.14, as it
32 existed at that time, to the repeal or expiration of a federal
33 statute relating to set-aside contracts for disadvantaged
34 business enterprises. Due to subsequent substantive amendments
35 to the Code section, the contingent repeal provision is no

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l longer relevant.

House Study Bill 79 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
VETERANS AFFAIRS BILL BY
CHAIRPERSON ALONS)

A BILL FOR

1 An Act relating to the veterans trust fund by making a transfer
2 to the fund and making certain changes to transfers made to
3 the fund from a special account in the Iowa lottery fund and
4 including effective date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1652YC (3) 85
aw/sc

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1 Section 1. Section 35A.13, subsection 4, Code 2013, is
2 amended to read as follows:
3 4. The minimum balance of the trust fund required prior
4 to expenditure of moneys from the trust fund is five million
5 dollars. Once the minimum balance is reached, the interest
6 and earnings on the fund and ~~the first three hundred thousand~~
7 ~~dollars~~ any moneys transferred each fiscal year pursuant
8 to section 99G.9A from the lottery fund to the trust fund
9 are appropriated to the commission to be used to achieve
10 the purposes of this section. Moneys appropriated to the
11 commission that remain unobligated or unexpended at the end of
12 each fiscal year shall revert to the trust fund. It is the
13 intent of the general assembly that the balance in the trust
14 fund reach fifty million dollars.
15 Sec. 2. Section 99G.9A, Code 2013, is amended to read as
16 follows:
17 **99G.9A Limited series of lottery games providing aid for**
18 **veterans.**
19 The chief executive officer, in consultation with the
20 board, shall develop and conduct two additional instant
21 scratch and two additional pull tab lottery games annually
22 to provide moneys for the benefit of veterans and their
23 spouses and dependents. The moneys received from the sale of
24 tickets for each lottery game shall be deposited in a special
25 account in the lottery fund. Notwithstanding section 99G.39,
26 after payment of the prizes, ~~the remaining moneys~~ an amount
27 sufficient to allow the commission of veterans affairs to
28 expend two hundred fifty thousand dollars each fiscal year
29 shall be transferred to the veterans trust fund established
30 pursuant to section 35A.13 to be used to achieve the purposes
31 of section 35A.13. However, if the balance of the veterans
32 trust fund is fifty million dollars or more and if the interest
33 and earnings on the fund in a fiscal year is two hundred fifty
34 thousand dollars or greater, the remaining moneys ~~shall be~~ are
35 appropriated to the department of revenue for distribution

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1 to county directors of veteran affairs, with fifty percent
2 of the money to be distributed equally to each county and
3 fifty percent of the money to be distributed to each county
4 based upon the population of veterans in the county, so long
5 as the money distributed to a county does not supplant money
6 appropriated by that county for the county director of veteran
7 affairs.
8 Sec. 3. TRANSFER TO VETERANS TRUST FUND. At the close
9 of the fiscal year beginning July 1, 2012, following the
10 appropriations made to the cash reserve fund pursuant to
11 section 8.57, subsections 1 and 2, and the Iowa economic
12 emergency fund pursuant to section 8.57, subsection 3, and
13 following any transfer made from the Iowa economic emergency
14 fund to the taxpayers trust fund pursuant to section 8.55,
15 subsection 2, paragraph "a", from the excess moneys that remain
16 in the Iowa economic emergency fund, an amount sufficient for
17 the balance of the veterans trust fund created in section
18 35A.13 to reach fifty million dollars, up to the amount of
19 excess moneys that remain, shall be transferred to the veterans
20 trust fund, and any remaining excess shall be transferred to
21 the general fund of the state as provided in section 8.55,
22 subsection 2, paragraph "b".
23 Sec. 4. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
24 immediate importance, takes effect upon enactment.
25 EXPLANATION
26 This bill provides for a one-time transfer of moneys from
27 the Iowa economic emergency fund to the veterans trust fund
28 at the close of fiscal year 2012-2013. The bill provides for
29 the transfer to be made after the standing appropriations of
30 the amounts necessary for the cash reserve fund and the Iowa
31 economic emergency fund to each reach their maximum balance.
32 Under current law, when the economic emergency fund has
33 reached its maximum balance, the first $60 million of the
34 excess, limited to the difference between the actual net
35 revenue for the general fund of the state for the fiscal year

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1 and the adjusted revenue estimate for the fiscal year, is
2 transferred to the taxpayers trust fund. The bill provides
3 that from the excess moneys that remain following the taxpayers
4 trust fund transfer, an amount sufficient for the balance in
5 the veterans trust fund to reach $50 million up to the amount
6 of excess moneys that remains is to be transferred to the
7 veterans trust fund. Any remaining excess is to be transferred
8 to the general fund of the state, as is provided by current
9 law.
10 The bill also provides for the transfer from a special
11 account of the Iowa lottery fund to the veterans trust fund an
12 amount sufficient to allow the commission to expend $250,000
13 each fiscal year to achieve the purposes of the veterans trust
14 fund.
15 The bill takes effect upon enactment.

House Study Bill 80 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED IOWA FINANCE
AUTHORITY BILL)

A BILL FOR

1 An Act relating to the transfer of real estate and the filing
2 of a mortgage release certificate, providing for a fee, and
3 making remedies applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1240DP (4) 85
rh/sc

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1 Section 1. Section 16.92, Code 2013, is amended by striking
2 the section and inserting in lieu thereof the following:
3 **16.92 Real estate transfer — mortgage release certificate.**
4 1. *Definitions.* As used in this section, unless the context
5 otherwise requires:
6 *a. "Applicant"* means a person licensed to regularly lend
7 moneys to be secured by a mortgage on real property in this
8 state, a licensed real estate broker, a licensed attorney, a
9 participating abstractor, or a licensed closing agent.
10 *b. "Closing agent"* means a closing agent subject to the
11 licensing requirements of chapter 535B.
12 *c. "Division"* means the title guaranty division in the Iowa
13 finance authority, the director of the division, or a designee
14 of the director.
15 *d. "Division board"* means the board of directors of the
16 title guaranty division of the Iowa finance authority.
17 *e. "Mortgage"* means a mortgage or mortgage lien on an
18 interest in real property in this state given to secure a loan
19 in an original principal amount equal to or less than the
20 maximum principal amount as determined by the division board
21 and adopted by the Iowa finance authority pursuant to chapter
22 17A.
23 *f. "Mortgage servicer"* means the mortgagee or a person
24 other than the mortgagee to whom a mortgagor or the mortgagor's
25 successor in interest is instructed by the mortgagee to
26 send payments on a loan secured by the mortgage. A person
27 transmitting a payoff statement for a mortgage is a mortgage
28 servicer for purposes of such mortgage and this chapter.
29 *g. "Mortgagee"* means the grantee of a mortgage. If a
30 mortgage has been assigned of record, the mortgagee is the last
31 person to whom the mortgage is assigned of record.
32 *h. "Mortgagor"* means the grantor of a mortgage.
33 *i. "Participating abstractor"* means an abstractor
34 participating in the title guaranty program.
35 *j. "Payoff statement"* means a written statement furnished by

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1 the mortgage servicer which sets forth all of the following:
2 (1) The unpaid balance of the loan secured by a mortgage,
3 including principal, interest, and any other charges properly
4 due under or secured by the mortgage, or the amount required to
5 be paid in order to release or partially release the mortgage.
6 (2) The address where payment is to be sent or other
7 specific instructions for making a payment.
8 (3) The legal description, street address, or other
9 description sufficient to identify the property that will be
10 released from the mortgage.
11 2. *Application.* The division may execute and record a
12 certificate of release on behalf of the division in the real
13 property records of each county in which a mortgage is recorded
14 as provided in this section if all of the following are
15 satisfied:
16 *a.* The applicant submits all of the following in writing to
17 the division:
18 (1) A payoff statement or other documentation of the amount
19 due, acceptable to the division, as evidence that the mortgage
20 does not continue to secure an unpaid obligation due the
21 mortgagee or an unfunded commitment by the mortgagor to the
22 mortgagee.
23 (2) Evidence that payment was made, including, if
24 available, a statement as to the date the payment was received
25 by the mortgagee or mortgage servicer, with supporting
26 documentation, as evidenced by one or more of the following:
27 (a) A bank check, certified check, escrow account check,
28 real estate broker trust account check, attorney trust account
29 check, or wire receipt, that was negotiated by the mortgagee or
30 mortgage servicer.
31 (b) Other documentary evidence, acceptable to the division,
32 of payment to the mortgagee or mortgage servicer.
33 *b.* The applicant confirms in writing to the division all of
34 the following:
35 (1) More than thirty days have elapsed since the date the

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1 payment was sent.
2 (2) An effective satisfaction or release of the mortgage
3 has not been executed and recorded within thirty days after the
4 date of payment.
5 3. *Notice.*
6 *a.* Prior to the execution and filing of a certificate of
7 release pursuant to this section, the division shall notify the
8 mortgage servicer in writing of all of the following:
9 (1) The mortgage has not been released.
10 (2) The division's intention to execute and record
11 a certificate of release pursuant to this section after
12 expiration of the thirty-day period following the sending of
13 the notice.
14 *b.* The notice shall include instructions to notify the
15 division in writing within thirty days of the effective date of
16 the notice of any reason why the certificate of release should
17 not be executed and recorded.
18 *c.* For purposes of this section, notice may be served by any
19 of the following methods:
20 (1) By certified mail or any commercial delivery service,
21 properly addressed with postage or cost of delivery provided
22 for.
23 (2) By facsimile transmission or electronic mail to an
24 address provided by the mortgage servicer, but only if the
25 mortgage servicer agrees to receive notice in that manner.
26 (3) By publication in a newspaper of general circulation
27 published in each county where the mortgage is recorded once
28 each week for three consecutive weeks after receiving an
29 affidavit by the applicant that service in accordance with the
30 provisions of subparagraph (1) or (2) cannot be made on the
31 mortgage servicer.
32 (4) By otherwise causing the notice to be received by the
33 mortgage servicer within the time it would have been received
34 if notice had been served by certified mail or commercial
35 delivery service.

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1 *d.* For purposes of this section, notice is effective under
2 any of the following circumstances:
3 (1) The day after the notice is deposited with a commercial
4 delivery service for overnight delivery.
5 (2) Three days after the notice is deposited with the United
6 States postal service, or with a commercial delivery service
7 for delivery other than by overnight delivery.
8 (3) The day the notice is transmitted, if served pursuant to
9 paragraph *"c"*, subparagraph (2).
10 (4) On the last day of publication, if published pursuant to
11 paragraph *"c"*, subparagraph (3).
12 (5) The day the notice is received, if served by a method
13 other than as provided in paragraph *"c"*, subparagraph (1), (2),
14 or (3).
15 *e.* If, prior to executing and recording the certificate of
16 release, the division receives a written notification setting
17 forth a reason that is satisfactory to the division as to why
18 the certificate of release should not be executed, the division
19 shall not execute and record the certificate of release.
20 4. *Contents.* A certificate of release executed under this
21 section must contain substantially the information set forth
22 as follows:
23 *a.* The name of the mortgagor.
24 *b.* The name of the original mortgagee.
25 *c.* The date of the mortgage.
26 *d.* The date of recording, including the volume and page or
27 other applicable recording information in the real property
28 records of each county where the mortgage is recorded.
29 *e.* A statement that the release was prepared in accordance
30 with this section.
31 5. *Execution.* A certificate of release under this section
32 shall be executed and acknowledged in the same manner as
33 required by law for the execution of a deed.
34 6. *Recording.* The certificate of release or partial
35 release shall be recorded in each county where the mortgage is

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1 recorded.
2 7. *Effect.*
3 *a.* For purposes of a release or partial release of a
4 mortgage, a certificate of release executed under this section
5 that contains the information and statements required under
6 subsection 4 is prima facie evidence of the facts contained in
7 such release or partial release, is entitled to be recorded
8 with the county recorder where the mortgage is recorded,
9 operates as a release or partial release of the mortgage
10 described in the certificate of release, and may be relied upon
11 by any person who owns or subsequently acquires an interest in
12 the property released from the mortgage. The county recorder
13 shall rely upon the certificate of release to release the
14 mortgage.
15 *b.* Recording of a wrongful or erroneous certificate of
16 release by the division shall not relieve the mortgagor, or the
17 mortgagor's successors or assigns on the debt, from personal
18 liability on the loan or on other obligations secured by the
19 mortgage.
20 *c.* In addition to any other remedy provided by law, if the
21 division through an act of negligence wrongfully or erroneously
22 records a certificate of release under this section, the
23 division is liable to the mortgagee and mortgage servicer
24 for actual damages sustained due to the recording of the
25 certificate of release.
26 *d.* Upon payment of a claim relating to the recording of
27 a certificate of release, the division is subrogated to the
28 rights of the claimant against all persons relating to the
29 claim.
30 8. *Fee.* The division may charge a fee for services under
31 this section.
32 EXPLANATION
33 This bill relates to the transfer of real estate and the
34 filing of a mortgage release certificate, providing for a fee,
35 and making remedies applicable.

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1 Code section 16.92 allows the title guaranty division
2 (division) of the Iowa finance authority to execute and record
3 a mortgage release certificate in each county (county recorder)
4 in which a mortgage is recorded if such mortgage has been
5 paid off but not released of record or has been incorrectly
6 released.
7 The bill reorganizes, consolidates, and amends certain
8 provisions in Code section 16.92 relating to the application
9 process for a certificate of release, notice requirements
10 the division must follow in notifying a mortgage servicer of
11 the division's intention to execute and record a certificate
12 of release upon the division's receipt of a mortgage release
13 application, and execution requirements relating to the
14 certificate of release. The bill specifies that a request for
15 a mortgage release certificate may be made by an applicant,
16 defined in the bill as a person licensed to regularly lend
17 moneys to be secured by a mortgage on real property in this
18 state, a licensed real estate broker, a licensed attorney, a
19 participating abstractor, or a licensed closing agent. The
20 applicant is required to submit certain evidence acceptable to
21 the division and the applicant must confirm in writing that
22 the mortgage has been paid off and that no release of the
23 mortgage has occurred. The bill provides that the certificate
24 of release executed by the division is only required to contain
25 certain basic information about the mortgage and the execution
26 of the certificate and also authorizes the division to charge a
27 fee for services relating to the execution of the certificate
28 of release.
29 Under Code section 16.92, for purposes of a release or
30 partial release of a mortgage, a properly executed certificate
31 of release is prima facie evidence of the facts contained in
32 such release or partial release, is entitled to be recorded
33 with the county recorder where the mortgage is recorded,
34 operates as a release or partial release of the mortgage
35 described in the certificate of release, and may be relied upon

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1 by any person who owns or subsequently acquires an interest in
2 the property released from the mortgage. The county recorder
3 is required to rely upon the certificate of release to release
4 the mortgage. In addition to any other remedy provided by
5 law, if the division through an act of negligence wrongfully
6 or erroneously records a certificate of release, the division
7 is liable to the mortgagee and mortgage servicer for actual
8 damages sustained due to the recording of the certificate of
9 release.

House Study Bill 81 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
EDUCATION BILL)

A BILL FOR

1 An Act relating to vehicular transportation for students and
2 making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1092XD (5) 85
je/sc

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1 Section 1. Section 285.9, Code 2013, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 5. Review and resolve all transportation
4 disputes between districts as provided in section 285.12A.
5 Sec. 2. NEW SECTION. **285.12A Disputes between districts.**
6 In the event of a dispute between school districts regarding
7 transportation, the area education agency board shall review
8 and resolve the dispute. If the parties to the dispute are
9 located in more than one area education agency, the area
10 education agency in which the party to the dispute with the
11 greatest certified enrollment is located shall be the reviewing
12 agency. In resolving disputes between districts, the reviewing
13 agency board shall, after receiving all facts, make alterations
14 or changes as necessary to make the arrangements, designations,
15 and contracts conform to the legal and established requirements
16 and shall notify each affected local school board of the
17 decision. A party to the dispute may appeal the decision of
18 the agency board to the director of the department of education
19 in the manner provided in section 285.12 for appealing a
20 decision of an agency board. The decision of the director
21 shall be subject to judicial review in accordance with chapter
22 17A.
23 Sec. 3. Section 321.1, subsection 69, paragraph d, Code
24 2013, is amended to read as follows:
25 *d.* Designed to carry not more than nine persons as
26 passengers, either school owned or privately owned, which
27 are used to transport pupils to activity events in which the
28 pupils are participants or used to transport pupils to their
29 homes in case of illness or other emergency situations. The
30 vehicles operated under the provisions of this paragraph
31 shall be operated by employees of the school district who are
32 specifically approved by the local superintendent of schools
33 for the assignment and, if applicable, shall conform to the
34 minimum vehicle safety inspection standards for school buses,
35 as prescribed in rules adopted by the state board of education.

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1 Sec. 4. Section 321.373, subsection 1, Code 2013, is amended
2 to read as follows:
3 1. Every school bus ~~except private passenger vehicles used~~
4 ~~as school buses~~ or other vehicle used to transport pupils
5 to activity events pursuant to section 321.1, subsection
6 69, paragraph "d", unless privately owned and not operated
7 for compensation, shall be constructed and equipped to meet
8 safety standards prescribed in rules adopted by the state
9 board of education. Such rules shall conform to safety
10 standards set forth in federal laws and regulations and shall
11 conform, insofar as practicable, to the minimum standards
12 for school buses recommended by the national conference on
13 school transportation administered by the national commission
14 on safety education and published by the national education
15 association.
16 Sec. 5. Section 321.376, Code 2013, is amended by adding the
17 following new subsection:
18 NEW SUBSECTION. 2A. The provisions of this section relating
19 to a certificate of qualification and approved course of
20 instruction shall not apply to a person operating a vehicle
21 used to transport pupils to activity events pursuant to section
22 321.1, subsection 69, paragraph "d".
23 Sec. 6. Section 321.379, Code 2013, is amended to read as
24 follows:
25 **321.379 Violations.**
26 A school board, individual, or organization shall not
27 purchase, construct, or contract for use, to transport pupils
28 to or from school or school activities, any school bus or other
29 vehicle used to transport pupils to activity events pursuant
30 to section 321.1, subsection 69, paragraph "d", which does
31 not comply with the minimum requirements of section 321.373
32 pertaining to such bus or vehicle, and any individual, or any
33 member or officer of such board or organization who authorizes,
34 the purchase, construction, or contract for any such bus or
35 vehicle not complying with these minimum requirements commits a

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simple misdemeanor.

Sec. 7. Section 331.653, subsection 32, Code 2013, is amended to read as follows:

32. Enforce sections 321.372 to 321.379 relating to school buses and to vehicles used to transport pupils to activity events pursuant to section 321.1, subsection 69, paragraph "d".

Sec. 8. STATE MANDATE FUNDING SPECIFIED. In accordance with section 25B.2, subsection 3, the state cost of requiring compliance with any state mandate included in this Act shall be paid by a school district from state school foundation aid received by the school district under section 257.16. This specification of the payment of the state cost shall be deemed to meet all of the state funding-related requirements of section 25B.2, subsection 3, and no additional state funding shall be necessary for the full implementation of this Act by and enforcement of this Act against all affected school districts.

EXPLANATION

This bill makes changes relating to vehicular transportation for students.

The bill assigns to area education agencies the duty of initially reviewing transportation disputes between school districts and the authority to resolve such disputes. The bill requires the reviewing agency board to notify each affected local school board of its decision, and allows an affected school district to appeal a decision to the director of the department of education.

The bill provides that school-owned vehicles designed to carry not more than nine persons which are used to transport pupils to activity events in which students are participating must conform to minimum vehicle safety inspection standards for school buses as far as practicable and as set out by the state board of education by rule. The bill also provides that the drivers of such vehicles, whether school-owned or privately owned, are exempt from statutory requirements for a certificate

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of qualification and an approved course of instruction that apply to school bus drivers.

Current law provides that a school board, individual, or organization must not purchase, construct, or contract for use of a school bus that does not comply with minimum state standards. Current law provides that any person who authorizes such an action is guilty of a simple misdemeanor. The bill adds certain other vehicles used to transport students to school activities to those requirements. A simple misdemeanor is punishable by confinement for no more than 30 days or a fine of at least $65 but not more than $625 or by both.

The bill may include a state mandate as defined in Code section 25B.3. The bill requires that the state cost of any state mandate included in the bill be paid by a school district from state school foundation aid received by the school district under Code section 257.16. The specification is deemed to constitute state compliance with any state mandate funding-related requirements of Code section 25B.2. The inclusion of this specification is intended to reinstate the requirement of political subdivisions to comply with any state mandates included in the bill.

House Study Bill 82 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF COMMERCE/BANKING DIVISION BILL)

A BILL FOR

1 An Act relating to matters under the purview of the banking
2 division of the department of commerce, and providing for
3 fees.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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rn/nh

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1 Section 1. Section 12C.7, subsection 1, Code 2013, is
2 amended to read as follows:
3 1. A depository ~~shall not directly or indirectly~~ may pay
4 interest to a public officer on ~~a demand deposit~~ deposits
5 of public funds, and a public officer ~~shall not~~ may take or
6 receive interest on ~~demand~~ deposits of public funds. ~~This~~
7 ~~provision does not apply to interest on time certificates of~~
8 ~~deposit or savings accounts for public funds.~~
9 Sec. 2. Section 524.904, subsection 5, paragraph b,
10 subparagraph (1), Code 2013, is amended by striking the
11 subparagraph.
12 Sec. 3. Section 533A.2, Code 2013, is amended by adding the
13 following new subsections:
14 NEW SUBSECTION. 7. The superintendent may authorize
15 applicants and licensees to be licensed through a nationwide
16 licensing system and to pay the corresponding system processing
17 fees. The superintendent may establish by rule or order
18 new requirements as necessary, including but not limited to
19 requirements that applicants, including officers and directors
20 and those who have control of the applicant, submit to
21 fingerprinting and criminal history checks.
22 NEW SUBSECTION. 8. For the purposes of this section and in
23 order to reduce the points of contact which the federal bureau
24 of investigation may be required to maintain for purposes
25 of subsection 7, the superintendent may use the nationwide
26 licensing system as a channeling agent for requesting
27 information from and distributing information to the United
28 States department of justice or other governmental agency, or
29 to or from any other source so directed by the superintendent.
30 Sec. 4. Section 533A.4, Code 2013, is amended to read as
31 follows:
32 **533A.4 Expiration date.**
33 The license issued under this chapter shall expire on
34 ~~July 1 next~~ December 31 following its issuance unless sooner
35 surrendered, revoked, or suspended, but may be renewed as

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1 provided in this chapter.
2 Sec. 5. Section 533A.5, subsection 1, Code 2013, is amended
3 to read as follows:
4 1. To continue in the business of debt management, each
5 licensee shall annually apply on or before ~~June~~ December
6 1 to the superintendent for renewal of its license. The
7 superintendent may assess a late fee of ten dollars per day for
8 applications submitted and accepted for processing after ~~June~~
9 December 1.
10 Sec. 6. Section 533A.10, Code 2013, is amended by adding the
11 following new subsection:
12 NEW SUBSECTION. 4. The superintendent may receive
13 documents, materials, or other information, including otherwise
14 confidential and privileged documents, materials, or other
15 information, through a nationwide licensing system and from
16 other local, state, federal, or international regulatory
17 agencies, the conference of state bank supervisors and
18 its affiliates and subsidiaries, the national association
19 of consumer credit administrators and its affiliates and
20 subsidiaries, and any other regulator association, and shall
21 maintain as confidential and privileged any such document,
22 material, or other information received with notice or the
23 understanding that it is confidential or privileged under the
24 laws of the jurisdiction that is the source of the document,
25 material, or other information.
26 Sec. 7. Section 533C.202, subsection 4, Code 2013, is
27 amended to read as follows:
28 4. A nonrefundable application fee of one thousand dollars
29 and a license fee must accompany an application for a license
30 under this article. The license fee must be refunded if the
31 application is denied. The license fee shall be the sum of
32 five hundred dollars plus an additional ten dollars for each
33 location in this state at which business is conducted through
34 authorized delegates or employees of the licensee, but shall
35 not exceed five thousand dollars. Fees for locations added

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1 after the initial application shall be submitted with the
2 quarterly reports pursuant to section 533C.503, subsection
3 2. If the licensee has no locations in this state at which
4 business is conducted through authorized delegates or
5 employees of the licensee, the license fee shall be set by the
6 superintendent, but shall not exceed five thousand dollars. A
7 license under this article expires on the next ~~September 30~~
8 December 31 after its issuance. The initial license fee is
9 considered an annual fee and the superintendent shall prorate
10 the license fee, refunding any amount due to a partial license
11 year. However, no refund of a license fee shall be made when a
12 license is suspended, revoked, or surrendered.
13 Sec. 8. Section 533C.202, Code 2013, is amended by adding
14 the following new subsections:
15 NEW SUBSECTION. 6. The superintendent may authorize
16 applicants and licensees to be licensed through a nationwide
17 licensing system and to pay the corresponding system processing
18 fees. The superintendent may establish by rule or order
19 new licensing requirements as necessary, including but not
20 limited to requirements that applicants, including officers and
21 directors and those who have control of the applicant, submit
22 to fingerprinting and criminal history checks.
23 NEW SUBSECTION. 7. For the purposes of this section and in
24 order to reduce the points of contact which the federal bureau
25 of investigation may be required to maintain for purposes
26 of subsection 6, the superintendent may use the nationwide
27 licensing system as a channeling agent for requesting
28 information from and distributing information to the United
29 States department of justice or other governmental agency, or
30 to or from any other source so directed by the superintendent.
31 Sec. 9. Section 533C.205, subsections 1 and 3, Code 2013,
32 are amended to read as follows:
33 1. A licensee under this article shall pay an annual
34 renewal fee as determined below by no later than ~~September~~
35 December 1 of the year of expiration. The renewal fee shall be

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1 five hundred dollars plus an additional ten dollars for each
2 location in this state at which business is conducted through
3 authorized delegates or employees of the licensee, but shall
4 not exceed five thousand dollars. Fees for locations added
5 after submission of the renewal application shall be submitted
6 with the quarterly reports pursuant to section 533C.503,
7 subsection 2. If the licensee has no locations in this state
8 at which business is conducted through authorized delegates
9 or employees of the licensee, the license fee shall be set
10 by the superintendent, but shall not exceed five thousand
11 dollars. ~~Licenses issued under chapter 533B, Code 2003, will~~
12 ~~be initially renewed as provided in section 533C.904.~~
13 3. If a licensee does not file a renewal report or pay its
14 renewal fee by ~~September~~ December 1, or any extension of time
15 granted by the superintendent, the superintendent may assess a
16 late fee of one hundred dollars per day.
17 Sec. 10. Section 533C.302, subsection 2, Code 2013, is
18 amended to read as follows:
19 2. A nonrefundable application fee of one thousand dollars
20 and the license fee must accompany an application for a license
21 under this article. The license fee shall be the sum of ~~five~~
22 two hundred fifty dollars plus an additional ~~one hundred~~ fifty
23 dollars for each location at which business is conducted, but
24 not to exceed ~~two~~ one thousand dollars. Fees for locations
25 added after the initial application shall be submitted with the
26 quarterly reports pursuant to section 533C.503, subsection 2.
27 The license fee must be refunded if the application is denied.
28 A license under this article expires on the next ~~September 30~~
29 ~~of an odd-ending year~~ December 31 after its issuance. The
30 initial license fee is considered ~~a biennial~~ an annual fee and
31 the superintendent shall prorate the license fee, refunding any
32 amount due to a partial license period. However, no refund
33 of a license fee shall be made when a license is suspended,
34 revoked, or surrendered.
35 Sec. 11. Section 533C.302, Code 2013, is amended by adding

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1 the following new subsections:
2 NEW SUBSECTION. 3. The superintendent may authorize
3 applicants and licensees to be licensed through a nationwide
4 licensing system and to pay the corresponding system processing
5 fees. The superintendent may establish by rule or order
6 new requirements as necessary, including but not limited to
7 requirements that applicants, including officers and directors
8 and those who have control of the applicant, submit to
9 fingerprinting and criminal history checks.
10 NEW SUBSECTION. 4. For the purposes of this section and in
11 order to reduce the points of contact which the federal bureau
12 of investigation may be required to maintain for purposes
13 of subsection 3, the superintendent may use the nationwide
14 licensing system as a channeling agent for requesting
15 information from and distributing information to the United
16 States department of justice or other governmental agency, or
17 to or from any other source so directed by the superintendent.
18 Sec. 12. Section 533C.304, subsections 1 and 3, Code 2013,
19 are amended to read as follows:
20 1. A licensee under this article shall pay ~~a biennial~~ an
21 annual renewal fee no later than ~~September~~ December 1 ~~of an~~
22 ~~odd-ending year~~. The ~~biennial~~ annual renewal fee shall be
23 the sum of ~~five~~ two hundred fifty dollars plus an additional
24 ~~one hundred~~ fifty dollars for each location at which business
25 is conducted, but shall not exceed ~~two~~ one thousand dollars.
26 Fees for locations added after the initial application shall
27 be submitted with the quarterly reports pursuant to section
28 533C.503, subsection 2.
29 3. If a licensee does not file a renewal report and pay
30 its renewal fee by ~~September~~ December 1 ~~of an odd-ending year~~,
31 or any extension of time granted by the superintendent, the
32 superintendent may assess a late fee of one hundred dollars per
33 day.
34 Sec. 13. Section 533C.507, Code 2013, is amended by adding
35 the following new subsection:

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1 NEW SUBSECTION. 7. The superintendent may receive
2 documents, materials, or other information, including otherwise
3 confidential and privileged documents, materials, or other
4 information, through a nationwide licensing system and from
5 other local, state, federal, or international regulatory
6 agencies, the conference of state bank supervisors and
7 its affiliates and subsidiaries, the national association
8 of consumer credit administrators and its affiliates and
9 subsidiaries, the money transmitter regulators association,
10 and any other regulator associations, and shall maintain as
11 confidential and privileged any such document, material, or
12 other information received with notice or the understanding
13 that it is confidential or privileged under the laws of the
14 jurisdiction that is the source of the document, material, or
15 other information.
16 Sec. 14. Section 533C.904, Code 2013, is amended by striking
17 the section and inserting in lieu thereof the following:
18 **533C.904 Applicability.**
19 This chapter applies to the provision of money services on or
20 after October 1, 2003.
21 Sec. 15. Section 533D.3, subsection 3, unnumbered paragraph
22 1, Code 2013, is amended to read as follows:
23 The application required by this section shall be submitted
24 with ~~both of~~ the following:
25 Sec. 16. Section 533D.3, subsection 6, Code 2013, is amended
26 to read as follows:
27 6. *a.* A license issued pursuant to this chapter shall
28 be conspicuously posted at the licensee's place of business.
29 A license shall remain in effect until the next succeeding
30 ~~May~~ January 1, unless earlier suspended or revoked by the
31 superintendent.
32 *b.* A license shall be renewed annually by filing with the
33 superintendent on or before ~~April~~ December 1 an application
34 for renewal containing such information as the superintendent
35 may require to indicate any material change in the information

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1 contained in the original application or succeeding renewal
2 applications and a renewal fee of two hundred fifty dollars.
3 *c.* The superintendent may assess a late fee of ten dollars
4 per day for applications submitted and accepted for processing
5 after ~~April~~ December 1.
6 Sec. 17. Section 533D.3, Code 2013, is amended by adding the
7 following new subsections:
8 NEW SUBSECTION. 7. The superintendent may authorize
9 applicants and licensees to be licensed through a nationwide
10 licensing system and to pay the corresponding system processing
11 fees. The superintendent may establish by rule or order
12 new requirements as necessary, including but not limited to
13 requirements that applicants, including officers and directors
14 and those who have control of the applicant, submit to
15 fingerprinting and criminal history checks.
16 NEW SUBSECTION. 8. For the purposes of this section and in
17 order to reduce the points of contact which the federal bureau
18 of investigation may be required to maintain for purposes
19 of subsection 7, the superintendent may use the nationwide
20 licensing system as a channeling agent for requesting
21 information from and distributing information to the United
22 States department of justice or other governmental agency, or
23 to or from any other source so directed by the superintendent.
24 Sec. 18. Section 533D.11, Code 2013, is amended by adding
25 the following new subsection:
26 NEW SUBSECTION. 6. The superintendent may receive
27 documents, materials, or other information, including otherwise
28 confidential and privileged documents, materials, or other
29 information, through a nationwide licensing system and from
30 other local, state, federal, or international regulatory
31 agencies, the conference of state bank supervisors and
32 its affiliates and subsidiaries, the national association
33 of consumer credit administrators and its affiliates and
34 subsidiaries, and any other regulator association, and shall
35 maintain as confidential and privileged any such document,

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1 material, or other information received with notice or the
2 understanding that it is confidential or privileged under the
3 laws of the jurisdiction that is the source of the document,
4 material, or other information.
5 Sec. 19. Section 535D.15, subsection 1, Code 2013, is
6 amended to read as follows:
7 1. Except as otherwise provided by this chapter, all papers,
8 documents, examination reports, and other writings relating to
9 the supervision of licensees are not public records and are not
10 subject to disclosure under chapter 22. Except as otherwise
11 provided in section 1512 of the federal Housing and Economic
12 Recovery Act of 2008, Pub. L. No. 110-289, the requirements
13 under any federal law or chapter 22 or 692 regarding the
14 privacy or confidentiality of any information or material
15 provided to the nationwide mortgage licensing system and
16 registry, and any privilege arising under federal or state law,
17 including the rules of any federal or state court, with respect
18 to such information or material, shall continue to apply to
19 such information or material after the information or material
20 has been disclosed to the nationwide mortgage licensing system
21 and registry. Such information and material may be shared
22 with any state or federal regulatory official with mortgage
23 industry oversight authority without the loss of privilege or
24 the loss of confidentiality protections provided by federal law
25 or chapter 22 or 692.
26 Sec. 20. Section 542B.14, subsection 1, paragraph a,
27 subparagraphs (2) and (4), Code 2013, are amended to read as
28 follows:
29 (2) Successfully passing ~~a written, oral, or written and~~
30 ~~oral~~ an examination in fundamental engineering subjects which
31 is designed to show the knowledge of general engineering
32 principles. A person passing the examination in fundamental
33 engineering subjects is entitled to a certificate as an
34 engineer intern.
35 (4) Successfully passing ~~a written, oral, or written and~~

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1 ~~oral~~ an examination designed to determine the proficiency and
2 qualifications to engage in the practice of engineering. No
3 applicant shall be entitled to take this examination until
4 the applicant shows the necessary practical experience in
5 engineering work.
6 Sec. 21. Section 542B.14, subsection 1, paragraph b,
7 subparagraphs (2) and (4), Code 2013, are amended to read as
8 follows:
9 (2) Successfully passing ~~a written, oral, or written and~~
10 ~~oral~~ an examination in fundamental land surveying subjects
11 which is designed to show the knowledge of general land
12 surveying principles.
13 (4) Successfully passing ~~a written, oral, or written and~~
14 ~~oral~~ an examination designed to determine the proficiency and
15 qualifications to engage in the practice of land surveying.
16 No applicant shall be entitled to take this examination until
17 the applicant shows the necessary practical experience in land
18 surveying work.
19 Sec. 22. Section 542B.15, Code 2013, is amended to read as
20 follows:
21 **542B.15 Examinations — report required.**
22 Examinations for licensure shall be given as often as deemed
23 necessary by the board, but no less than one time per year. The
24 scope of the examinations and the methods of procedure shall be
25 prescribed by the board. Any ~~written~~ examination may be given
26 by representatives of the board. ~~All examinations in theory~~
27 ~~shall be in writing and the~~ The identity of the person taking
28 the examination shall be concealed until after the examination
29 ~~papers have~~ has been graded. ~~For examinations in practice,~~
30 ~~the identity of the person taking the examination shall also~~
31 ~~be concealed as far as possible.~~ As soon as practicable after
32 the close of each examination, a report shall be filed in the
33 office of the secretary of the board by the board. The report
34 shall show the action of the board upon each application and
35 the secretary of the board shall notify each applicant of the

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1 result of the applicant's examination. Applicants who fail the
2 examination once shall be allowed to take the examination at
3 the next scheduled time. Thereafter, the applicant shall be
4 allowed to take the examination at the discretion of the board.
5 An applicant who has failed the examination may request in
6 writing information from the board concerning the applicant's
7 examination grade and subject areas or questions which the
8 applicant failed to answer correctly, except that if the board
9 administers a uniform, standardized examination, the board
10 shall only be required to provide the examination grade and
11 such other information concerning the applicant's examination
12 results which are available to the board.
13 Sec. 23. Section 543B.20, Code 2013, is amended to read as
14 follows:
15 **543B.20 ~~Written examination~~ Examination.**
16 Examinations for registration shall be given as often as
17 deemed necessary by the real estate commission, but no less
18 than one time per year. Each applicant for a license must
19 pass ~~a written~~ an examination authorized by the commission and
20 administered by the commission or persons designated by the
21 commission. The examination shall be of scope and wording
22 sufficient in the judgment of the commission to establish the
23 competency of the applicant to act as a real estate broker
24 or salesperson in a manner to protect the interests of the
25 public. An examination for a real estate broker shall be of a
26 more exacting nature than that for a real estate salesperson
27 and require higher standards of knowledge of real estate. ~~All~~
28 ~~examinations in real estate theory shall be in writing and the~~
29 The identity of the persons taking the examinations shall be
30 concealed until after the examination ~~papers have~~ has been
31 graded. ~~For examinations in practice, the identity of the~~
32 ~~persons taking the examinations shall also be concealed as~~
33 ~~far as possible.~~ A person who fails to pass either ~~written~~
34 examination once may immediately apply to take the next
35 available examination. Thereafter, the applicant may take the

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examination at the discretion of the commission. An applicant who has failed either examination may request in writing information from the commission concerning the applicant's examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the commission administers a uniform, standardized examination, the commission is only required to provide the examination grade and other information concerning the applicant's examination results which is available to the commission.

Sec. 24. Section 543D.4, Code 2013, is amended to read as follows:

543D.4 Iowa real estate appraiser board.

A real estate appraiser examining board is established within the professional licensing and regulation bureau of the banking division of the department of commerce. The board consists of seven members, two of whom shall be public members and five of whom shall be certified real estate appraisers.

1. The governor shall appoint the members of the board who are subject to confirmation by the senate. The governor may remove a member for cause.

~~2. Appointees shall possess or maintain at least those standards of ethics, education, and experience required by federal regulations.~~

~~3.~~ 2. ~~Each real estate appraiser member of the board appointed after January 1, 1992, must be a certified real estate appraiser.~~ A certified real estate appraiser member of the board shall be actively engaged in practice as a certified real estate appraiser and shall have been so engaged for five years preceding appointment, the last two of which shall have been in this state. The governor shall attempt to represent each class of certified appraisers in making the appointments.

~~4.~~ 3. The term of each member is three years~~; except that, of the members first appointed, two shall be appointed for two years and two shall be appointed for one year~~. Vacancies occurring during a term shall be filled by appointment by the

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1 governor for the unexpired term.
2 ~~5.~~ 4. Upon expiration of their terms, members of the
3 board shall continue to hold office until the appointment and
4 qualification of their successors. A person shall not serve
5 as a member of the board for more than ~~two consecutive~~ three
6 terms, but appointment to fill an unexpired term shall not be
7 considered a complete term for this purpose.
8 ~~6.~~ 5. The public members of the board shall not engage in
9 the practice of real estate appraising.
10 ~~7.~~ 6. The board shall meet at least once each calendar
11 quarter to conduct its business.
12 ~~8.~~ 7. The members of the board shall elect a chairperson
13 from among the members to preside at board meetings.
14 ~~9.~~ 8. A quorum of the board is four members. ~~At least~~
15 ~~three of the four members shall be appraiser members.~~
16 9. Members of the board are entitled to receive a per diem
17 as specified in section 7E.6 for each day spent in performance
18 of duties as members and shall be reimbursed for all actual
19 and necessary expenses incurred in the performance of duties
20 as members.
21 Sec. 25. Section 543D.5, Code 2013, is amended to read as
22 follows:
23 **543D.5 Powers of the board.**
24 1. The board shall adopt rules establishing uniform
25 appraisal standards and appraiser certification requirements
26 and other rules necessary to administer and enforce this
27 chapter and its responsibilities under chapter 272C. The
28 board shall consider and may incorporate any standards
29 required or recommended by the appraisal foundation~~,~~ or by a
30 ~~professional appraisal organization, or by a public authority~~
31 ~~or organization responsible to review appraisals or for~~
32 ~~the oversight of appraisers~~ federal agency with regulatory
33 authority over appraisal standards or the certification of
34 appraisers for federally related transactions.
35 2. The uniform appraisal standards shall meet all of the

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1 following requirements:
2 *a.* Require compliance with federal law and appraisal
3 standards adopted by federal authorities as they apply to
4 federally ~~covered~~ related transactions. This paragraph does
5 not require that an appraiser invoke a jurisdictional exception
6 to the uniform standards of professional appraisal practice
7 in order to comply with federal law and appraisal standards
8 adopted by federal authorities as they apply to federally
9 ~~covered~~ related transactions, unless federal law requires that
10 the exception be invoked.
11 *b.* Develop standards for the scope of practice for certified
12 real estate appraisers.
13 *c.* Required compliance with the uniform standards of
14 professional appraisal practice in all appraisal assignments.
15 3. Appraiser certification requirements shall require a
16 demonstration that the applicant has a working knowledge of
17 current appraisal theories, practices, and techniques which
18 will provide a high degree of service and protection to members
19 of the public dealt with in a professional relationship under
20 authority of the certification. The board shall establish the
21 examination specifications for each category of certified real
22 estate appraiser, provide or procure appropriate examinations,
23 establish procedures for grading examinations, receive and
24 approve or disapprove applications for certification, and issue
25 certificates.
26 4. The board shall maintain a registry of the names and
27 ~~addresses~~ certificate numbers of appraisers certified under
28 this chapter ~~and retain records and application materials~~
29 ~~submitted to the board~~ and the names and registration numbers
30 of associate appraisers registered under this chapter.
31 Sec. 26. Section 543D.8, unnumbered paragraph 1, Code 2013,
32 is amended to read as follows:
33 An original certification as a certified real estate
34 appraiser shall not be issued to a person who has not
35 demonstrated through ~~a written~~ an examination that the person

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1 possesses the following knowledge and understanding:
2 Sec. 27. Section 543D.16, subsection 2, Code 2013, is
3 amended to read as follows:
4 2. The basic continuing education requirement for renewal
5 of certification shall be the completion, before June 30 of
6 the year in which the appraiser's certificate expires, of the
7 number of hours of instruction required by the board in courses
8 or seminars which have received the preapproval of the board.
9 ~~Instructional hours by correspondence and home study courses~~
10 ~~claimed by an appraiser shall not exceed fifty percent of the~~
11 ~~required hours of instruction necessary for renewal.~~
12 Sec. 28. NEW SECTION. **543D.22 Criminal background checks.**
13 1. The board may require a national criminal history check
14 through the federal bureau of investigation for applicants
15 for certification or registration, or for persons certified
16 or registered, under this chapter if needed to comply with
17 federal law or regulation, or the policies of the appraisal
18 qualification board of the appraisal foundation.
19 2. The board may require applicants, certificate holders,
20 or registrants to provide a full set of fingerprints, in a
21 form and manner prescribed by the board. Such fingerprints,
22 if required, shall be submitted to the federal bureau of
23 investigation through the state criminal history repository for
24 purposes of the national criminal history check.
25 3. The board may also request and obtain, notwithstanding
26 section 692.2, subsection 5, criminal history data for
27 applicants, certificate holders, and registrants. A request
28 for criminal history data shall be submitted to the department
29 of public safety, division of criminal investigation, pursuant
30 to section 692.2, subsection 1.
31 4. The board shall inform the applicant, certificate
32 holder, or registrant of the requirement of a national criminal
33 history check or request for criminal history data and obtain
34 a signed waiver from the applicant, certificate holder, or
35 registrant prior to requesting the check or data.

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1 5. The board may, in addition to any other fees, charge
2 and collect such amounts as may be incurred by the board, the
3 department of public safety, or federal bureau of investigation
4 in obtaining criminal history information. Amounts collected
5 shall be considered repayment receipts as defined in section
6 8.2, subsection 8.
7 6. Criminal history data and other criminal history
8 information relating to an applicant, certificate holder, or
9 registrant obtained by the board pursuant to this section is
10 confidential. Such information may, however, be used by the
11 board in a certificate or registration denial or disciplinary
12 proceeding.
13 Sec. 29. Section 544A.21, Code 2013, is amended by striking
14 the section and inserting in lieu thereof the following:
15 **544A.21 Practice by business entities.**
16 The board shall adopt rules to govern the practice of
17 architecture through business entities to protect the public
18 from misleading and deceptive advertising and to guard against
19 the unlicensed practice of architecture.
20 Sec. 30. LICENSE EXPIRATION DATES — TRANSITION
21 PROVISIONS. A license which would otherwise expire on or
22 before the effective date of this Act pursuant to Code sections
23 533A.4 and 533D.3 shall remain in full force and effect until
24 December 31, 2013, or January 1, 2014, as applicable.
25 EXPLANATION
26 This bill relates to matters under the purview of the banking
27 division of the department of commerce.
28 The bill amends provisions which currently prohibit a
29 depository, defined as a bank or credit union in which public
30 funds are deposited, from directly or indirectly paying
31 interest to a public officer on a demand deposit of public
32 funds, and prohibit a public officer from taking or receiving
33 interest. The bill provides that a depository may pay interest
34 to a public officer on deposits of public funds, and a public
35 officer may take or receive it. The bill deletes a provision

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1 that the previous prohibition did not apply to interest on time
2 certificates of deposit or savings accounts for public funds.
3 The bill deletes a provision characterizing a borrowing
4 group, for purposes of loans and extensions of credit by a
5 state bank, as including a person and any legal entity where
6 the interests of a group of more than one borrower, or any
7 combination of the members of the group, are so interrelated
8 that they should be considered a unit for the purpose of
9 applying lending limit limitations.
10 The bill makes several similar modifications throughout
11 Code chapters 533A (relating to engaging in the business of
12 debt management), 533C (relating to engaging in the business
13 of money transmission and engaging in the business of currency
14 exchange), and 533D (relating to engaging in a delayed deposit
15 service business). The bill provides that the superintendent
16 of banking may authorize applicants and licensees to be
17 licensed through a nationwide licensing system and to pay
18 the corresponding system processing fees, and that the
19 superintendent may establish by rule or order new requirements
20 including but not limited to requirements that applicants,
21 including officers and directors and those who have control of
22 the applicant, submit to fingerprinting and criminal history
23 checks. The bill states that in order to reduce the points of
24 contact which the federal bureau of investigation may have to
25 maintain the superintendent may use the nationwide licensing
26 system as a channeling agent for requesting information from
27 and distributing information to the United States department of
28 justice or other governmental agency, or to or from any other
29 source so directed by the superintendent.
30 Also, with reference to Code chapters 533A, 533C, and
31 533D, the bill provides that the superintendent may receive
32 documents, materials, or other information, including otherwise
33 confidential and privileged documents, materials, or other
34 information, through a nationwide licensing system and from
35 other local, state, federal, or international regulatory

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1 agencies, the conference of state bank supervisors and
2 its affiliates and subsidiaries, the national association
3 of consumer credit administrators and its affiliates and
4 subsidiaries, and any other regulator associations, and shall
5 maintain as confidential and privileged any such document,
6 material, or other information received with notice or the
7 understanding that it is confidential or privileged under the
8 laws of the jurisdiction that is the source of the document,
9 material, or other information.
10 Additionally, with reference to Code chapters 533A, 533C,
11 and 533D, the bill makes licensure expiration and renewal dates
12 consistent as December 1 for renewal and either December 31 or
13 January 1 (in the case of a delayed deposit services business)
14 for expiration.
15 The bill provides transition provisions specifying that
16 licenses which would otherwise have expired on or before the
17 bill's effective date of July 1, 2013, shall remain in full
18 force and effect until the expiration date as modified by the
19 bill.
20 The bill reduces per application and per location license
21 fees for a currency exchange license. The license fee is
22 reduced from $500 to $250, and the per location fee is reduced
23 from an additional $100 to an additional $50 per location,
24 with the cap reduced from $2,000 to $1,000. In addition,
25 the license is changed from a biennial license to an annual
26 license.
27 The bill deletes outdated references to licensure under Code
28 chapter 533B, Code 2003, and related transition provisions,
29 contained in Code section 533C.904.
30 The bill adds to confidentiality provisions relating to the
31 mortgage licensing Act contained in Code section 535D.15. The
32 bill states that, except as otherwise provided by the Code
33 chapter, all papers, documents, examination reports, and other
34 writings relating to the supervision of licensees are not
35 public records and are not subject to disclosure under Code

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1 chapter 22.
2 The bill changes the requirements for the five real estate
3 appraiser members of the Iowa real estate appraiser board
4 to require that they be actively engaged in practice as a
5 certified real estate appraiser and shall have been so engaged
6 for five years preceding their appointment, with at least
7 the last two years in this state. The bill makes conforming
8 changes consistent with this modification, and provides
9 that vacancies occurring during a term shall be filled by
10 appointment by the governor for the unexpired term. The
11 bill permits a member to serve for three consecutive terms,
12 an increase from the current limit of two such terms, and
13 states that appointment to fill an unexpired term shall not
14 be considered a complete term for this purpose. The bill
15 authorizes members to be eligible for per diem and actual and
16 necessary expenses. Further, the bill modifies provisions
17 which had previously stated that the board shall consider and
18 may incorporate any standards recommended by the appraisal
19 foundation, or by a professional appraisal organization, or
20 by a public authority or organization responsible to review
21 appraisals or for the oversight of appraisers. This provision
22 is modified to refer to consideration and incorporation of any
23 standards required or recommended by the appraisal foundation
24 or by a federal agency with regulatory authority over appraisal
25 standards or the certification of appraisers for federally
26 related transactions.
27 The bill provides that uniform appraisal standards shall,
28 in addition to the current requirements, require compliance
29 with the uniform standards of professional appraisal practice
30 in all appraisal assignments. The bill also provides that the
31 board shall maintain a registry of the names and certificate
32 numbers, instead of addresses, of certified appraisers and
33 the names and registration numbers of registered associate
34 appraisers. The bill deletes a provision, with reference
35 to continuing education requirements, that instructional

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1 hours by correspondence and home study courses claimed by an
2 appraiser shall not exceed 50 percent of the required hours of
3 instruction necessary for renewal.
4 Again with reference to real estate appraisers, the bill
5 adds provisions relating to criminal background checks.
6 The bill states that the board is authorized to require a
7 national criminal history check through the federal bureau
8 of investigation for applicants, certificate holders, or
9 registrants if needed to comply with federal law or regulation,
10 or the policies of the appraisal qualification board of the
11 appraisal foundation. The bill states that the board is also
12 authorized to request and obtain state criminal history data
13 for applicants, certificate holders, and registrants. The
14 bill specifies that a request for criminal history data shall
15 be submitted to the department of public safety, division
16 of criminal investigation, pursuant to Code section 692.2,
17 subsection 1. The bill authorizes the board, in addition to
18 any other fees, to charge and collect such amounts as may
19 be incurred by the board, the department of public safety,
20 or federal bureau of investigation, in obtaining criminal
21 history information. The board shall inform the applicant,
22 certificate holder, or registrant of the requirement of a
23 national criminal history check or request for criminal history
24 data and obtain a signed waiver from the applicant, certificate
25 holder, or registrant prior to requesting the check or data.
26 Additionally, the bill specifies that criminal history data and
27 other criminal history information relating to an applicant,
28 certificate holder, or registrant obtained by the board is
29 confidential but may be used by the board in a certificate or
30 registration denial or disciplinary proceeding.
31 The bill deletes references to a "written" or "oral"
32 examination in relation to engineering, land surveying, real
33 estate broker and salesperson, and real estate appraiser
34 licensing examinations in favor of the nonspecific reference
35 to "examinations".

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1 Finally, the bill deletes current detailed provisions
2 contained in Code section 544A.21 imposing requirements
3 relating to the practice of architecture through business
4 entities to protect the public from misleading and deceptive
5 advertising and to guard against the unlicensed practice of
6 architecture. The provisions are replaced with the statement
7 that the board shall adopt rules regarding the practice of
8 architecture through business entities.

House Study Bill 83 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF COMMERCE/INSURANCE DIVISION BILL)

A BILL FOR

1 An Act relating to various matters under the purview of the
2 insurance division of the department of commerce, providing
3 penalties, and including applicability and effective date
4 provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1265DP (5) 85
av/nh

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1 Section 1. Section 135.22A, subsection 2, paragraph g, Code
2 2013, is amended by striking the paragraph.
3 Sec. 2. Section 249A.3, Code 2013, is amended by adding the
4 following new subsection:
5 NEW SUBSECTION. 15. An insurance policy or annuity
6 purchased to fund an irrevocable purchase agreement to furnish
7 cemetery merchandise, funeral merchandise, funeral services,
8 or a combination thereof as provided in chapter 523A, which is
9 owned by or assigned to a seller or a provider as defined in
10 section 523A.102, and in which the department is designated as
11 the primary beneficiary as provided in section 523A.304, shall
12 be excluded as a resource for eligibility under this chapter.
13 Sec. 3. Section 502.412, subsection 3, Code 2013, is amended
14 to read as follows:
15 3. *Disciplinary penalties — registrants.* If the
16 administrator finds that the order is in the public interest
17 and subsection 4, paragraphs *"a"* through *"f"*, *"h"*, *"i"*, *"j"*,
18 *"l"*, or *"m"*, authorizes the action, an order under this chapter
19 may censure, impose a bar, or impose a civil penalty in an
20 amount not to exceed a maximum of ~~five~~ ten thousand dollars
21 for a single violation or ~~five hundred thousand~~ one million
22 dollars for more than one violation, or in an amount as agreed
23 to by the parties, on a registrant, and, if the registrant is
24 a broker-dealer or investment adviser, a partner, officer,
25 director, or person having a similar status or performing
26 similar functions, or a person directly or indirectly in
27 control, of the broker-dealer or investment adviser.
28 Sec. 4. Section 502.604, subsection 4, Code 2013, is amended
29 to read as follows:
30 4. *Civil penalty — restitution — corrective action.* In a
31 final order under subsection 3, the administrator may impose a
32 civil penalty up to an amount not to exceed a maximum of ~~five~~
33 ten thousand dollars for a single violation or ~~five hundred~~
34 ~~thousand~~ one million dollars for more than one violation, or
35 in an amount as agreed to by the parties, order restitution,

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1 or take other corrective action as the administrator deems
2 necessary and appropriate to accomplish compliance with
3 the laws of the state relating to all securities business
4 transacted in the state.
5 Sec. 5. Section 502.604, Code 2013, is amended by adding the
6 following new subsection:
7 NEW SUBSECTION. 5A. *Failure to obey cease and desist*
8 *order.* A person who fails to obey a valid cease and desist
9 order issued by the administrator under this section may, after
10 notice and opportunity for a hearing, be subject to a civil
11 penalty in an amount of not less than one thousand dollars and
12 not to exceed ten thousand dollars for violating the order.
13 Each day the failure to obey the cease and desist order occurs
14 or continues constitutes a separate violation of the order.
15 The penalties provided in this subsection are in addition to,
16 and not exclusive of, other remedies that may be available.
17 Sec. 6. Section 505.8, subsection 10, Code 2013, is amended
18 to read as follows:
19 10. The commissioner may, after a hearing conducted
20 pursuant to chapter 17A, assess fines or penalties~~,~~; assess
21 costs of an examination, investigation, or proceeding~~,~~;
22 order restitution~~,~~; or take other corrective action as the
23 commissioner deems necessary and appropriate to accomplish
24 compliance with the laws of the state relating to all insurance
25 business transacted in the state.
26 Sec. 7. NEW SECTION. **506.14 Voluntary dissolution of**
27 **domestic mutual insurance companies.**
28 1. Any plan for voluntary dissolution of a domestic
29 mutual insurance company licensed to transact the business
30 of insurance under chapter 508, 515, 518, or 518A shall be
31 presented for approval by the commissioner not less than ninety
32 days in advance of notice of the plan to policyholders.
33 2. The commissioner shall approve the plan if the
34 commissioner finds that the plan complies with all applicable
35 provisions of law and is fair and equitable to the domestic

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1 mutual insurance company and its policyholders.
2 Sec. 8. Section 507.10, subsection 4, paragraph a, Code
3 2013, is amended to read as follows:
4 *a.* All orders entered pursuant to subsection 3, paragraph
5 *"a"*, shall be accompanied by findings and conclusions resulting
6 from the commissioner's consideration and review of the
7 examination report, relevant examiner work papers, and any
8 written submissions or rebuttals. Any such order is a final
9 administrative decision and may be appealed pursuant to chapter
10 17A, and shall be served upon the company by certified mail,
11 together with a copy of the adopted examination report. ~~Within~~
12 ~~thirty days of the issuance of the adopted report, the company~~
13 ~~shall file affidavits executed by each of its directors stating~~
14 ~~under oath that they have received a copy of the adopted report~~
15 ~~and related orders.~~ The board of directors of the company
16 shall timely review the adopted report. The minutes of the
17 meeting of the board at which the adopted report is considered
18 shall reflect that each member of the board has reviewed the
19 adopted report.
20 Sec. 9. Section 507B.4, subsection 3, Code 2013, is amended
21 by adding the following new paragraph:
22 NEW PARAGRAPH. *t. Refund of premium for duplication of*
23 *insurance.* Failing to refund premiums paid for a Medicare
24 supplement policy after the effective date of a subsequently
25 purchased Medicare advantage plan, where there have been no
26 claims made on the Medicare supplement policy, and it can be
27 established that the carrier of the Medicare supplement policy
28 has no exposure to pay benefits if a claim is submitted to it
29 during the time that both the Medicare supplement policy and
30 the Medicare advantage plan are in effect. For the purposes
31 of this paragraph, *"Medicare supplement policy"* and *"Medicare*
32 *advantage plan"* mean the same as defined by the commissioner of
33 insurance pursuant to rules adopted under chapter 17A.
34 Sec. 10. NEW SECTION. **507C.17A Rehabilitation or**
35 **liquidation of certain covered domestic insurers.**

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1 1. The provisions of this section apply in accordance
2 with Tit. II of the federal Dodd-Frank Wall Street Reform and
3 Consumer Protection Act, Pub. L. No. 111-203, 12 U.S.C. § 5301
4 et seq., with respect to a domestic insurer that is a covered
5 financial company, as that term is defined under 12 U.S.C. §
6 5381.
7 2. The commissioner may petition the district court for an
8 order of rehabilitation or liquidation of a domestic insurer
9 pursuant to this section on any of the following grounds:
10 *a.* Upon a determination and notification given by the
11 secretary of the treasury of the United States, in consultation
12 with the president of the United States, that the insurer is
13 a covered financial company satisfying the requirements of
14 12 U.S.C. § 5383(b), and the board of directors, or a body
15 performing similar functions of a board of directors, of the
16 insurer acquiesces or consents to the appointment of a receiver
17 pursuant to 12 U.S.C. § 5382(a)(1)(A)(i) with such consent
18 to be considered as consent to an order of rehabilitation or
19 liquidation.
20 *b.* Upon an order of the United States district court for
21 the District of Columbia under 12 U.S.C. § 5382(a)(1)(A)(iv)(I)
22 granting the petition of the secretary of the treasury of
23 the United States concerning the insurer under 12 U.S.C. §
24 5382(a)(1)(A)(i).
25 *c.* A petition by the secretary of the treasury of the United
26 States concerning the insurer is granted by operation of law
27 under 12 U.S.C. § 5382(a)(1)(A)(v).
28 3. Notwithstanding any other provision of law to the
29 contrary, after notice to the insurer, a district court
30 may grant an order of rehabilitation or liquidation within
31 twenty-four hours after the filing of such a petition pursuant
32 to this section.
33 4. If the district court does not make a determination on a
34 petition for an order of rehabilitation or liquidation filed by
35 the commissioner pursuant to this section within twenty-four

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1 hours after the filing of the petition, the order shall be
2 deemed granted by operation of law upon the expiration of the
3 twenty-four-hour period.
4 *a.* At the time that an order is deemed granted under this
5 subsection, the provisions of this chapter shall be deemed
6 to be in effect, and the commissioner shall be deemed to be
7 affirmed as receiver and to have all of the applicable powers
8 provided by this chapter, regardless of whether an order has
9 been entered by the district court.
10 *b.* If an order is deemed granted by operation of law under
11 this subsection, the district court shall expeditiously enter
12 an order of rehabilitation or liquidation that does all of the
13 following:
14 (1) Is effective as of the date that the order is deemed
15 granted by operation of law.
16 (2) Conforms to the provisions for rehabilitation or
17 liquidation of an insurer contained in this chapter, as
18 applicable.
19 5. An order of rehabilitation or liquidation made pursuant
20 to this section shall not be subject to a stay or injunction
21 pending appeal.
22 6. Nothing in this section shall be construed to supersede
23 or impair any other power or authority of the commissioner or
24 the district court under this chapter.
25 Sec. 11. Section 507E.5, subsection 2, Code 2013, is amended
26 to read as follows:
27 2. The commissioner may share documents, materials, or
28 other information, including confidential and privileged
29 documents, materials, or other information, with other
30 state, federal, and international regulatory agencies, with
31 the national association of insurance commissioners and its
32 affiliates or subsidiaries, and with local, state, federal, and
33 international law enforcement authorities, provided that the
34 recipient agrees to maintain the confidential and privileged
35 status of the document, material, or other information,

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1 pursuant to Iowa law.
2 Sec. 12. Section 511.8, subsection 14, Code 2013, is amended
3 to read as follows:
4 14. *Urban real estate and personal property.*
5 *a.* Personal or real property or both located within the
6 United States or the Dominion of Canada, other than real
7 property used or to be used primarily for agricultural,
8 horticultural, ranching or mining purposes, which produces
9 income or which by suitable improvement will produce income.
10 However, personal property acquired under this subsection shall
11 be acquired for the purpose of entering into a contract for
12 the sale or for a use under which the contractual payments
13 may reasonably be expected to result in the recovery of the
14 investment and an investment return within the anticipated
15 useful life of the property. Legal title to the real property
16 may be acquired subject to a contract of sale.
17 *b.* *"Real property"* as used in this subsection includes ~~a~~ all
18 of the following:
19 (1) A leasehold of real estate~~, an~~.
20 (2) An undivided interest in a leasehold of real estate~~, and~~
21 ~~an~~.
22 (3) An undivided interest in the fee title of real estate.
23 (4) A controlling membership, partnership, shareholder, or
24 trust interest in any entity created solely for the purpose
25 of owning and operating any of the interests described in
26 subparagraph (1), (2), or (3), if the entity is expressly
27 limited to that purpose within its organizational documents.
28 *c.* Investments under this subsection are not eligible in
29 excess of ten percent of the legal reserve.
30 Sec. 13. Section 511.8, subsection 23, Code 2013, is amended
31 by adding the following new paragraph:
32 NEW PARAGRAPH. *g.* For securities loaned pursuant to this
33 subsection that are included in the legal reserve of the life
34 insurance company or association, the collateral received for
35 the loaned securities shall not be eligible for inclusion in

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1 the legal reserve.
2 Sec. 14. Section 511.40, Code 2013, is amended by adding the
3 following new subsection:
4 NEW SUBSECTION. 5. *a.* The gross amount of premiums
5 received by a life insurance company or association for an
6 employer-owned life insurance contract which has not been
7 allocated to another state shall be allocated to this state
8 for purposes of section 432.1, subsection 1, if either of the
9 following is applicable:
10 (1) The contract is issued or delivered in this state.
11 (2) The company or association is domiciled in this state.
12 *b.* To the extent that premiums are allocated to this state
13 pursuant to paragraph *"a"*, the provisions of section 505.14 are
14 not applicable to those premiums.
15 *c.* As used in this subsection, *"employer-owned life*
16 *insurance contract"* means a policy which provides coverage on
17 a life for which the employer has an insurable interest under
18 this section or a similar provision of the laws of another
19 state and the policy is owned by either the employer or a trust
20 established by the employer for the benefit of the employer or
21 the employer's active or retired employees.
22 Sec. 15. Section 514.4, Code 2013, is amended to read as
23 follows:
24 **514.4 Directors.**
25 1. At least two-thirds of the directors of a hospital
26 service corporation, medical service corporation, dental
27 service corporation, or pharmaceutical or optometric service
28 corporation subject to this chapter shall be at all times
29 subscribers and not more than one-third of the directors
30 shall be providers as provided in this section. The board of
31 directors of each corporation shall consist of at least nine
32 members.
33 2. A subscriber director is a director of the board of
34 a corporation who is a subscriber and who is not a provider
35 of health care pursuant to section 514B.1, subsection 7, a

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1 person who has material financial or fiduciary interest in the
2 delivery of health care services or a related industry, an
3 employee of an institution which provides health care services,
4 or a spouse or a member of the immediate family of such a
5 person. However, a subscriber director of a dental service
6 corporation may be an employee, officer, director, or trustee
7 of a hospital or other entity that does not have a provider
8 contract with the dental service corporation. A subscriber
9 director of a hospital or medical service corporation shall be
10 a subscriber of the services of that corporation.
11 3. A provider director of a corporation subject to this
12 chapter shall be at all times a person who has a material
13 financial interest in or is a fiduciary to or an employee
14 of or is a spouse or member of the immediate family of a
15 provider having a contract with such corporation to render to
16 its subscribers the services of such corporation or who is a
17 hospital trustee.
18 4. A director may serve on a board of only one corporation
19 at a time subject to this chapter.
20 5. The commissioner of insurance shall adopt rules pursuant
21 to chapter 17A to implement the process of the election of
22 subscriber directors of the board of directors of a corporation
23 to ensure the representation of a broad spectrum of subscriber
24 interest on each board and establish criteria for the selection
25 of nominees. The rules shall provide for an independent
26 subscriber nominating committee to serve until the composition
27 of the board of directors meets the percentage requirements
28 of this section. Once the composition requirements of this
29 section are met, the nominations for subscriber directors
30 shall be made by the subscriber directors of the board under
31 procedures the board establishes which shall also permit
32 nomination by a petition of at least fifty subscribers. The
33 board shall also establish procedures to permit nomination of
34 provider directors by petition of at least fifty participating
35 providers. A member of the board of directors of a corporation

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1 subject to this chapter shall not serve on the independent
2 subscriber nominating committee. The nominating committee
3 shall consist of subscribers as defined in this section. The
4 rules of the commissioner of insurance shall also permit
5 nomination of subscriber directors by a petition of at least
6 fifty subscribers, and nomination of provider directors
7 by a petition of at least fifty participating providers.
8 These petitions shall be considered only by the independent
9 nominating committee during the duration of the committee.
10 Following the discontinuance of the committee, the petition
11 process shall be continued and the board of directors of the
12 corporation shall consider the petitions. The independent
13 subscriber nominating committee is not subject to chapter 17A.
14 The nominating committee shall not receive per diem or expenses
15 for the performance of their duties.
16 6. Population factors, representation of different
17 geographic regions, and the demography of the service area of
18 the corporation subject to this chapter shall be considered
19 when making nominations for the board of directors of a
20 corporation subject to this chapter.
21 7. A corporation serving states in addition to Iowa shall be
22 required to implement this section only for directors who are
23 residents of Iowa and elected as board members from Iowa.
24 Sec. 16. Section 515.69, subsection 1, Code 2013, is amended
25 to read as follows:
26 1. A stock insurance company organized under or by the
27 laws of any other state or foreign government for the purpose
28 specified in this chapter, shall not, directly or indirectly,
29 take risks or transact business of insurance in this state
30 unless the company ~~has two and one-half million dollars of~~
31 ~~actual paid-up capital, and a surplus in cash or invested in~~
32 ~~securities authorized by law of not less than two and one-half~~
33 ~~million dollars,~~ possesses the actual amount of capital and
34 surplus required of any company organized pursuant to this
35 chapter, or if the company is a mutual insurance company, the

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1 actual amount of surplus required of any mutual insurance
2 company organized pursuant to this chapter, exclusive of assets
3 deposited in a state, territory, district, or country for the
4 special benefit or security of those insured in that state,
5 territory, district, or country.
6 Sec. 17. Section 515.136, Code 2013, is amended to read as
7 follows:
8 **515.136 Value of building — liability.**
9 ~~The insurance company or association issuing such policy may~~
10 ~~show the actual value of said property at date of policy, and~~
11 ~~any depreciation in the value thereof before the loss occurred;~~
12 ~~but the said~~ An insurance company or association shall be
13 liable for the actual value of the property insured at the date
14 of the loss, unless such value exceeds the amount stated in the
15 policy.
16 Sec. 18. Section 515A.7, subsection 1, paragraph b,
17 subparagraph (5), Code 2013, is amended to read as follows:
18 (5) An insurer may adopt a ~~scheduled or~~ schedule rating plan
19 providing for credits or debits in an amount not exceeding the
20 maximum modification allowed as set forth by the commissioner
21 by rule. This amount shall be in addition to the permitted
22 deviations set forth in subparagraphs (1) through (4).
23 Sec. 19. Section 518.14, subsection 4, paragraph f,
24 unnumbered paragraph 1, Code 2013, is amended to read as
25 follows:
26 Common stocks, common stock equivalents, mutual fund shares,
27 securities convertible into common stocks or common stock
28 equivalents, or preferred stocks issued or guaranteed by a
29 corporation incorporated under the laws of the United States
30 or a state, or the laws of Canada or a province of Canada,
31 or by limited partnerships publicly traded on a nationally
32 established stock exchange in the United States. Aggregate
33 investments in nondividend paying stocks shall not exceed five
34 percent of surplus.
35 Sec. 20. Section 518A.12, subsection 4, paragraph f,

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1 unnumbered paragraph 1, Code 2013, is amended to read as
2 follows:
3 Common stocks, common stock equivalents, mutual fund shares,
4 securities convertible into common stocks or common stock
5 equivalents, or preferred stocks issued or guaranteed by a
6 corporation incorporated under the laws of the United States
7 or a state, or the laws of Canada or a province of Canada,
8 or by limited partnerships publicly traded on a nationally
9 established stock exchange in the United States. Aggregate
10 investments in nondividend paying stocks shall not exceed five
11 percent of surplus.
12 Sec. 21. Section 521E.1, subsection 4, unnumbered paragraph
13 1, Code 2013, is amended to read as follows:
14 *"Domestic insurer"* means an insurance company domiciled in
15 this state and licensed to transact the business of insurance
16 under chapter 508, 512B, 515, or 520, except that it shall not
17 include any of the following:
18 Sec. 22. Section 521E.1, subsection 4, paragraph b, Code
19 2013, is amended by striking the paragraph.
20 Sec. 23. Section 521E.1, subsections 6 and 7, Code 2013, are
21 amended to read as follows:
22 6. *"Foreign insurer"* means an insurance company not
23 domiciled in this state which is licensed to transact the
24 business of insurance in this state under chapter 508, 512B,
25 515, or 520.
26 7. *"Life and health insurer"* means an insurance company
27 licensed under chapter 508, a fraternal benefit society
28 organized under chapter 512B, or a licensed property and
29 casualty insurer writing only accident and health insurance
30 under chapter 515.
31 Sec. 24. Section 521E.3, subsection 1, paragraph a,
32 subparagraph (2), Code 2013, is amended to read as follows:
33 (2) For a life and health insurer, the insurer's
34 total adjusted capital is greater than or equal to its
35 company-action-level risk-based capital but less than the

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1 product of its authorized-control-level risk-based capital and
2 ~~two and one-half~~ three, and has a negative trend.
3 Sec. 25. Section 522C.6, Code 2013, is amended by adding the
4 following new subsection:
5 NEW SUBSECTION. 3. *a.* A licensed public adjuster who,
6 after hearing, is found to have violated this chapter or any
7 rule adopted or order issued pursuant to this chapter, may
8 be ordered to cease and desist from engaging in the conduct
9 resulting in the violation and may be assessed a civil penalty
10 as provided in section 505.7A.
11 *b.* A person who, after hearing, is found to have violated
12 this chapter by acting as a public adjuster without proper
13 licensure may be ordered to cease and desist from engaging in
14 the conduct resulting in the violation and may be assessed a
15 civil penalty according to the provisions of chapter 507A.
16 *c.* If a person has engaged, is engaging, or is about to
17 engage in any act or practice constituting a violation of
18 this chapter or any rule adopted or order issued pursuant to
19 this chapter, the commissioner may issue a summary order that
20 includes a brief statement of findings of fact, conclusions of
21 law, and policy reasons for the order, and that directs the
22 person to cease and desist from engaging in the act or practice
23 constituting the violation and that may assess a civil penalty
24 or take other affirmative action as in the judgment of the
25 commissioner is necessary to assure that the person complies
26 with the requirements of this chapter as provided in chapter
27 507A.
28 *d.* If a person does not comply with an order issued pursuant
29 to this subsection, the commissioner may petition a court of
30 competent jurisdiction to enforce the order. The court shall
31 not require the commissioner to post a bond in an action or
32 proceeding under this subsection. If the court finds, after
33 notice and opportunity for hearing, that the person is not in
34 compliance with an order, the court may adjudge the person to
35 be in civil contempt of the order. The court may impose a civil

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1 penalty against the person for contempt in an amount not less
2 than three thousand dollars but not greater than ten thousand
3 dollars for each violation and may grant any other relief that
4 the court determines is just and proper in the circumstances.
5 Sec. 26. Section 523A.301, Code 2013, is amended to read as
6 follows:
7 **523A.301 Definition.**
8 As used in sections 523A.302 ~~and~~, 523A.303, and 523A.304,
9 *"director"* means the director of human services.
10 Sec. 27. Section 523A.303, subsection 1, unnumbered
11 paragraph 1, Code 2013, is amended to read as follows:
12 If funds remain in a nonguaranteed irrevocable burial trust
13 fund ~~or from the proceeds of an insurance policy or annuity~~
14 ~~made payable or assigned to the seller or a provider~~ after the
15 payment of funeral and burial expenses in accordance with the
16 conditions and terms of the purchase agreement for cemetery
17 merchandise, funeral merchandise, or funeral services, the
18 seller shall comply with all of the following:
19 Sec. 28. NEW SECTION. **523A.304 Disbursement of insurance or**
20 **annuity proceeds — medical assistance debts.**
21 1. If an insurance policy or annuity is purchased or
22 assigned to fund a purchase agreement and the insured or
23 annuitant is or may become a recipient of medical assistance
24 benefits under chapter 249A, unless the primary beneficiary of
25 the policy or annuity is the spouse or disabled child of the
26 insured or annuitant, the insurance policy or annuity shall
27 designate, or shall be amended to designate, the department
28 as the primary beneficiary of any funds that remain from the
29 proceeds of the insurance policy or annuity after payment of
30 funeral and burial expenses in accordance with the terms and
31 conditions of the purchase agreement.
32 2. If the funds remaining from the proceeds of the insurance
33 policy or annuity are disbursed as provided in subsection 1
34 and as otherwise provided in the insurance policy or annuity,
35 if applicable, the seller, provider, or insurer shall not be

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1 liable to the director, the estate of the deceased insured or
2 annuitant, a personal representative, or any other interested
3 person for the remaining funds, and any lien imposed by the
4 director shall be unenforceable against the seller, provider,
5 or insurer.
6 3. This section applies to an insurance policy or annuity
7 issued prior to January 1, 2014, that funds a purchase
8 agreement for an insured or annuitant who receives or may
9 receive medical assistance benefits under chapter 249A, and who
10 dies on or after January 1, 2015.
11 4. This section applies to an insurance policy or annuity
12 issued on or after January 1, 2014, to fund a purchase
13 agreement for an insured or annuitant who receives or may
14 receive medical assistance benefits under chapter 249A, and who
15 dies on or after January 1, 2014, and on or after the date of
16 issuance of the insurance policy or annuity.
17 Sec. 29. Section 598.20A, Code 2013, is amended to read as
18 follows:
19 **598.20A Beneficiary revocation — life insurance.**
20 1. Except as preempted by federal law, if a decree of
21 dissolution, annulment, or separate maintenance is issued after
22 ~~an insured~~ the policy owner of an insurance contract insuring
23 the policy owner's own life has designated the ~~insured's~~ policy
24 owner's spouse or one or more relatives of the ~~insured's~~ policy
25 owner's spouse as a beneficiary under a life insurance policy
26 in effect on the date of the decree, a provision in the life
27 insurance policy making such a designation is voided by the
28 issuance of the decree unless any of the following apply:
29 *a.* The decree designates the ~~insured's~~ policy owner's former
30 spouse or one or more relatives of the ~~insured's~~ policy owner's
31 spouse as beneficiary.
32 *b.* After issuance of the decree, the ~~insured~~ policy owner
33 executes a designation of beneficiary form provided by the
34 insurance company naming the ~~insured's~~ policy owner's former
35 spouse or one or more relatives of the ~~insured's~~ policy owner's

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former spouse as beneficiary.

c. The ~~insured~~ policy owner and the ~~insured's~~ policy owner's former spouse remarry.

2. If a beneficiary designation is not effective pursuant to subsection 1, the benefits or proceeds of the life insurance policy are payable to an alternate beneficiary, or if there is no alternate beneficiary, to the estate of the ~~insured~~ policy owner.

3. An insurer who pays benefits or proceeds of a life insurance policy to a beneficiary under a designation that is void pursuant to subsection 1 is not liable for payment to an alternative beneficiary as provided under subsection 2 unless both of the following apply:

a. At least ten days prior to payment of the benefits or proceeds of the life insurance policy to the designated beneficiary, the insurer receives written notice at the home office of the insurer that the designation of the beneficiary is not effective pursuant to subsection 1.

b. The insurer has failed to interplead the benefits or proceeds of the life insurance policy in a court of competent jurisdiction in accordance with the rules of civil procedure.

4. This section does not limit the right of a beneficiary to seek recovery from any person or entity that erroneously receives or collects the benefits or proceeds from a life insurance policy.

5. This section does not affect the right of ~~an insured's~~ a policy owner's former spouse to assert an ownership interest in a life insurance policy insuring the life of the policy owner that is not disclosed to the ~~insured's~~ policy owner's spouse prior to the decree of dissolution, annulment, or separate maintenance and that is not addressed by the decree.

6. For purposes of this section, *"relative of the ~~insured's~~ policy owner's spouse"* means a person who is related to the ~~insured's~~ policy owner's former spouse by blood, adoption, or affinity, and who, subsequent to a decree of dissolution,

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1 annulment, or separate maintenance, ceases to be related to the
2 ~~insured~~ policy owner by blood, adoption, or affinity.
3 Sec. 30. EFFECTIVE UPON ENACTMENT. The following
4 provision or provisions of this Act, being deemed of immediate
5 importance, take effect upon enactment:
6 1. The section of this Act enacting section 507C.17A.
7 EXPLANATION
8 This bill relates to various matters under the purview of the
9 insurance division of the department of commerce.
10 DEPARTMENT OF PUBLIC HEALTH. Code section 135.22A(2)(g)
11 is stricken to remove the commissioner of insurance from the
12 membership of the advisory council on brain injuries.
13 MEDICAL ASSISTANCE. New Code section 249A.3(15) provides
14 that an insurance policy or annuity purchased to fund an
15 irrevocable purchase agreement to furnish cemetery and funeral
16 merchandise, funeral services, or a combination thereof as
17 provided in Code chapter 523A, which is owned or assigned
18 to a seller or provider and in which the department of
19 human services is designated as the primary beneficiary, is
20 excluded as a resource for determining eligibility for medical
21 assistance under Code chapter 249A. For purposes of this
22 provision, a "seller" is a person doing business in this state,
23 including one who sells insurance, who sells or offers to
24 furnish cemetery and funeral merchandise, funeral services, or
25 a combination of those products on a preneed basis.
26 UNIFORM SECURITIES ACT (BLUE SKY LAW). Code section
27 502.412(3) is amended to increase the amount of the
28 disciplinary penalty for registrants that the administrator
29 (commissioner of insurance or the commissioner's deputy) can
30 impose for a violation of the Code chapter from a maximum of
31 $5,000 to $10,000 for a single violation, and from $500,000 to
32 $1 million for more than one violation, or in such amount as
33 agreed to by the parties.
34 Code section 502.604(4) is amended to increase the amount
35 of a civil penalty the administrator can impose against a

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1 person for engaging in an act, practice, or course of business
2 in violation of the Code chapter from a maximum of $5,000 to
3 $10,000 for a single violation, and from $500,000 to $1 million
4 for more than one violation, or in an amount agreed to by the
5 parties.
6 New Code section 502.604(5A) provides that a person
7 who fails to obey a valid cease and desist order issued by
8 the administrator may be subject to a civil penalty in an
9 amount of not less than $1,000 and not more than $10,000 for
10 violating the order. Each day the failure to obey continues
11 constitutes a separate violation. The penalties provided in
12 this subsection are in addition to, and not exclusive of other
13 remedies that may be available.
14 INSURANCE DIVISION. Code section 505.8(10) is amended to
15 allow the commissioner to assess the costs of the examination
16 of a regulated entity necessary to accomplish compliance with
17 the insurance laws of this state.
18 DOMESTIC INSURANCE COMPANIES. New Code section 506.14
19 provides that any plan for the voluntary dissolution of a
20 domestic mutual insurance company licensed in this state shall
21 be presented for approval by the commissioner not less than 90
22 days prior to notice of the plan to the policyholders. The
23 commissioner must approve the plan if it complies with all
24 applicable laws and is fair and equitable to the company and to
25 its policyholders.
26 EXAMINATION OF INSURANCE COMPANIES. Code section
27 507.10(4)(a) is amended to allow the board of directors of
28 an insurance company to signal that each member has reviewed
29 an examination report with a notation in the board's meeting
30 minutes instead of by filing affidavits indicating that each
31 member has received a copy of the report.
32 INSURANCE TRADE PRACTICES. New Code section 507B.4(3)(t)
33 makes it an unfair or deceptive act or practice in the business
34 of insurance to fail to refund premiums paid for a Medicare
35 supplement policy after the effective date of a subsequently

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1 purchased Medicare advantage plan if the insurer has no
2 exposure to pay benefits under the Medicare supplement policy
3 during the time that both the supplement policy and the
4 advantage plan are in effect.
5 INSURERS SUPERVISION, REHABILITATION, AND LIQUIDATION.
6 New Code section 507C.17A contains provisions that apply in
7 accordance with the federal Dodd-Frank Wall Street Reform and
8 Consumer Protection Act to a domestic insurer that is a covered
9 financial company, as that term is defined in federal law.
10 The bill provides that the commissioner of insurance may
11 file a petition in the state district court for an order of
12 rehabilitation or liquidation of such a domestic insurer upon
13 receiving notice from the secretary of the treasury of the
14 United States that the insurer acquiesces or consents to the
15 appointment of a receiver; upon an order of the United States
16 district court for the District of Columbia as to that insurer;
17 or when a petition of the secretary of the treasury of the
18 United States concerning the insurer is granted by operation
19 of law.
20 Notwithstanding any other provision of law to the contrary,
21 the state district court, after notice to the insurer, may
22 grant an order on such a petition within 24 hours after the
23 filing of the petition. If the district court does not make a
24 determination on the petition within 24 hours of its filing,
25 the order is deemed granted by operation of law upon expiration
26 of the 24-hour period.
27 At the time an order is deemed granted, the provisions of
28 Code chapter 507C are deemed to be in effect, the commissioner
29 is deemed to be affirmed as the receiver and to have all of
30 the applicable powers provided by Code chapter 507C, and the
31 state district court must expeditiously enter an order of
32 rehabilitation or liquidation. An order of rehabilitation or
33 liquidation made pursuant to the provisions of the bill is not
34 subject to a stay or injunction pending appeal.
35 This provision is effective upon enactment.

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1 INSURANCE FRAUD. Code section 507E.5(2) is amended to allow
2 the commissioner to share documents with local as well as
3 state, federal, and international law enforcement authorities
4 if the recipient agrees to maintain the confidentiality of
5 confidential and privileged documents that are shared.
6 LIFE INSURANCE COMPANIES AND ASSOCIATIONS. Code section
7 511.8(14) is amended to provide that a life insurance company
8 can include in its legal reserve as real property a controlling
9 membership, partnership, shareholder, or trust interest in any
10 entity created solely for the purpose of owning and operating a
11 leasehold of real estate, an undivided interest in a leasehold
12 of real estate, or an undivided interest in the fee title of
13 real estate. The entity must be expressly limited to that
14 purpose by its organizational documents.
15 Code section 511.8(23) is amended to provide that if
16 securities held in a life insurance company's legal reserve are
17 loaned, the collateral received for the loaned securities is
18 not eligible for inclusion in the legal reserve.
19 New Code section 511.40(5) provides that the gross amount of
20 premiums received by a life insurance company or association
21 for an employer-owned life insurance contract shall be
22 allocated to this state for purposes of calculating the state
23 premium tax if the contract is issued or delivered in this
24 state or the company or association is domiciled in this state.
25 For purposes of the subsection, "employer-owned life insurance
26 contract" means a policy which provides coverage on a life for
27 which the employer has an insurable interest under this Code
28 section or the laws of another state and the policy is owned by
29 either the employer or a trust established by the employer for
30 the benefit of the employer or the employer's active or retired
31 employees.
32 NONPROFIT HEALTH SERVICE CORPORATIONS. Code section 514.4
33 is amended to provide that a person who is affiliated with a
34 hospital or other entity that does not have a provider contract
35 with a dental service corporation can serve as a subscriber

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1 director of that corporation.
2 INSURANCE OTHER THAN LIFE. Code section 515.69(1) is
3 amended to require that a foreign stock insurance company must
4 possess the actual amount of capital and surplus required of
5 any company organized pursuant to Code chapter 515, or if the
6 insurer is a mutual company, the actual amount of surplus
7 required of any mutual company organized pursuant to Code
8 chapter 515. Currently, a foreign stock insurance company is
9 required to have $2.5 million of actual paid-up capital, and a
10 surplus in cash or invested in securities authorized by law of
11 not less than $2.5 million.
12 Code section 515.136 is amended to provide that an insurance
13 company or association is liable for the actual value of the
14 property insured at a date of a loss, unless that value exceeds
15 the amount stated in the policy. Currently, the insurer
16 issuing such a policy may show the actual value of the property
17 at the date of issuance of the policy and any depreciation in
18 the value of the property after a loss occurred but is still
19 liable for the actual value of the property insured on the date
20 of loss or the policy amount, whichever is less.
21 WORKERS' COMPENSATION LIABILITY INSURANCE. Code section
22 515A.7(1)(b)(5) is amended to remove a reference to a
23 "scheduled rating plan", a term that is not defined in the Code
24 chapter.
25 COUNTY MUTUAL INSURANCE ASSOCIATIONS. Code section
26 518.14(4)(f) is amended to allow county mutual insurance
27 associations to invest in stocks that are issued or guaranteed
28 by limited partnerships publicly traded on a nationally
29 established stock exchange in the United States.
30 STATE MUTUAL INSURANCE ASSOCIATIONS. Code section
31 518A.12(4)(f) is amended to allow state mutual insurance
32 associations to invest in stocks that are issued or guaranteed
33 by limited partnerships publicly traded on a nationally
34 established stock exchange in the United States.
35 RISK-BASED CAPITAL REQUIREMENTS FOR INSURERS. Code section

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521E.1(4) is amended to provide that for purposes of the Code chapter, a fraternal benefit society organized under Code chapter 512B is a domestic insurer. Code section 521E.1(4)(b), which excepted a fraternal benefit society from inclusion as a domestic insurer, is stricken. Corresponding changes to include such a society are made in Code section 521E.1(6) and (7).

Code section 521E.3(1)(a)(2) is amended to provide that for a life and health insurer, a company-action-level event means the insurer's total adjusted capital is greater than or equal to its company-action-level risk-based capital but less than the product of its authorized-control-level risk-based capital and three, instead of two and one-half, and has a negative trend.

LICENSING OF PUBLIC ADJUSTERS. Code section 522C.6 is amended to add provisions allowing the commissioner of insurance to hold hearings, issue cease and desist orders, assess civil penalties, and petition for enforcement of those orders by the district court against persons who violate the provisions of Code chapter 522C. The district court is authorized to adjudge a violator in civil contempt of an order and to impose a civil penalty for contempt of not less than $3,000 but not more than $10,000 for each violation and grant any other relief the court determines is just and proper under the circumstances.

CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES. Code section 523A.301 is amended to provide that for purposes of new Code section 523A.304, "director" means the director of human services.

Code section 523A.303(1) is amended so that the section only applies to funds remaining in a nonguaranteed irrevocable burial trust fund and does not apply to the proceeds of an insurance policy or annuity assigned to a preneed seller or provider of cemetery and funeral merchandise, and funeral services.

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1 New Code section 523A.304 provides that if an insurance
2 policy or annuity is purchased or assigned to fund a preneed
3 purchase agreement and the insured or annuitant is or may
4 become a recipient of medical assistance benefits under Code
5 chapter 249A, unless the primary beneficiary of the policy
6 or annuity is the spouse or disabled child of the insured or
7 annuitant, the insurance policy or annuity shall designate,
8 or be amended to designate, the department of human services
9 as the primary beneficiary of any funds that remain from the
10 proceeds of the insurance policy or annuity after payment of
11 funeral and burial expenses in accordance with the conditions
12 and terms of the preneed purchase agreement.
13 If the remaining funds are disbursed as required, the
14 preneed seller, the provider of the merchandise and services,
15 and the insurer shall not be liable to the director of human
16 services, the estate of the deceased insured or annuitant, a
17 personal representative, or any other interested person for the
18 remaining funds and any lien imposed by the director against a
19 seller, provider, or insurer is unenforceable.
20 This provision applies to an insurance policy or annuity
21 purchased prior to January 1, 2014, that funds a preneed
22 purchase agreement for an insured or annuitant who receives
23 or may receive medical assistance benefits under Code chapter
24 249A and who dies on or after January 1, 2015. The provision
25 also applies to an insurance policy or annuity issued on or
26 after January 1, 2014, to fund a preneed purchase agreement for
27 an insured or annuitant who receives or may receive medical
28 assistance benefits, and who dies on or after January 1, 2014,
29 and on or after the date of issuance of the insurance policy or
30 annuity.
31 DISSOLUTION OF MARRIAGE AND DOMESTIC RELATIONS. Code
32 section 598.20A is amended to provide that it is the policy
33 owner of an insurance contract insuring the policy owner's own
34 life, not the insured, who designates the beneficiary of the
35 policy and is authorized to make changes in that designation

S.F. _____ H.F. _____

1 after a decree of dissolution of marriage, annulment, or
2 separate maintenance.

House Study Bill 84 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
EDUCATION BILL)

A BILL FOR

1 An Act relating to school instructional hours and school
2 instructional days and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1066XD (2) 85
je/nh

S.F. _____ H.F. _____

Section 1. Section 256.7, subsection 19, Code 2013, is amended to read as follows:

19. Define ~~the minimum school day as a day consisting of five and one-half hours of~~ instructional ~~time for grades one through twelve. The minimum~~ hours as time spent with a licensed teacher that shall be exclusive of the lunch period and parent-teacher conferences, but may include passing time between classes. ~~Time spent on parent-teacher conferences shall be considered instructional time. A school or school district may record a day of school with less than the minimum instructional hours as a minimum school day if any of the following apply:~~

~~*a.* If emergency health or safety factors require the late arrival or early dismissal of students on a specific day.~~

~~*b.* If the total hours of instructional school time for grades one through twelve for any five consecutive school days equal a minimum of twenty-seven and one-half hours, even though any one day of school is less than the minimum instructional hours because of a staff development opportunity provided for the professional instructional staff or because parent-teacher conferences have been scheduled beyond the regular school day. Furthermore, if the total hours of instructional time for the first four consecutive days equal at least twenty-seven and one-half hours because parent-teacher conferences have been scheduled beyond the regular school day, a school or school district may record zero hours of instructional time on the fifth consecutive school day as a minimum school day.~~

Sec. 2. Section 256F.4, subsection 5, Code 2013, is amended to read as follows:

5. A charter school or innovation zone school shall provide instruction for at least the number of ~~days~~ hours required by section 279.10, subsection 1~~, or shall provide at least the equivalent number of total hours~~.

Sec. 3. Section 279.10, subsection 1, Code 2013, is amended to read as follows:

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1. The school year for each school district and accredited nonpublic school shall begin on ~~the first day of~~ July 1 and each regularly established elementary and secondary school shall begin no sooner than a day during the calendar week in which the first day of September falls but no later than the first Monday in December. However, if the first day of September falls on a Sunday, school may begin on a day during the calendar week which immediately precedes the first day of September. ~~School shall continue for at least one hundred eighty days, except as provided in subsection 3, and may be maintained~~ The school calendar shall include not less than one thousand eighty hours of instruction during the ~~entire~~ calendar year. ~~However, if~~ The board of directors of a school district and the authorities in charge of an accredited nonpublic school shall set the number of days of required attendance for the school year as provided in section 299.1, subsection 2, but the board of directors of a school district shall hold a public hearing on any proposed school calendar prior to adopting the school calendar. If the board of directors of a district or the authorities in charge of an accredited nonpublic school extends the school calendar because inclement weather caused the school district or accredited nonpublic school to temporarily close ~~school~~ during the regular school calendar, the school district or accredited nonpublic school may excuse a graduating senior who has met district or school requirements for graduation from attendance during the extended school calendar. A school corporation may begin employment of personnel for in-service training and development purposes before the date to begin elementary and secondary school.

Sec. 4. Section 279.10, subsections 2 and 3, Code 2013, are amended by striking the subsections.

Sec. 5. Section 299.4, subsection 1, Code 2013, is amended to read as follows:

1. The parent, guardian, or legal custodian of a child who is of compulsory attendance age, who places the child under

S.F. _____ H.F. _____

1 competent private instruction under either section 299A.2 or
2 299A.3, not in an accredited school or a home school assistance
3 program operated by a school district or accredited nonpublic
4 school, shall furnish a report in duplicate on forms provided
5 by the public school district, to the district by ~~the earliest~~
6 ~~starting date specified in section 279.10, subsection 1~~
7 September 1 of the school year in which the child will be under
8 competent private instruction. The secretary shall retain and
9 file one copy and forward the other copy to the district's
10 area education agency. The report shall state the name and
11 age of the child, the period of time during which the child
12 has been or will be under competent private instruction for
13 the year, an outline of the course of study, texts used, and
14 the name and address of the instructor. The parent, guardian,
15 or legal custodian of a child, who is placing the child under
16 competent private instruction for the first time, shall also
17 provide the district with evidence that the child has had the
18 immunizations required under section 139A.8, and, if the child
19 is elementary school age, a blood lead test in accordance with
20 section 135.105D. The term *"outline of course of study"* shall
21 include subjects covered, lesson plans, and time spent on the
22 areas of study.
23 Sec. 6. REPEAL. Section 256.22, Code 2013, is repealed.
24 Sec. 7. EFFECTIVE DATE. This Act takes effect July 1, 2014.
25 EXPLANATION
26 This bill strikes language requiring accredited schools to
27 provide at least 180 instructional days in a school year and
28 specifying what does and what does not constitute instructional
29 time. The bill replaces the language requiring a 180-day
30 school calendar with a requirement that accredited schools
31 provide at least 1,080 instructional hours during the school
32 calendar in a school year.
33 The school districts and accredited nonpublic schools set
34 the number of days of required attendance for the school year,
35 but school districts must hold a public hearing on a proposed

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1 school calendar prior to adopting the school calendar.
2 The bill modifies a provision requiring the state board
3 of education to define the minimum school day. Under the
4 bill, instructional time for grades 1 through 12 is still
5 exclusive of the lunch period and may include passing time
6 between classes, but parent-teacher conferences do not qualify
7 as instructional time. The bill strikes language that permits
8 a school or school district to record a day of school with
9 less than the minimum instructional hours as a minimum school
10 day for emergency health or safety factors and for staff
11 development opportunities.
12 The bill makes conforming changes, including giving a
13 parent, whose child is under competent private instruction,
14 until September 1 to furnish a report providing information
15 about the child and the competent private instruction to the
16 school district of residence. The bill strikes or repeals
17 language that permits the department of education to approve an
18 innovative school year pilot program and language that requires
19 the department to establish an extended year school grant
20 program subject to an appropriation.
21 The bill takes effect July 1, 2014.

House Study Bill 85 - Introduced

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

A BILL FOR

1 An Act relating to granting authority to the board of pharmacy
2 to temporarily designate a substance a controlled substance,
3 classifying certain synthetic cannabinoids as schedule I
4 controlled substances, and providing penalties and making
5 penalties applicable.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1306DP (4) 85
rh/rj

S.F. _____ H.F. _____

1 Section 1. Section 124.201, subsection 4, Code 2013, is
2 amended to read as follows:
3 4. *a.* If any new substance is designated as a controlled
4 substance under federal law and notice of the designation is
5 given to the board, the board shall similarly designate as
6 controlled the new substance under this chapter after the
7 expiration of thirty days from publication in the Federal
8 Register of a final order designating a new substance as a
9 controlled substance, unless within that thirty-day period
10 the board objects to the new designation. In that case the
11 board shall publish the reasons for objection and afford
12 all interested parties an opportunity to be heard. At
13 the conclusion of the hearing the board shall announce its
14 decision. Upon publication of objection to a new substance
15 being designated as a controlled substance under this chapter
16 by the board, control under this chapter is stayed until the
17 board publishes its decision.
18 *b.* If any new substance has not been designated as a
19 controlled substance under federal law and the board finds that
20 the substance poses an imminent hazard to public safety, the
21 board may designate the substance a controlled substance.
22 *c.* If a substance is designated as controlled by the board
23 under this subsection, the control shall be temporary and if
24 within sixty days after the next regular session of the general
25 assembly convenes it has not made the corresponding changes
26 in this chapter, the temporary designation of control of the
27 substance by the board shall be nullified.
28 Sec. 2. Section 124.204, subsection 4, paragraph ai,
29 subparagraph (5), subparagraph division (a), Code 2013, is
30 amended by adding the following new subparagraph subdivisions:
31 NEW SUBPARAGRAPH SUBDIVISION. (vi) 3-tetramethyl-
32 cyclopropanoylindole by substitution at the nitrogen atom of
33 the indole ring, whether or not further substituted in the
34 indole ring to any extent, whether or not substituted on the
35 cyclopropyl ring to any extent.

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NEW SUBPARAGRAPH SUBDIVISION. (vii) 3-(1-adamantoyl)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the adamantoyl ring to any extent.

NEW SUBPARAGRAPH SUBDIVISION. (viii) N-(1-adamantoyl)indazole-3-carboxamide by substitution at the 1-nitrogen atom of the indazole ring, whether or not further substituted in the indazole ring to any extent, whether or not substituted on the adamantoyl ring to any extent.

Sec. 3. Section 124.204, subsection 4, paragraph ai, subparagraph (5), subparagraph division (b), Code 2013, is amended by adding the following new subparagraph subdivisions:

NEW SUBPARAGRAPH SUBDIVISION. (xvi) UR-144

NEW SUBPARAGRAPH SUBDIVISION. (xvii) XLR-11

NEW SUBPARAGRAPH SUBDIVISION. (xviii) A-796,260

NEW SUBPARAGRAPH SUBDIVISION. (xix) AM-1248

NEW SUBPARAGRAPH SUBDIVISION. (xx) AB-001

NEW SUBPARAGRAPH SUBDIVISION. (xxi) AKB-48

Sec. 4. Section 124.401, subsection 1, paragraph d, Code 2013, is amended to read as follows:

d. Violation of this subsection, with respect to any other controlled substances, counterfeit substances, or simulated controlled substances ~~classified in section 124.204, subsection 4, paragraph "*ai*", section 124.204, subsection 6, paragraph "*i*", or~~ classified in schedule IV or V is an aggravated misdemeanor. However, violation of this subsection involving any controlled substances, counterfeit substances, or simulated controlled substances classified in section 124.204, subsection 4, paragraph "*ai*", or section 124.204, subsection 6, paragraph "*i*", involving fifty kilograms or less of marijuana, or involving flunitrazepam is a class "D" felony.

EXPLANATION

This bill grants authority to the board of pharmacy to temporarily designate a substance a controlled substance,

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1 classifies certain synthetic cannabinoids as schedule I
2 controlled substances, and provides penalties and makes
3 penalties applicable.
4 BOARD OF PHARMACY AUTHORITY — CONTROLLED SUBSTANCES.
5 The bill specifies that if any new substance has not been
6 designated a controlled substance under federal law and the
7 board of pharmacy finds that the substance poses an imminent
8 hazard to public safety, the board may designate the substance
9 a controlled substance. If a substance is designated as a
10 controlled substance by the board pursuant to the bill, the
11 control shall be temporary and, if within 60 days after the
12 next regular session of the general assembly convenes, the
13 substance has not been classified as a controlled substance
14 by the general assembly, the temporary controlled substance
15 designation by the board is nullified.
16 SCHEDULE I CONTROLLED SUBSTANCES — SYNTHETIC CANNABINOIDS.
17 The bill adds certain synthetic cannabinoids to the list of
18 schedule I controlled substances in Code section 124.204
19 (4)(ai).
20 CRIMINAL PENALTIES.
21 MANUFACTURE, DELIVERY, OR POSSESSION WITH INTENT TO DELIVER
22 — CERTAIN SCHEDULE I CONTROLLED SUBSTANCES. Under current
23 law, it is an aggravated misdemeanor pursuant to Code section
24 124.401(1)(d) for any unauthorized person to manufacture,
25 deliver, or possess with the intent to manufacture or deliver a
26 cannibimimetic agent or a synthetic cathinone classified as a
27 schedule I controlled substance in Code section 124.204(4)(ai)
28 or 124.204(6)(i), including its counterfeit or simulated form,
29 or to act with, enter into a common scheme or design with, or
30 conspire with one or more persons to manufacture, deliver, or
31 possess with intent to manufacture or deliver such a schedule
32 I controlled substance. The bill increases the penalties for
33 violations of these provisions to a class "D" felony.
34 POSSESSION — SCHEDULE I CONTROLLED SUBSTANCES. A class "D"
35 felony is punishable by confinement for no more than five years

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1 and a fine of at least $750 but not more than $7,500. A serious
2 misdemeanor is punishable by confinement for no more than one
3 year and a fine of at least $315 but not more than $1,875. An
4 aggravated misdemeanor is punishable by confinement for no more
5 than two years and a fine of at least $625 but not more than
6 $6,250.

House Study Bill 86 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF ADMINISTRATIVE SERVICES BILL)

A BILL FOR

1 An Act relating to public employee human resources management
2 and making an appropriation.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1251XD (4) 85
ec/nh

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DIVISION I
SPAN OF CONTROL

Section 1. Section 8A.402, subsection 2, paragraph g, Code 2013, is amended by striking the paragraph.

DIVISION II
PHASED RETIREMENT PROGRAM

Sec. 2. Section 70A.30, Code 2013, is amended to read as follows:

70A.30 Establishment of phased retirement program.

1. ~~There is established~~ The department of administrative services may establish a voluntary employee phased retirement incentive program for full-time state employees ~~who are at least sixty years of age and have completed at least twenty years as full-time state employees~~.

2. ~~The~~ A phased retirement incentive program established by the department of administrative services is a retirement system for purposes of section 20.9, but is not retirement for purposes of chapter 97A, 97B, or 602 or for the employees who are members of the teachers insurance annuity association-college retirement equities fund (TIAA-CREF).

Sec. 3. REPEAL. Sections 70A.31, 70A.32, 70A.33, and 70A.34, Code 2013, are repealed.

Sec. 4. PHASED RETIREMENT PROGRAM — TRANSITION PROVISIONS — STANDING APPROPRIATION.

1. State employees who are participating in the phased retirement program established by sections 70A.30 through 70A.34, Code 2013, as of the effective date of this Act shall remain in the program and be eligible for the benefits of the program as provided prior to the effective date of this Act.

2. For state employees who became participants in the phased retirement program prior to the effective date of this Act, the department of administrative services shall, annually after June 30 of each fiscal year, determine the cost during the preceding fiscal year to the Iowa public employees' retirement fund of continued participation of such state employees in

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1 the phased retirement program as authorized by this section.
2 Annually, there is appropriated from the fund from which
3 the participating employees are paid to the Iowa public
4 employees' retirement fund an amount sufficient to reimburse
5 the retirement fund for the costs of the phased retirement
6 program for those state employees who became participants in
7 the program prior to the effective date of this Act.
8 DIVISION III
9 HEALTH CARE AND INSURANCE RELATED PROVISIONS
10 Sec. 5. Section 8A.437, subsection 1, Code 2013, is amended
11 to read as follows:
12 1. The director shall establish for state employees a health
13 flexible spending account plan which offers multiple benefits
14 to state employees. The state's health flexible spending
15 account plan shall be established to meet the conditions of
16 section 125 of the Internal Revenue Code ~~of 1986~~, as defined
17 in section 422.3.
18 Sec. 6. Section 509A.4, Code 2013, is amended to read as
19 follows:
20 **509A.4 Participation optional.**
21 Participation in any such plan shall be optional, with all
22 employees and their dependents eligible ~~to~~ for the benefits
23 ~~thereof~~ of the plan as provided by the rules adopted by the
24 governing body pursuant thereto. Election to participate
25 ~~therein~~ in the plan shall be ~~in writing signed~~ submitted by the
26 employee and filed with the governing body.
27 Sec. 7. REPEAL. Sections 70A.17 and 509A.13B, Code 2013,
28 are repealed.
29 DIVISION IV
30 HUMAN RESOURCE MANAGEMENT
31 Sec. 8. Section 8A.402, subsection 1, Code 2013, is amended
32 by adding the following new paragraph:
33 NEW PARAGRAPH. *i.* The development and implementation of
34 a plan to centralize the human resource management functions
35 for state executive branch agencies within the department,

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1 except for institutions under the control of the state board
2 of regents.
3 Sec. 9. DEPARTMENT OF ADMINISTRATIVE SERVICES —
4 CENTRALIZED HUMAN RESOURCE MANAGEMENT.
5 1. The director of the department of administrative
6 services shall develop and implement a plan to centralize
7 the human resource management functions for executive branch
8 agencies under the department of administrative services,
9 except for institutions under the control of the state board of
10 regents, by December 15, 2015.
11 2. The centralized human resource management plan shall do
12 all of the following:
13 a. Identify the human resource duties and processes being
14 utilized by each agency.
15 b. Identify the positions being utilized by the agencies to
16 perform the human resource duties.
17 c. Establish best practices for a consolidated human
18 resources model and identify the estimated cost savings that
19 will result from implementation of the plan.
20 d. Detail and implement an organizational structure to
21 support a fully consolidated human resources model.
22 e. Identify space, technology, and equipment needs, and
23 acquire and implement such tools and resources in support of
24 the consolidated human resources model. Such efforts shall be
25 done in collaboration with the state chief information officer
26 and the general services, state accounting, and information
27 technology enterprises of the department of administrative
28 services.
29 f. Establish a comprehensive budget to be used and establish
30 the utility rate to be charged each agency as a result of the
31 consolidation.
32 g. Establish detailed timelines for transition and
33 communicate the timelines to the agencies.
34 3. State executive branch agencies, except for institutions
35 under the control of the state board of regents, shall do all

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1 of the following:
2 a. Provide the department of administrative services with
3 all of the following information:
4 (1) Information regarding the human resource duties and
5 responsibilities being performed by agency staff.
6 (2) The direct and indirect costs associated with agency
7 staff performing human resource duties.
8 (3) Information about the human resource information and
9 records storage systems being used to perform human resource
10 work.
11 b. Adjust internal staffing as required in the centralized
12 human resource management plan developed by the department of
13 administrative services.
14 c. Agencies outside of the department of administrative
15 services shall not hire or replace any staff for the
16 purposes of conducting human resource work. The department
17 of administrative services shall partner with agencies
18 to transition and consolidate work in the human resource
19 enterprise of the department of administrative services.
20 d. Transition to the human resources and payroll systems
21 selected and operated by the department of administrative
22 services pursuant to timelines identified by the department of
23 administrative services.
24 e. Adhere to all objectives and timelines required in the
25 centralized human resource management plan developed by the
26 department of administrative services.
27 EXPLANATION
28 This bill concerns public employee human resource
29 management, generally administered by the department of
30 administrative services.
31 Division I of the bill strikes the requirements in Code
32 section 8A.402 relating to the span of control of supervisory
33 employees in the executive branch. The provision struck by the
34 bill prescribed certain employee ratios of nonsupervisors to
35 supervisors within executive branch agencies.

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1 Division II of the bill repeals the phased retirement
2 program for state employees. Code section 70A.30 is amended to
3 authorize, but not require, the department of administrative
4 services to establish a phased retirement program. A
5 transition provision allows those state employees currently
6 participating in the phased retirement program repealed by
7 the bill to continue participation in the program after the
8 effective date of the bill. The bill provides for continuation
9 of a standing appropriation to the Iowa public employees'
10 retirement fund for such continued participation.
11 Division III of the bill deals with various health care and
12 insurance related provisions involving state employees.
13 Code section 70A.17, providing for a payroll deduction for
14 additional insurance coverage by state employees, is repealed.
15 Code section 509A.13B, requiring certain public employers
16 to continue health care coverage for certain children of
17 employees, is repealed. The bill amends Code section 509A.4,
18 providing for optional participation in health care coverage
19 provided by public employers to employees, to extend such
20 coverage to dependents of those employees.
21 Division IV of the bill concerns human resource management
22 for state executive branch agencies. The bill requires the
23 department of administrative services to centralize the human
24 resource management functions for executive branch agencies
25 under the department of administrative services, except for
26 institutions under the control of the state board of regents,
27 by December 15, 2015. The bill amends Code section 8A.402(1)
28 by requiring that the department develop and implement the
29 plan. The bill provides the elements that must be included in
30 the centralized human resource management plan and describes
31 what applicable state executive branch agencies must do
32 relative to developing and implementing the centralized plan.

House Study Bill 87 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON GRASSLEY)

A BILL FOR

1 An Act providing for certification requirements by persons
2 involved in the management of manure.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1474YC (3) 85
da/sc

H.F. _____

Section 1. Section 459.315, subsection 3, Code 2013, is amended to read as follows:

3. The department shall adopt, by rule, requirements for the certification, including educational program requirements. The department may establish different educational programs designed for commercial manure service representatives and confinement site manure applicators. The department shall adopt rules necessary to administer this section, including establishing certification standards~~, which shall at least include standards for~~ and continuing instructional courses as provided in this subsection.

a. The department shall adopt rules establishing subjects continuing instructional courses that emphasize practical and cost-effective methods to prevent manure spills and limit the impact of manure spills, especially from manure storage structures. The subjects may also include methods for transporting, handling, ~~storing, and~~ or applying manure~~,~~; identifying the potential effects of manure upon surface water and groundwater~~,~~; and procedures to remediate the potential effects of manure on surface water or groundwater.

~~*a.*~~ *b.* The department shall adopt by rule criteria for allowing a person required to be certified to complete either a written or oral examination.

~~*b.*~~ *c.* The department shall administer the continuing instructional courses, by either teaching the courses or selecting persons to teach the courses, according to criteria as provided by rules adopted by the department. The department shall, to the extent possible, select persons to teach the continuing instructional courses. The department is not required to compensate persons to teach the continuing instructional courses. In selecting persons, the department shall consult with organizations interested in transporting, handling, storing, or applying manure, including the Iowa commercial nutrient applicators association and associations representing agricultural producers. The Iowa cooperative

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1 extension service in agriculture and home economics of Iowa
2 state university of science and technology shall cooperate with
3 the department in administering the continuing instructional
4 courses. The Iowa cooperative extension service may teach
5 continuing instructional courses, train persons selected to
6 teach courses, or distribute informational materials to persons
7 teaching the courses.
8 *d.* The department shall provide that the continuing
9 instructional courses be made available via the department's
10 internet site, the internet site of a person selected to teach
11 the continuing instructional courses, or the Iowa cooperative
12 extension service in agriculture and home economics of Iowa
13 state university of science and technology.
14 ~~*c.*~~ *e.* The department, in administering the certification
15 program under this section, and the department of agriculture
16 and land stewardship, in administering the certification
17 program for pesticide applicators, may cooperate together.
18 EXPLANATION
19 BACKGROUND. A person must be certified by the department
20 of natural resources (DNR) in order to apply manure on land
21 (Code section 459.315). Generally, there are two classes of
22 persons required to be certified: (1) a person involved in a
23 confinement feeding operation who is engaged in the application
24 of manure originating from the confinement feeding operation
25 or (2) a person who is associated with a service engaged in
26 the business of transporting, handling, storing, or applying
27 manure (see Code section 459.102 defining "confinement site
28 applicator" and "commercial manure service representative").
29 In order to be certified, a person must complete an educational
30 program which consists of passing an examination or attending
31 three or two hours of continuing instructional courses each
32 year depending on the type of certification. The courses must
33 be taught by the DNR or a person selected by the DNR, including
34 Iowa state university (ISU). The fee for certification is
35 based on the costs of administering the program (see Code

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1 sections 459.315 and 459.400).
2 BILL — INSTRUCTIONAL COURSE SUBJECTS. The bill amends a
3 provision which provides that DNR must establish requirements
4 for instructional course subjects. Currently, the curriculum
5 must include methods for transporting, handling, or applying
6 manure; the potential effects of manure upon surface water
7 and groundwater; and procedures to remediate the potential
8 effects of manure on surface water or groundwater. The bill
9 provides that the curriculum must primarily emphasize practical
10 and cost-effective methods to prevent manure spills and limit
11 the impact of manure spills, especially from manure storage
12 structures.
13 BILL — INSTRUCTIONAL COURSES OFFERED VIA THE INTERNET. The
14 bill provides that the DNR must provide that the continuing
15 instructional courses be made available via the department's
16 internet site, the internet site of a person selected to teach
17 the continuing instructional courses, or ISU.

Senate File 70 - Introduced

SENATE FILE 70
BY BOLKCOM, PETERSEN, SODDERS, MATHIS, HART, BOWMAN, BEALL, McCOY, JOCHUM, GRONSTAL, QUIRMBACH, WILHELM, DEARDEN, HORN, TAYLOR, HATCH, BRASE, SENG, DANIELSON, DVORSKY, RAGAN, SCHOENJAHN, and BLACK

A BILL FOR

1 An Act requiring American products to be used for public
2 improvements, providing a penalty, and including
3 applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1041XS (4) 85
je/sc

S.F. 70

1 Section 1. NEW SECTION. **73.22 Title.**
2 This division may be cited as the *"Iowa Buy American Act"*.
3 Sec. 2. NEW SECTION. **73.23 Definitions.**
4 1. *"Construction"* includes reconstruction, alteration,
5 repair, improvement, and maintenance.
6 2. *"Governmental unit"* means the state, or any county, city,
7 or other political subdivision or any department, division,
8 board, or other agency of any of these entities.
9 3. *"Manufactured in the United States"* means:
10 *a.* For an iron or steel product, all the manufacturing of
11 the iron or steel product, other than metallurgical processes
12 involving the refinement of steel additives, took place in the
13 United States.
14 *b.* For a manufactured good which is not an iron or steel
15 product, all of the following:
16 (1) All the manufacturing processes for the manufactured
17 good took place in the United States.
18 (2) All of the components of the manufactured good are
19 of United States origin. A component shall be considered of
20 United States origin if all of the component's manufacturing
21 processes took place in the United States, regardless of the
22 origin of its subcomponents.
23 4. *"Public improvement"* means any structure, building,
24 highway, waterway, street, bridge, transit system, airport, or
25 other betterment, work, or improvement, whether of a permanent
26 or temporary nature and whether for governmental or proprietary
27 use.
28 5. *"United States"* means the United States of America and
29 includes all territory, continental or insular, subject to the
30 jurisdiction of the United States.
31 Sec. 3. NEW SECTION. **73.24 Use of American products for**
32 **public improvements required.**
33 Each contract for the construction of a public improvement
34 made by a governmental unit shall contain a provision requiring
35 that the iron, steel, and manufactured goods used or supplied

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1 in the performance of the contract or any subcontract thereto
2 be manufactured in the United States.
3 Sec. 4. NEW SECTION. **73.25 Waiver.**
4 1. Section 73.24 may be waived for a contract for the
5 construction of a public improvement made by a governmental
6 unit if a person with the necessary authority for the
7 governmental unit finds any of the following:
8 *a.* Application of section 73.24 would be contrary to the
9 public interest.
10 *b.* The products necessary for the public improvement are
11 not produced in the United States in sufficient and reasonably
12 available quantities and of a satisfactory quality.
13 *c.* Application of section 73.24 would increase the cost of
14 the contract by more than five percent.
15 2. If a person with the necessary authority for a
16 governmental unit determines that a waiver pursuant to this
17 section may be appropriate, the person shall do all of the
18 following before granting a waiver:
19 *a.* Prepare a detailed, written justification as to why
20 the waiver is needed. The justification shall be published
21 on the governmental unit's internet site and at least once in
22 a newspaper of general circulation in any county where the
23 public improvement will occur. The justification shall also
24 be made available to any member of the public upon request.
25 The justification shall include notice of the opportunity for
26 public comment required by paragraph "*b*".
27 *b.* Provide an opportunity for public comment on the
28 justification for a reasonable period of time not to exceed
29 fifteen days.
30 *c.* Consider all comments received during the comment period
31 in evaluating whether to waive section 73.24.
32 3. If a person with the necessary authority for a
33 governmental unit, in consultation with the United States trade
34 representative, determines all of the following regarding a
35 foreign country, subsection 1 shall not apply to products

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1 manufactured in that foreign country:
2 *a.* The foreign country is a party to an agreement with the
3 United States, and, pursuant to the agreement, the head of a
4 federal agency has waived the requirements of this division.
5 *b.* The foreign country has violated the terms of the
6 agreement by discriminating against products covered by the
7 agreement and by this division that are produced in the United
8 States.
9 Sec. 5. NEW SECTION. **73.26 Penalty.**
10 A person shall be ineligible to enter into any contract or
11 subcontract with a governmental unit if a court or federal or
12 state agency determines that the person intentionally did any
13 of the following:
14 1. Represented that any product used in a public improvement
15 to which this division applies was manufactured in the United
16 States when the product was not manufactured in the United
17 States.
18 2. Affixed a label bearing a "Made in America" inscription,
19 or any inscription with the same meaning, to any product used
20 in a public improvement to which this division applies when the
21 product was not manufactured in the United States.
22 Sec. 6. IMPLEMENTATION OF ACT. Section 25B.2, subsection
23 3, shall not apply to this Act.
24 Sec. 7. APPLICABILITY. This Act applies to public
25 improvement contracts entered into on or after July 1, 2013.
26 EXPLANATION
27 This bill requires each contract for the construction of
28 a public improvement made by a governmental unit to contain
29 a provision requiring that the iron, steel, and manufactured
30 goods used or supplied in the performance of the contract or
31 any subcontract be manufactured in the United States. The bill
32 provides definitions for "construction", "manufactured in the
33 United States", and "public improvement".
34 The bill provides that the requirement may be waived if a
35 person with the necessary authority for a governmental unit

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1 finds that application of the requirement would be contrary to
2 the public interest, that the products necessary for the public
3 improvement are not produced in the United States in sufficient
4 and reasonably available quantities and of a satisfactory
5 quality, or that the requirement would increase the cost of the
6 contract by more than 5 percent.
7 The bill provides that before a person can grant a waiver of
8 the requirement, the person must publish and make available a
9 detailed, written justification as to why the waiver is needed.
10 The justification is to include notice of an opportunity for
11 public comment. The comment period is to be for a reasonable
12 period of time not to exceed 15 days. The person must consider
13 all comments received during the comment period in evaluating
14 whether to grant a waiver. The bill limits waiver authority
15 for foreign countries that violate the terms of certain trade
16 agreements with the United States.
17 The bill provides that a person is ineligible to enter
18 into any contract or subcontract with a governmental unit if
19 a court or federal or state agency determines that the person
20 intentionally represented that any product used in a public
21 improvement was manufactured in the United States when the
22 product was not manufactured in the United States or affixed
23 a label bearing a "Made in America" inscription, or any
24 inscription with the same meaning, to any product used in a
25 public improvement when the product was not manufactured in the
26 United States.
27 The bill may include a state mandate as defined in Code
28 section 25B.3. The bill makes inapplicable Code section 25B.2,
29 subsection 3, which would relieve a political subdivision from
30 complying with a state mandate if funding for the cost of
31 the state mandate is not provided or specified. Therefore,
32 political subdivisions are required to comply with any state
33 mandate included in the bill.
34 The bill applies to public improvement contracts entered
35 into on or after July 1, 2013.

Senate File 71 - Introduced

SENATE FILE 71
BY HATCH, RAGAN, MATHIS, BOLKCOM, DEARDEN, BLACK, GRONSTAL, JOCHUM, COURTNEY, WILHELM, BRASE, HORN, PETERSEN, TAYLOR, SENG, DOTZLER, DVORSKY, HOGG, QUIRMBACH, BEALL, SODDERS, SCHOENJAHN, HART, and McCOY

A BILL FOR

1 An Act relating to integrated care models for the delivery
2 of health care, including but not limited to required
3 utilization of a medical home by individuals currently and
4 newly eligible for coverage under the Medicaid program and
5 including effective date provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1441XS (20) 85
pf/rj

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1 Section 1. Section 135.157, subsections 4 and 6, Code 2013,
2 are amended to read as follows:
3 4. *"Medical home"* means a team approach to providing health
4 care that originates in a primary care setting; fosters a
5 partnership among the patient, the personal provider, and
6 other health care professionals, and where appropriate, the
7 patient's family; utilizes the partnership to access and
8 integrate all medical and nonmedical health-related services
9 across all elements of the health care system and the patient's
10 community as needed by the patient and the patient's family
11 to achieve maximum health potential; maintains a centralized,
12 comprehensive record of all health-related services to
13 promote continuity of care; and has all of the characteristics
14 specified in section 135.158.
15 6. *"Personal provider"* means the patient's first point of
16 contact in the health care system with a primary care provider
17 who identifies the patient's ~~health~~ health-related needs and,
18 working with a team of health care professionals and providers
19 of medical and nonmedical health-related services, provides
20 for and coordinates appropriate care to address the ~~health~~
21 health-related needs identified.
22 Sec. 2. Section 135.158, subsection 2, paragraphs b, c, and
23 d, Code 2013, are amended to read as follows:
24 *b.* A provider-directed team-based medical practice. The
25 personal provider leads a team of individuals at the practice
26 level who collectively take responsibility for the ongoing
27 ~~health care~~ health-related needs of patients.
28 *c.* Whole person orientation. The personal provider is
29 responsible for providing for all of a patient's ~~health care~~
30 health-related needs or taking responsibility for appropriately
31 arranging ~~health care~~ for health-related services provided
32 by other qualified health care professionals and providers
33 of medical and nonmedical health-related services. This
34 responsibility includes ~~health~~ health-related care at all
35 stages of life including provision of preventive care,

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1 acute care, chronic care, ~~preventive services~~ long-term
2 care, transitional care between providers and settings, and
3 end-of-life care. This responsibility includes whole-person
4 care consisting of physical health care including but not
5 limited to oral, vision, and other specialty care, pharmacy
6 management, and behavioral health care.
7 *d.* Coordination and integration of care. Care is
8 coordinated and integrated across all elements of the
9 complex health care system and the patient's community. Care
10 coordination and integration provides linkages to community
11 and social supports to address social determinants of health,
12 to engage and support patients in managing their own health,
13 and to track the progress of these community and social
14 supports in providing whole-person care. Care is facilitated
15 by registries, information technology, health information
16 exchanges, and other means to assure that patients receive the
17 indicated care when and where they need and want the care in a
18 culturally and linguistically appropriate manner.
19 Sec. 3. Section 135.159, subsections 1, 9, and 11, Code
20 2013, are amended to read as follows:
21 1. The department shall administer the medical home system.
22 The department shall collaborate with the department of human
23 services in administering medical homes under the medical
24 assistance program. The department shall adopt rules pursuant
25 to chapter 17A necessary to administer the medical home system,
26 and shall collaborate with the department of human services in
27 adopting rules for medical homes under the medical assistance
28 program.
29 9. The department shall coordinate the requirements and
30 activities of the medical home system with the requirements
31 and activities of the dental home for children as described
32 in section 249J.14, and shall recommend financial incentives
33 for dentists and nondental providers to promote oral health
34 care coordination through preventive dental intervention, early
35 identification of oral disease risk, health care coordination

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and data tracking, treatment, chronic care management, education and training, parental guidance, and oral health promotions for children. Additionally, the department shall establish requirements for the medical home system to provide linkages to accessible dental homes for adults and older individuals.

ll. *Implementation ~~phases~~.*

a. ~~Initial implementation shall~~ No later than July 1, 2014, the department shall collaborate with the department of human services to require participation in the medical home system of ~~children~~ all of the following:

(1) Children who are recipients of full benefits under the medical assistance program. ~~The department shall work with the department of human services and shall recommend to the general assembly a reimbursement methodology to compensate providers participating under the medical assistance program for participation in the medical home system.~~

~~*b.*~~ (2) ~~The department shall work with the department of human services to expand the medical home system to adults~~ Adults who are recipients of full benefits under the medical assistance program ~~and the expansion population under the IowaCare program~~ including those adults who are recipients of benefits under section 249A.3, subsection 1, paragraph *"v"*, in accordance with the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148, § 2001, as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152.

(3) ~~The department shall work with~~ Medicare and dually eligible Medicare and Medicaid recipients, to the extent approved by the centers for Medicare and Medicaid services of the United States department of health and human services ~~to allow Medicare recipients to utilize the medical home system~~.

~~*c.*~~ *b.* The department shall work with the department of administrative services to allow state employees to utilize the medical home system.

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1 ~~*d.*~~ *c.* The department shall work with insurers and
2 self-insured companies, if requested, to make the medical
3 home system available to individuals with private health care
4 coverage.
5 Sec. 4. Section 249A.3, subsection 1, Code 2013, is amended
6 by adding the following new paragraph:
7 NEW PARAGRAPH. *v.* Beginning January 1, 2014, is an
8 individual who is nineteen years of age or older and under
9 age sixty-five; is not pregnant; is not entitled to or
10 enrolled for Medicare benefits under part A, or enrolled
11 for Medicare benefits under part B, of Tit. XVIII of the
12 federal Social Security Act; is not otherwise described in
13 section 1902a(a)(10)(A)(i) of the federal Social Security
14 Act; and whose income is at or below one hundred thirty-three
15 percent of the federal poverty level as defined by the most
16 recently revised poverty income guidelines published by the
17 United States department of health and human services for the
18 applicable family size and as calculated in accordance with
19 the federal Patient Protection and Affordable Care Act, Pub.
20 L. No. 111-148, § 2001, as amended by the federal Health Care
21 and Education Reconciliation Act of 2010, Pub. L. No. 111-152.
22 Individuals eligible for medical assistance under this
23 paragraph shall receive benefits which are at a minimum those
24 included in the medical assistance state plan benefit package
25 offered in the state, to be adjusted as necessary to provide
26 essential health benefits as required pursuant to section 1302
27 of the federal Patient Protection and Affordable Care Act, Pub.
28 L. No. 111-148, and as approved by the United States secretary
29 of health and human services.
30 Sec. 5. Section 249J.26, subsection 2, Code 2013, is amended
31 to read as follows:
32 2. This chapter is repealed ~~October~~ December 31, 2013. The
33 department shall prepare a plan for the transition of expansion
34 population members to other health care coverage options.
35 The options shall include the option of coverage through the

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1 medical assistance program as provided in section 249A.3,
2 subsection 1, paragraph "v", relating to coverage for adults who
3 are nineteen years of age or older and under age sixty-five,
4 and the option of coverage through the health benefits exchange
5 established pursuant to the federal Patient Protection and
6 Affordable Care Act, Pub. L. No. 111-148, as amended by the
7 federal Health Care and Education Reconciliation Act of 2010,
8 Pub. L. No. 111-152. To the greatest extent possible, the plan
9 shall maintain and incorporate utilization of the existing
10 medical home and service delivery structure as developed
11 under this chapter, including the utilization of federally
12 qualified health centers, public hospitals, and other safety
13 net providers, in providing access to care. The department
14 shall submit the plan to the governor and the general assembly
15 no later than September 1, 2013.
16 Sec. 6. LEGISLATIVE COMMISSION ON INTEGRATED CARE MODELS.
17 1. No later than thirty days after the effective date
18 of this Act, the legislative council shall establish a
19 legislative commission to review and make recommendations
20 relating to the formation and operation of integrated care
21 models (ICMs) in the state. The models include any care
22 delivery model that integrates providers and incorporates a
23 financial incentive to improve patient health outcomes, improve
24 care, and reduce costs. Integrated care models include but
25 are not limited to patient-centered medical homes or health
26 homes, accountable care organizations (ACOs), ACO-like models,
27 community and regional care networks, and other integrated and
28 accountable delivery models that utilize value-based financing
29 methodologies and emphasize person-centered, coordinated, and
30 comprehensive care.
31 2. a. In developing the recommendations, the legislative
32 commission shall review models created in other states that
33 integrate both clinical services and nonclinical community
34 and social supports utilizing patient-centered medical homes
35 and community care teams as basic components. These models

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1 may include but are not limited to the ACO demonstration
2 program based on the Camden Coalition of Healthcare Providers
3 in Camden, New Jersey; the Medical Home Network in Chicago,
4 Illinois; the Health Commons model in New Mexico; the
5 Accountable Care Collaborative in Colorado; Community Care of
6 North Carolina, in North Carolina; the Blueprint for Health and
7 the Community Health Teams in Vermont; and the Coordinated Care
8 Organizations in Oregon.
9 b. The legislative commission shall specifically focus
10 on recommending the best means of providing care through
11 integrated delivery models throughout the state including to
12 vulnerable populations and how best to incorporate safety net
13 providers, including but not limited to federally qualified
14 health centers, rural health clinics, community mental health
15 centers, public hospitals, and other nonprofit and public
16 providers that have long experience in caring for vulnerable
17 populations, into the integrated system.
18 c. The legislative commission shall review opportunities
19 under the federal Patient Protection and Affordable Care Act
20 (Affordable Care Act), Pub. L. No. 11-148, as amended, for
21 the development of ICMs including the Medicare Shared Savings
22 program for accountable care organizations, community-based
23 collaborative care networks that include safety net providers,
24 consumer-operated and oriented plans, and opportunities
25 through the Center for Medicare and Medicaid Innovation
26 (CMI) established pursuant to section 3021 of the Affordable
27 Care Act. The legislative commission shall also review
28 existing and proposed integrated care models in the state
29 including commercial models and those developed or proposed
30 under the Accountable Care Act including the Medicare Shared
31 Savings Program, the Pioneer ACO, and the application for
32 the multipayer Medicaid ACO developed through the CMI State
33 Innovation Models Initiative.
34 d. The legislative commission shall address the issues
35 relative to ICMs including those relating to consumer

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1 protection including those that relate to confidentiality,
2 quality assurance, grievance procedures, and appeals of patient
3 care decisions; payment methodologies, multipayer alignment,
4 coordination of funding streams, and financing methods that
5 support full integration of clinical and nonclinical services
6 and providers; organizational, management, and governing
7 structures; access, quality, outcomes, utilization, and
8 other appropriate performance standards; patient attribution
9 or assignment models; health information exchange, data,
10 reporting, and infrastructure standards; and regulatory
11 issues including clinical integration limitations, physician
12 self-referral, antikickback provisions, gain-sharing,
13 beneficiary inducements, antitrust issues, tax exemption
14 issues, and application of insurance regulations.
15 3. The legislative commission shall consult with advocates
16 representing patients, health care providers, health care
17 payers, and other appropriate parties in developing the
18 recommendations relating to ICMs.
19 4. The legislative commission may request from any state
20 agency or official information and assistance as needed to
21 perform the review and make recommendations.
22 5. The legislative commission shall submit a final report
23 summarizing the legislative commission's activities, analyzing
24 the issues reviewed, and making recommendations to the governor
25 and the general assembly by September 1, 2013.
26 Sec. 7. MEDICAID STATE PLAN.
27 1. The department of human services shall amend the medical
28 assistance state plan to reflect the required provision of a
29 medical home to medical assistance recipients as provided in
30 this Act.
31 2. The department of human services shall amend the medical
32 assistance state plan to provide for coverage of adults up to
33 133 percent of the federal poverty level as provided in this
34 Act and in accordance with the federal Patient Protection and
35 Affordable Care Act, Pub. L. No. 111-148, § 2001, as amended

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1 by the federal Health Care and Education Reconciliation Act of
2 2010, Pub. L. No. 111-152.
3 3. The department of human services shall amend the medical
4 assistance state plan to provide that the benchmark benefit
5 plan provided to the newly covered adults under the medical
6 assistance program is the option of secretary-approved coverage
7 which is at a minimum the Medicaid state plan benefit package
8 offered in the state, to be adjusted as necessary to provide
9 essential health benefits as required pursuant to section
10 1302(b) of the Patient Protection and Affordable Care Act, Pub.
11 L. No. 111-148.
12 Sec. 8. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
13 immediate importance, takes effect upon enactment.
14 EXPLANATION
15 This bill relates to integrated health care delivery models.
16 The bill amends provisions relating to medical homes to
17 require a team-based, multidisciplinary approach to health
18 care delivery. The bill requires the department of human
19 services (DHS) to collaborate with the department of public
20 health (DPH) in administering medical homes under the Medicaid
21 program. The bill amends provisions relating to implementation
22 of medical homes in the state by requiring all children and
23 adults who are recipients of full benefits under the medical
24 assistance program, including adults up to 133 percent of
25 the federal poverty level who are eligible under the federal
26 Patient Protection and Affordable Care Act (ACA), Pub. L. No.
27 111-148, § 2001, as amended by the federal Health Care and
28 Education Reconciliation Act of 2010, Pub. L. No. 111-152, and
29 individuals who are dually eligible to the extent approved by
30 the centers for Medicare and Medicaid services of the United
31 States department of health and human services (CMS), to
32 participate in a medical home not later than July 1, 2014.
33 The bill does not amend the Code provisions directing DPH to
34 work with the department of administrative services to allow
35 state employees to utilize the medical home system and to work

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1 with insurers and self-insured companies, if requested, to make
2 the medical home system available to individuals with private
3 health care coverage.
4 The bill provides for Medicaid eligibility of certain adults
5 with incomes at or below 133 percent of the federal poverty
6 level in accordance with the ACA. Additionally, the bill
7 requires that these newly eligible adults receive benefits
8 which are included in the medical assistance state plan
9 benefit package offered in the state as adjusted to provide
10 the essential health benefits required under the ACA, and as
11 approved by the United States secretary of health and human
12 services.
13 The bill directs the legislative council to establish a
14 legislative commission to review and make recommendations
15 for the formation and operation of integrated care models
16 (ICM) in the state. The bill describes ICMs as any care
17 delivery model that integrates providers and incorporates
18 a financial incentive to improve patient health outcomes,
19 improve care, and reduce costs. ICMs include but are not
20 limited to patient-centered medical homes or health homes,
21 accountable care organizations (ACOs), ACO-like models, and
22 other integrated and accountable health delivery models that
23 utilize value-based financing methodologies and emphasize
24 person-centered, coordinated, comprehensive care. The
25 legislative commission is directed to consult with advocates
26 representing patients, health care providers, health care
27 payers, and other appropriate parties in developing the
28 recommendations for ICMs; to specifically address certain
29 issues to review existing ICMs in other states as well as
30 those existing or proposed in the state Medicare Shared
31 Savings Program, the Pioneer ACO, and the Center for
32 Medicare and Medicaid Innovation State Innovation Models
33 Initiative application to implement a multipayer ACO including
34 Medicaid. The legislative commission is required to make its
35 recommendations to the governor and the general assembly by

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1 September 1, 2013.
2 The bill requires DHS to amend the medical assistance state
3 plan to implement the bill with respect to the provision of
4 medical homes and the coverage of certain low-income adults.
5 The bill takes effect upon enactment.

Senate File 72 - Introduced

SENATE FILE 72
BY HATCH, McCOY, JOCHUM, QUIRMBACH, HORN, TAYLOR, BRASE, DOTZLER, DVORSKY, BOLKCOM, PETERSEN, SODDERS, MATHIS, HART, and BEALL

A BILL FOR

1 An Act providing for the establishment of the Iowa health
2 benefit marketplace and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1060XS (6) 85
av/rj

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1 DIVISION I
2 IOWA HEALTH BENEFIT MARKETPLACE ACT
3 Section 1. NEW SECTION. **514M.1 Title.**
4 This chapter shall be known and may be cited as the *"Iowa*
5 *Health Benefit Marketplace Act"*.
6 Sec. 2. NEW SECTION. **514M.2 Purpose and intent.**
7 The purpose of this chapter is to provide for the
8 establishment of a health benefit marketplace in this state to
9 facilitate the sale and purchase of qualified health benefit
10 plans by qualified individuals in the individual market in
11 this state and by qualified small employers in the small
12 group market in this state. The intent of authorizing the
13 establishment of a health benefit marketplace in this state is
14 to reduce the number of uninsured individuals in this state,
15 provide a transparent marketplace and consumer education, and
16 assist individuals with access to relevant federal and state
17 programs, premium assistance tax credits, and cost-sharing
18 reductions.
19 Sec. 3. NEW SECTION. **514M.3 Definitions.**
20 As used in this chapter, unless the context otherwise
21 requires:
22 1. *"Board"* means the board of directors of the Iowa health
23 benefit marketplace as provided in section 514M.5.
24 2. *"Commissioner"* means the commissioner of insurance.
25 3. *"Executive director"* means the executive director of the
26 Iowa health benefit marketplace.
27 4. *"Federal Act"* means the federal Patient Protection and
28 Affordable Care Act, Pub. L. No. 111-148, as amended by the
29 federal Health Care and Education Reconciliation Act of 2010,
30 Pub. L. No. 111-152, and any amendments thereto, or regulations
31 or guidance issued under, those Acts.
32 5. *a. "Health benefit plan"* means a policy, contract,
33 certificate, or agreement offered or issued by a health carrier
34 to provide, deliver, arrange for, pay for, or reimburse any of
35 the costs of health care services.

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1 *b. "Health benefit plan"* does not include any of the
2 following:
3 (1) Coverage only for accident, or disability income
4 insurance, or any combination thereof.
5 (2) Coverage issued as a supplement to liability insurance.
6 (3) Liability insurance, including general liability
7 insurance and automobile liability insurance.
8 (4) Workers' compensation or similar insurance.
9 (5) Automobile medical payment insurance.
10 (6) Credit-only insurance.
11 (7) Coverage for on-site medical clinics.
12 (8) Other similar insurance coverage, specified in federal
13 regulations issued pursuant to Tit. XXVII of the federal Public
14 Health Service Act, as enacted by the federal Health Insurance
15 Portability and Accountability Act of 1996, Pub. L. No.
16 104-191, and amended by the federal Act, under which benefits
17 for health care services are secondary or incidental to other
18 insurance benefits.
19 *c. "Health benefit plan"* does not include any of the
20 following benefits if they are provided under a separate
21 policy, certificate, or contract of insurance or are otherwise
22 not an integral part of the plan:
23 (1) Limited scope dental or vision benefits.
24 (2) Benefits for long-term care, nursing home care, home
25 health care, community-based care, or any combination thereof.
26 (3) Other similar, limited benefits specified in federal
27 regulations issued pursuant to the federal Health Insurance
28 Portability and Accountability Act of 1996, Pub. L. No.
29 104-191.
30 *d. "Health benefit plan"* does not include any of the
31 following benefits if the benefits are provided under a
32 separate policy, certificate, or contract of insurance, there
33 is no coordination between the provision of the benefits and
34 any exclusion of benefits under any group health benefit plan
35 maintained by the same plan sponsor, and the benefits are paid

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1 with respect to an event without regard to whether benefits are
2 provided with respect to such an event under any group health
3 benefit plan maintained by the same plan sponsor:
4 (1) Coverage only for a specified disease or illness.
5 (2) Hospital indemnity or other fixed indemnity insurance.
6 *e. "Health benefit plan"* does not include any of the
7 following if offered as a separate policy, certificate, or
8 contract of insurance:
9 (1) Medicare supplemental health insurance as defined under
10 section 1882(g)(1) of the federal Social Security Act.
11 (2) Coverage supplemental to the coverage provided under 10
12 U.S.C. ch. 55, by the civilian health and medical program of
13 the uniformed services.
14 (3) Supplemental coverage similar to that provided under a
15 group health benefit plan.
16 6. *"Health carrier"* means an entity subject to the insurance
17 laws and rules of this state, or subject to the jurisdiction
18 of the commissioner, that contracts or offers to contract to
19 provide, deliver, arrange for, pay for, or reimburse any of
20 the costs of health care services, including an insurance
21 company offering sickness and accident plans, a health
22 maintenance organization, a nonprofit hospital or health
23 service corporation, or any other entity providing a plan of
24 health insurance, health benefits, or health services.
25 7. *"Insurance producer"* means a person required to be
26 licensed under chapter 522B.
27 8. *"Marketplace"* means the Iowa health benefit marketplace
28 established pursuant to section 514M.4.
29 9. *"Navigator"* means a person selected, licensed, and
30 regulated by the marketplace in accordance with section 1311(i)
31 of the federal Act, standards developed by the secretary, and
32 chapter 522D.
33 10. *"Qualified dental plan"* means a limited scope dental
34 plan that has been certified in accordance with section
35 514M.10.

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1 11. *"Qualified employer"* means a small employer that
2 elects to make its full-time employees eligible for one or
3 more qualified health benefit plans offered through the small
4 business health options program of the marketplace, and at
5 the option of the employer, make some or all of its part-time
6 employees so eligible, provided that the employer does either
7 of the following:
8 *a.* Has its principal place of business in this state and
9 elects to provide coverage through the marketplace to all of
10 its eligible employees wherever employed.
11 *b.* Elects to provide coverage through the marketplace to all
12 of its eligible employees who are principally employed in this
13 state.
14 12. *"Qualified health benefit plan"* means a health benefit
15 plan that has in effect a certification as described in section
16 1311(c) of the federal Act and section 514M.10.
17 13. *"Qualified individual"* means an individual, including a
18 minor, who is all of the following:
19 *a.* Is seeking to enroll in a qualified health benefit plan
20 offered to individuals through the marketplace.
21 *b.* Is a resident of this state.
22 *c.* At the time of enrollment, is not incarcerated, other
23 than incarceration pending the disposition of charges.
24 *d.* Is, and is reasonably expected to be, for the entire
25 period for which enrollment is sought, a citizen or national of
26 the United States or an alien lawfully present in the United
27 States.
28 14. *"Secretary"* means the secretary of the United States
29 department of health and human services.
30 15. *"Secretary of the board"* means the secretary of the
31 board of directors of the Iowa health benefit marketplace.
32 16. *"Small business health options program"* means the small
33 business health options program component of the marketplace
34 established under section 514M.8.
35 17. *a.* *"Small employer"* means an employer that employed

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1 an average of at least one and not more than fifty employees
2 during the preceding calendar year.
3 *b.* For the purposes of this subsection:
4 (1) All persons treated as a single employer under
5 subsection (b), (c), (m), or (o) of section 414 of the Internal
6 Revenue Code of 1986 shall be treated as a single employer.
7 (2) An employer and any predecessor employer shall be
8 treated as a single employer.
9 (3) All employees shall be counted, including part-time
10 employees and employees who are not eligible for coverage
11 through the employer.
12 (4) If an employer was not in existence throughout the
13 preceding calendar year, the determination of whether that
14 employer is a small employer shall be based on the average
15 number of employees that the employer is reasonably expected to
16 employ on business days in the current calendar year.
17 (5) An employer that makes enrollment in qualified health
18 benefit plans available to its employees through the small
19 business health options program component of the marketplace,
20 and would cease to be a small employer by reason of an increase
21 in the number of its employees, shall continue to be treated
22 as a small employer for purposes of this chapter as long as
23 the employer continuously makes enrollment through the small
24 business health options program component of the marketplace
25 available to its employees.
26 Sec. 4. NEW SECTION. **514M.4 Establishment of Iowa health**
27 **benefit marketplace.**
28 1. The Iowa health benefit marketplace is established as a
29 nonprofit corporation. The marketplace shall be established
30 for the purpose of facilitating the sale and purchase of
31 qualified health benefit plans by qualified individuals in
32 the individual market in this state and by qualified small
33 employers in the small group market in this state.
34 2. The powers and duties of the marketplace are vested in
35 and shall be exercised by a board of directors established

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1 under section 514M.5.
2 3. The marketplace shall operate under a plan of operation
3 established and approved by the board of directors, in
4 consultation with the commissioner. The plan shall effectuate
5 the purposes of this chapter and assure the fair, reasonable,
6 and equitable administration of the marketplace. The board
7 shall do all of the following pursuant to the plan, including
8 but not limited to:
9 *a.* Plan, direct, coordinate, and execute the administrative
10 functions of the marketplace.
11 *b.* Employ professional and clerical staff as necessary.
12 *c.* Keep an accurate account of all activities, receipts,
13 and expenditures of the marketplace and annually submit a
14 report to the commissioner, governor, general assembly, and
15 the auditor of state concerning such accountings pursuant to
16 section 514M.14.
17 4. The marketplace shall be operated on a statewide basis.
18 5. The marketplace shall include separate marketplace
19 components which facilitate the sale and purchase of qualified
20 health benefit plans to eligible individuals and to small
21 employers as described in this chapter and in the federal Act.
22 6. The marketplace may establish a reimbursement system
23 for health benefit plans issued in this state that all health
24 carriers and health care providers may join to facilitate fair
25 and reasonable payments for the cost of health care services
26 provided pursuant to a health benefit plan.
27 7. The marketplace shall do all of the following:
28 *a.* Facilitate the purchase and sale of qualified health
29 benefit plans to qualified individuals and qualified employers
30 as described in this chapter and in the federal Act.
31 *b.* Establish rate schedules for commissions paid to
32 insurance producers by qualified health benefit plans offered
33 through the marketplace.
34 *c.* Meet the requirements of this chapter and any rules
35 adopted pursuant to this chapter.

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1 8. *a.* A person who selects, purchases, or enrolls in a
2 qualified health benefit plan offered through the marketplace
3 shall be enrolled in the plan by an insurance producer or may
4 enroll in the plan directly through the marketplace internet
5 site. The commission paid to an insurance producer who enrolls
6 a person in a plan offered through the marketplace shall be
7 established by the marketplace.
8 *b.* On the anniversary date of coverage obtained through
9 the marketplace, an enrollee may renew or enroll in coverage
10 offered through the marketplace through any insurance producer
11 of the enrollee's choice or may enroll directly through the
12 marketplace internet site. A commission shall be paid to an
13 insurance producer who renews or enrolls a person in coverage
14 under this paragraph in the same manner as is provided in
15 paragraph "*a*".
16 9. The marketplace may employ staff to carry out the
17 functions of the marketplace, but no employee of the
18 marketplace shall sell, solicit, or negotiate enrollment in
19 a health benefit plan or otherwise offer services for which
20 a license as an insurance producer is required pursuant to
21 chapter 522B.
22 10. The marketplace may contract with an eligible entity to
23 fulfill any of its specialized duties or responsibilities as
24 described in this chapter. An eligible entity includes but is
25 not limited to an entity that has experience in individual and
26 small group health benefit plans, benefit administration, or
27 other experience relevant to the responsibilities to be assumed
28 by the entity. However, a health carrier or an affiliate of a
29 health carrier is not an eligible entity for the purposes of
30 this subsection.
31 11. The marketplace may enter into information-sharing
32 agreements with federal and state agencies to carry out
33 its responsibilities under this chapter provided such
34 agreements include adequate protections with respect to the
35 confidentiality of the information to be shared and comply with

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1 all state laws and rules and federal laws and regulations.
2 12. Each qualified health benefit plan offered through
3 the marketplace shall be assigned a rating by the marketplace
4 in accordance with criteria developed by the secretary under
5 section 1311(c)(3) of the federal Act, and the marketplace
6 shall determine the level of coverage of each qualified health
7 benefit plan in accordance with regulations issued by the
8 secretary under section 1302(d)(2)(A) of the federal Act and
9 applicable state law.
10 13. If a qualified health benefit plan offered through
11 the marketplace meets or exceeds the criteria for a qualified
12 health benefit plan set forth by the secretary, the plan shall
13 be reviewed and assigned a rating by the marketplace.
14 Sec. 5. NEW SECTION. **514M.5 Board of directors — executive**
15 **director — secretary.**
16 1. The board of directors of the Iowa health benefit
17 marketplace shall effectuate the powers and duties of the
18 marketplace as set forth in this chapter.
19 2. The board shall consist of seven voting members and
20 five ex officio, nonvoting members. The voting members shall
21 be appointed by the governor, subject to confirmation by the
22 senate. The voting members of the board shall annually elect
23 one voting member as chairperson and one voting member as vice
24 chairperson.
25 *a.* The voting members shall be appointed by the governor as
26 follows:
27 (1) Two persons who represent the interests of small
28 business from nominations made to the governor by nationally
29 recognized groups that represent the interests of small
30 business.
31 (2) Three persons who represent the interests of consumers
32 from nominations made to the governor by nationally recognized
33 groups that represent the interests of consumers.
34 (3) One person who is an insurance producer licensed under
35 chapter 522B.

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1 (4) One person who is a health care provider.
2 *b.* The ex officio, nonvoting members of the board are as
3 follows:
4 (1) Four members of the general assembly, one appointed
5 by the speaker of the house of representatives, one appointed
6 by the minority leader of the house of representatives,
7 one appointed by the majority leader of the senate, and one
8 appointed by the minority leader of the senate.
9 (2) A person who shall serve as the secretary of the board,
10 appointed by the board.
11 3. The governor shall not appoint to the board any person
12 who is either the spouse or a relative within the first degree
13 of consanguinity of a serving member of the board.
14 4. Each member of the board appointed by the governor shall
15 be a resident of this state and the composition of voting
16 members of the board shall be in compliance with sections
17 69.16, 69.16A, and 69.16C.
18 5. The voting members of the board shall be appointed for
19 staggered terms of three years on or before March 1, 2014, and
20 by December 15 of each year thereafter. The initial terms
21 of the voting members of the board shall be staggered at the
22 discretion of the governor. A voting member of the board is
23 eligible for reappointment. The governor shall fill a vacancy
24 on the board in the same manner as the original appointment
25 for the remainder of the term. A voting member of the board
26 may be removed by the governor for misfeasance, malfeasance,
27 willful neglect of duty, failure to actively participate in the
28 affairs of the board, or other cause after notice and a public
29 hearing unless the notice and hearing are waived by the member
30 in writing.
31 6. A voting member of the board shall not be an employee
32 of, a consultant to, a member of the board of directors of,
33 affiliated with, have an ownership interest in, or otherwise
34 be a representative of any health carrier, insurance producer
35 agency, insurance consultant organization, trade association of

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1 insurers, or association offering health benefit plans to its
2 members, while serving on the board.
3 7. Voting members of the board shall be reimbursed from the
4 moneys of the marketplace for all actual and necessary expenses
5 incurred in the performance of their duties as members, and
6 shall receive per diem at the rate of fifty dollars per day for
7 their services.
8 8. A majority of the voting members of the board constitutes
9 a quorum. The affirmative vote of a majority of the voting
10 members is necessary for any action taken by the board. The
11 majority shall not include a member who has a conflict of
12 interest and a statement by a member of a conflict of interest
13 is conclusive for this purpose. A vacancy in the membership of
14 the board does not impair the right of a quorum to exercise the
15 rights and perform the duties of the board. An action taken by
16 the board under this chapter may be authorized by resolution
17 at a regular or special meeting and each resolution shall take
18 effect immediately and need not be published or posted.
19 9. The voting members of the board shall give bond as
20 required for public officers by chapter 64.
21 10. The voting members of the board are subject to and are
22 officials within the meaning of chapter 68B.
23 11. The board shall meet at the call of the chairperson,
24 or in the absence of the chairperson, at the call of the vice
25 chairperson, or when any four voting members of the board file
26 a written request with the chairperson for a meeting. Written
27 notice of the time and place of each meeting shall be given to
28 each member of the board.
29 12. *a.* The voting members of the board shall appoint an
30 executive director, subject to confirmation by the senate, to
31 supervise the administrative affairs and general management and
32 operations of the marketplace.
33 *b.* The voting members of the board may appoint other
34 officers as the members of the board determine. The officers
35 shall not be members of the board, with the exception of the

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1 secretary of the board, and shall serve at the pleasure of the
2 voting members of the board, and shall receive compensation as
3 fixed by the board.
4 *c.* The board may employ other staff to carry out the
5 functions of the marketplace, but no employee of the
6 marketplace shall sell, solicit, or negotiate enrollment in
7 a health benefit plan or otherwise offer services for which
8 a license as an insurance producer is required pursuant to
9 chapter 522B. All employees of the marketplace are exempt from
10 chapter 8A, subchapter IV, and chapter 97B.
11 13. *a.* The voting members of the board shall appoint a
12 secretary of the board who shall be an ex officio member of the
13 board as provided in subsection 2, shall keep a record of the
14 proceedings of the board, and shall be the custodian of all
15 books, documents, and papers filed with the board, including
16 information filed in an electronic format, and the minute book
17 or journal of the board.
18 *b.* The secretary of the board shall serve at the pleasure
19 of the board, and shall receive compensation as fixed by the
20 board.
21 14. Members of the board, or persons acting on behalf of
22 the marketplace, while acting in the scope of their agency or
23 employment, are not subject to personal liability resulting
24 from carrying out the powers and duties in this chapter.
25 Sec. 6. NEW SECTION. **514M.6 General powers.**
26 1. The marketplace has any and all powers necessary and
27 convenient to carry out its purposes and duties and exercise
28 its specific powers, including but not limited to the power to:
29 *a.* Sue and be sued in its own name.
30 *b.* Have and alter a corporate seal.
31 *c.* Make and alter bylaws for its management consistent with
32 the provisions of this chapter.
33 *d.* Make and execute agreements, contracts, and other
34 instruments of any and all types on such terms and conditions
35 as the marketplace may find necessary or convenient to the

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1 purpose of the marketplace, with any public or private entity,
2 including but not limited to contracts for goods and services.
3 All political subdivisions, other public agencies, and state
4 departments and agencies may enter into contracts and otherwise
5 cooperate with the marketplace.
6 *e.* Adopt procedures relating to competitive bidding,
7 including the identification of those circumstances under which
8 competitive bidding by the marketplace, either formally or
9 informally, shall be required. In any bidding process, the
10 marketplace may administer its own bidding and procurement or
11 may utilize the services of the department of administrative
12 services or any other agency. Except when such rules apply,
13 the marketplace and all contracts made by it in carrying out
14 its public and essential governmental functions with respect
15 to any of its purposes shall be exempt from the provisions
16 and requirements of all laws or rules of the state which
17 require competitive bids in connection with the letting of such
18 contracts.
19 *f.* Acquire, hold, improve, mortgage, lease, and dispose of
20 real and personal property, including but not limited to the
21 power to sell at public or private sale, with or without public
22 bidding, any such property, or other obligation held by it.
23 *g.* Procure insurance against any loss in connection with its
24 operations and property interests.
25 *h.* Accept appropriations, gifts, grants, loans, or other
26 aid from public or private entities. A record of all gifts or
27 grants, stating the type, amount, and donor, shall be clearly
28 set out in the marketplace's annual report along with the
29 record of other receipts.
30 *i.* Provide to public and private entities technical
31 assistance and counseling related to the marketplace's
32 purposes.
33 *j.* In cooperation with other local, state, or federal
34 governmental agencies, conduct research studies, develop
35 estimates of unmet health insurance needs, gather and compile

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1 data useful to facilitating decision making, and enter into
2 agreements to carry out programs within or without the state
3 which the marketplace finds to be consistent with the goals of
4 the marketplace.
5 *k.* Enter into agreements with the federal government,
6 tribes, and other states to facilitate the sale or purchase of
7 qualified health benefit plans by qualified individuals and
8 qualified small employers in this state.
9 *l.* Own or acquire intellectual property rights including
10 but not limited to copyrights, trademarks, service marks, and
11 patents, and enforce the rights of the marketplace with respect
12 to such intellectual property rights.
13 *m.* Form committees or panels as necessary to facilitate the
14 marketplace's duties. Committees or panels formed pursuant to
15 this paragraph shall be subject to the provisions of chapters
16 21 and 22.
17 *n.* Establish one or more funds within the state treasury
18 under the control of the marketplace. Notwithstanding section
19 8.33 or 12C.7, or any other provision to the contrary, moneys
20 invested by the treasurer of state pursuant to this paragraph
21 shall not revert to the general fund of the state and interest
22 accrued on the moneys shall be moneys of the marketplace and
23 shall not be credited to the general fund of the state. The
24 nonreversion of moneys allowed under this paragraph does not
25 apply to moneys appropriated to the marketplace by the general
26 assembly.
27 *o.* Exercise generally all powers typically exercised by
28 private enterprises engaged in business pursuits unless the
29 exercise of such a power would violate the terms of this
30 chapter or the Constitution of the State of Iowa.
31 2. Notwithstanding any other provision of law, any purchase
32 or lease of real property, other than on a temporary basis,
33 when necessary in order to implement the purposes of the
34 marketplace or protect the investments of the marketplace,
35 shall require written notice from the marketplace to the

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1 government oversight committees of the general assembly or
2 their successor committees and the prior approval of the
3 executive council.
4 3. The powers enumerated in this section are cumulative of
5 and in addition to those powers enumerated elsewhere in this
6 chapter and such powers do not limit or restrict any other
7 powers of the marketplace.
8 Sec. 7. NEW SECTION. **514M.7 Specific powers.**
9 1. In addition to the general powers described in section
10 514M.6, the marketplace shall have all powers convenient and
11 necessary to carry out the purpose and intent of this chapter.
12 2. The marketplace established pursuant to section 514M.4
13 shall make qualified health benefit plans that are effective
14 on January 1, 2015, available to qualified individuals and
15 qualified employers in this state.
16 3. At such time as applications for waivers from the
17 requirements of the federal Act are accepted by the secretary,
18 the marketplace may request such waivers from the secretary.
19 4. The marketplace shall allow a health carrier to offer a
20 plan that provides limited scope dental benefits meeting the
21 requirements of section 9832(c)(2)(A) of the Internal Revenue
22 Code of 1986 through the marketplace, either separately or in
23 conjunction with a qualified health benefit plan, if the plan
24 provides pediatric dental benefits meeting the requirements of
25 section 1302(b)(1)(J) of the federal Act.
26 5. The marketplace or a health carrier offering qualified
27 health benefit plans through the marketplace shall not charge
28 an individual a fee or penalty for termination of coverage if
29 the individual enrolls in another type of minimum essential
30 coverage because the individual has become newly eligible for
31 that coverage or because the individual's employer-sponsored
32 coverage has become affordable using the standards of the
33 federal Act, as codified at section 36B(c)(2)(C) of the
34 Internal Revenue Code of 1986.
35 Sec. 8. NEW SECTION. **514M.8 Duties of the marketplace.**

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1 The marketplace shall do all of the following:
2 1. Implement procedures for the certification,
3 recertification, and decertification of health benefit plans
4 as qualified health benefit plans, consistent with guidelines
5 developed by the secretary under section 1311(c) of the federal
6 Act and applicable state law.
7 2. Provide for the operation of a toll-free telephone
8 hotline to respond to requests for assistance.
9 3. Provide for enrollment periods, as determined by the
10 secretary under section 1311(c)(6) of the federal Act and
11 applicable state law.
12 4. Utilize a standardized format for presenting health
13 benefit plan options in the marketplace, including the use of
14 the uniform outline of coverage established under section 2715
15 of the Public Health Service Act and applicable state law.
16 5. In accordance with section 1413 of the federal Act
17 and applicable state law, inform individuals of eligibility
18 requirements for the Medicaid program under Tit. XIX of the
19 federal Social Security Act, the children's health insurance
20 program under Tit. XXI of the federal Social Security Act, or
21 any applicable state or local public program and, if through
22 screening of an application by the marketplace, the marketplace
23 determines that any individual is eligible for any such
24 program, enroll that individual in that program.
25 6. Establish and make available by electronic means a
26 calculator to determine the actual cost of coverage after
27 application of any premium tax credit for which an individual
28 is eligible using the standards of the federal Act as codified
29 at section 36B(c)(2)(C) of the Internal Revenue Code of 1986
30 and any cost-sharing reductions under section 1402 of the
31 federal Act.
32 7. Establish a small business health options program
33 component of the marketplace through which individuals employed
34 by a qualified employer may enroll in any qualified health
35 benefit plan offered through the small business health options

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1 program at the level of coverage specified by the employer.
2 In establishing a small business health options program
3 marketplace component, the marketplace shall do all of the
4 following:
5 *a.* Provide consolidated billing and premium payment by
6 qualified employers including detailed information to those
7 employers about health benefit plans chosen by their employees
8 and the cost of those plans.
9 *b.* Establish an electronic interface and facilitate the flow
10 of funds between health carriers, employers, and employees,
11 including subsidiaries.
12 *c.* Provide for the dissemination of health benefit plan
13 enrollment information to employers.
14 8. Establish an individual health options marketplace
15 component through which individuals may enroll in any qualified
16 health benefit plan for individuals.
17 9. Select entities qualified and licensed to serve as
18 navigators in accordance with section 1311(i) of the federal
19 Act, standards developed by the secretary, section 514M.9, and
20 chapter 522D, and award grants to facilitate the function of
21 navigators as provided in section 514M.9.
22 10. Encourage and review the development of cafeteria plans
23 pursuant to section 125 of the Internal Revenue Code of 1986,
24 for use by employers participating in the marketplace.
25 11. Maintain an internet site through which enrollees,
26 employers, and prospective enrollees of qualified health
27 benefit plans, at a minimum, may obtain standardized
28 comparative information on qualified health benefit plans
29 and health benefit plans that are not offered through the
30 marketplace. In developing the electronic clearinghouse,
31 the marketplace may require health carriers participating in
32 the marketplace to make available and regularly update an
33 electronic directory of contracting health care providers so
34 individuals seeking coverage through the marketplace can search
35 by health care provider name to determine which qualified

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1 health benefit plans in the marketplace include that health
2 care provider in their network, and whether that health care
3 provider is accepting new patients for that particular health
4 benefit plan.
5 12. Consult with stakeholders who are relevant to carrying
6 out the activities required under this chapter.
7 13. Assist in the implementation of reinsurance and risk
8 adjustment mechanisms, as required by state and federal law.
9 14. Establish guidelines for determining qualifications for
10 marketplace employees and entities or persons who are licensed
11 and selected as navigators.
12 15. Subject to section 1411 of the federal Act and
13 applicable state law, grant a certification attesting that, for
14 purposes of the individual responsibility penalty under the
15 standards of the federal Act, as codified at section 5000A of
16 the Internal Revenue Code of 1986, an individual is exempt from
17 the individual responsibility requirement or from the penalty
18 imposed by that section because of any of the following:
19 *a.* There is no affordable qualified health benefit plan
20 available through the marketplace, or the individual's
21 employer, covering the individual.
22 *b.* The individual meets the requirements for any other such
23 exemption from the individual responsibility requirement or
24 penalty.
25 16. Transfer to the United States secretary of the treasury
26 all of the following:
27 *a.* A list of the individuals who are issued a certification
28 under subsection 15, paragraph "*a*", including the name and
29 taxpayer identification number of each individual.
30 *b.* The name and taxpayer identification number of each
31 individual who was an employee of an employer but who was
32 determined to be eligible for the premium tax credit using
33 the standards of the federal Act as codified at section
34 36B(c)(2)(C) of the Internal Revenue Code of 1986, because of
35 either of the following:

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1 (1) The employer did not provide minimum essential health
2 benefits coverage.
3 (2) The employer provided minimum essential health benefits
4 coverage, but it was determined using the standards of the
5 federal Act, as codified at section 36B(c)(2)(C) of the
6 Internal Revenue Code of 1986, to either be unaffordable to
7 the employee or not to provide the required minimum actuarial
8 value.
9 *c.* The name and taxpayer identification number of all of the
10 following:
11 (1) Each individual who notifies the marketplace under
12 section 1411(b)(4) of the federal Act that the individual has
13 changed employers.
14 (2) Each individual who ceases coverage under a qualified
15 health benefit plan during a plan year and the effective date
16 of that cessation.
17 17. Provide to each employer the name of each employee of
18 the employer described in subsection 16, paragraph *"b"*, who
19 ceases coverage under a qualified health benefit plan during a
20 plan year and the effective date of the cessation.
21 18. Perform duties required of, or delegated to, the
22 marketplace by the secretary, the United States secretary
23 of the treasury, or the commissioner related to determining
24 eligibility for premium tax credits, reduced cost-sharing, or
25 individual responsibility requirement exemptions.
26 19. In consultation with the commissioner, review the
27 rate of premium growth of health benefit plans within the
28 marketplace and outside the marketplace, and consider the
29 information obtained in developing recommendations on whether
30 to continue limiting qualified employer status to small
31 employers.
32 Sec. 9. NEW SECTION. **514M.9 Navigators.**
33 1. The marketplace may select entities qualified and
34 licensed to serve as navigators in accordance with section
35 1311(i) of the federal Act, standards developed by the

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1 secretary, and applicable state law including chapter 522D, and
2 award grants to enable navigators to do all of the following:
3 *a.* Conduct public education activities to raise awareness of
4 the availability of qualified health benefit plans through the
5 marketplace.
6 *b.* Distribute fair and impartial information concerning
7 enrollment in qualified health benefit plans, and the
8 availability of premium tax credits for which an individual
9 may be eligible using the standards of the federal Act, as
10 codified at section 36B(c)(2)(C) of the Internal Revenue Code
11 of 1986, and any cost-sharing reductions under section 1402 of
12 the federal Act.
13 *c.* Facilitate enrollment in qualified health benefit plans
14 offered through the marketplace or in health benefit plans
15 offered outside the marketplace by referring consumers to
16 insurance producers and to the marketplace internet site for
17 enrollment.
18 *d.* Provide referrals to the office of health insurance
19 consumer assistance established under the federal Act pursuant
20 to section 2793 of the federal Public Health Service Act
21 and the office of the commissioner or any other appropriate
22 state agency, for any enrollee with a grievance, complaint,
23 or question regarding the enrollee's health benefit plan or
24 coverage, or a determination under that plan or coverage.
25 *e.* Provide information in a manner that is culturally and
26 linguistically appropriate to the needs of the population being
27 served by the marketplace.
28 2. An entity selected and licensed as a navigator shall not
29 engage in any activities that require licensure as an insurance
30 producer under chapter 522B unless the entity is also licensed
31 as an insurance producer.
32 Sec. 10. NEW SECTION. **514M.10 Health benefit plan**
33 **certification.**
34 1. The marketplace may certify a health benefit plan as
35 a qualified health benefit plan if the plan meets all of the

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1 following criteria:
2 *a.* The plan provides the essential health benefit package
3 described in section 1302(a) of the federal Act, except that
4 the plan is not required to provide essential benefits that
5 duplicate the minimum benefits of qualified dental plans as
6 provided in subsection 6 if all of the following occur:
7 (1) The marketplace determines that at least one qualified
8 dental plan is available to supplement the plan's coverage.
9 (2) The health carrier makes a prominent disclosure at the
10 time it offers the plan, in a form approved by the marketplace,
11 that the plan does not provide the full range of essential
12 pediatric benefits and that qualified dental plans providing
13 those benefits and other dental benefits not covered by the
14 plan are offered through the marketplace.
15 *b.* The premium rates and contract language have been
16 approved by the commissioner.
17 *c.* The plan provides at least a bronze level of coverage,
18 as that level is defined by the federal Act, unless the plan
19 is certified as a qualified catastrophic plan, meets the
20 requirements of the federal Act for catastrophic plans, and
21 will only be offered to individuals eligible for catastrophic
22 coverage.
23 *d.* The plan's cost-sharing requirements do not exceed the
24 limits established under section 1302(c)(1) of the federal Act,
25 and if the plan is offered through the small business health
26 options program component of the marketplace that offers plans
27 to small employers, the plan's deductible does not exceed the
28 limits established under section 1302(c)(2) of the federal Act.
29 *e.* The plan offers wellness programs.
30 *f.* The health carrier offering the plan provides greater
31 transparency and disclosure of information about the plan
32 benefits, provider networks, claim payment practices, and
33 solvency ratings, and establishes a process for consumers to
34 compare features of health benefit plans offered through the
35 marketplace.

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1 *g.* The health carrier offering the plan meets all of the
2 following criteria:
3 (1) Is licensed and in good standing to offer health
4 insurance coverage in this state.
5 (2) Offers at least one qualified health benefit plan in the
6 silver level and at least one qualified health benefit plan in
7 the gold level, as those levels are defined in the federal Act,
8 through each component of the marketplace in which the health
9 carrier participates, where component refers to the components
10 of the marketplace which offer individual coverage and coverage
11 for small employers.
12 (3) Charges the same premium rate for each qualified health
13 benefit plan without regard to whether the plan is offered
14 through the marketplace.
15 (4) Does not charge any termination of coverage fees or
16 penalties in violation of section 514M.7.
17 (5) Complies with the regulations developed by the
18 secretary under section 1311(d) of the federal Act, applicable
19 state laws, and such other requirements as the marketplace may
20 establish.
21 *h.* The plan meets the requirements of certification as
22 adopted by rule pursuant to this section and by the secretary
23 under section 1311(c) of the federal Act, which include but
24 are not limited to minimum standards in the areas of marketing
25 practices, network adequacy, essential community providers in
26 underserved areas, accreditation, quality improvement, uniform
27 enrollment forms and descriptions of coverage, and information
28 on quality measures for plan performance.
29 *i.* The marketplace determines that making the plan available
30 through the marketplace is in the interest of qualified
31 individuals and qualified employers in this state.
32 2. The marketplace shall not exclude a health benefit plan
33 from certification for any of the following reasons:
34 *a.* On the basis that the plan is a fee-for-service plan.
35 *b.* Through the imposition of premium price controls.

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1 *c.* On the basis that the plan provides treatments necessary
2 to prevent patients' deaths in circumstances the marketplace
3 determines are inappropriate or too costly.
4 3. The marketplace shall require each health carrier
5 seeking certification of a health benefit plan as a qualified
6 health benefit plan to do all of the following:
7 *a.* Provide notice of any proposed premium increase and
8 a justification for the increase to the marketplace and to
9 affected policyholders before implementation of that increase.
10 The health carrier shall prominently post the information
11 on its internet site. The marketplace shall take this
12 information, along with the information and the recommendations
13 provided to the marketplace by the commissioner under the
14 federal Act pursuant to section 2794(b) of the federal Public
15 Health Service Act and applicable state law, into consideration
16 when determining whether to allow the health carrier to make
17 plans available through the marketplace.
18 *b.* Make available to the public, in the format described in
19 paragraph "*c*", and submit to the marketplace, the secretary, and
20 the commissioner, accurate and timely disclosure of all of the
21 following:
22 (1) Claims payment policies and practices.
23 (2) Periodic financial disclosures.
24 (3) Data on enrollment.
25 (4) Data on disenrollment.
26 (5) Data on the number of claims that are denied.
27 (6) Data on rating practices.
28 (7) Information on cost-sharing and payments with respect
29 to any out-of-network coverage.
30 (8) Information on enrollee and participant rights under
31 Tit. I of the federal Act and applicable state law.
32 (9) Other information as determined appropriate by the
33 secretary, the marketplace, or the commissioner.
34 *c.* The information required in paragraph "*b*" shall be
35 provided in plain language, as that term is defined in section

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1 1311(e) of the federal Act, as amended by section 10104 of the
2 federal Act, and applicable state law.
3 4. The marketplace shall permit individuals to learn,
4 in a timely manner upon the request of an individual, the
5 amount of cost-sharing, including deductibles, copayments,
6 and coinsurance, under the individual's health benefit plan
7 or coverage for which the individual would be responsible
8 for paying with respect to the furnishing of a specific item
9 or service by a participating health care provider. At a
10 minimum, this information shall be made available to the
11 individual through an internet site and through other means for
12 individuals without access to the internet.
13 5. The marketplace shall not exempt any health carrier
14 seeking certification of a health benefit plan, regardless of
15 the type or size of the health carrier, from applicable state
16 licensure or solvency requirements and shall apply the criteria
17 of this section in a manner that assures a level playing
18 field between or among health carriers participating in the
19 marketplace.
20 6. *a.* The provisions of this chapter that are applicable
21 to qualified health benefit plans shall also apply to the
22 extent relevant to qualified dental plans except as modified in
23 accordance with the provisions of paragraphs "*b*", "*c*", and "*d*",
24 or by rules adopted by the marketplace.
25 *b.* A health carrier to offer dental coverage shall be
26 licensed, but is not required to be licensed to offer other
27 health benefits.
28 *c.* A qualified dental plan shall be limited to dental and
29 oral health benefits, without substantially duplicating the
30 benefits typically offered by health benefit plans without
31 dental coverage and shall include, at a minimum, the essential
32 pediatric dental benefits prescribed by the secretary pursuant
33 to section 1302(b)(1)(J) of the federal Act, and such other
34 dental benefits as the marketplace or the secretary may specify
35 by rule or regulation.

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1 *d.* A comprehensive plan may be offered through the
2 marketplace in which dental benefits are included either as
3 part of a qualified health benefit plan, or by a qualified
4 dental plan offered in conjunction with a qualified health
5 benefit plan, provided that the medical and dental benefits
6 offered by the comprehensive plan are priced separately and are
7 offered for purchase separately at the same price.
8 Sec. 11. NEW SECTION. **514M.11 Funding — publication of**
9 **costs.**
10 1. The marketplace may charge assessments or user fees to
11 health carriers that offer health benefit plans through the
12 marketplace or may otherwise generate the funding necessary to
13 support the operation of the marketplace, as provided pursuant
14 to the plan of operation of the marketplace.
15 2. The marketplace shall publish the average costs of
16 licensing, regulatory fees, and any other payments required
17 by the marketplace, and the administrative costs of the
18 marketplace, on an internet site for the purpose of educating
19 consumers about the costs of operating the marketplace. The
20 information provided shall include information on moneys lost
21 due to waste, fraud, and abuse of the health care system.
22 3. State funding shall not be appropriated or allocated
23 for the operation or administration of the marketplace. Any
24 assessments or user fees charged pursuant to this section
25 shall provide for the sharing of losses and expenses of the
26 marketplace on an equitable and proportionate basis among
27 health carriers in this state as provided in the plan of
28 operation of the marketplace.
29 Sec. 12. NEW SECTION. **514M.12 Rules.**
30 In consultation with and subject to the approval of the
31 board, the commissioner shall adopt rules pursuant to chapter
32 17A to effectuate and administer the provisions of this
33 chapter. Rules adopted under this section shall not conflict
34 with or prevent the application of regulations promulgated by
35 the secretary under the federal Act.

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1 Sec. 13. NEW SECTION. **514M.13 Advisory council.**
2 1. The board shall establish an advisory council consisting
3 of various stakeholders including representatives from
4 the insurance industry, insurance producer organizations,
5 consumer advocacy groups, labor unions, employers, health care
6 providers, farmers, and other interested parties. The advisory
7 council shall meet when requested by the board.
8 2. The advisory council shall offer input to the board
9 regarding rules proposed by the commissioner, the plan of
10 operation for the marketplace, and any other topics relevant
11 to the marketplace.
12 3. The board may alter the composition of the advisory
13 council at any time to reflect changes in the interests of the
14 various stakeholders.
15 Sec. 14. NEW SECTION. **514M.14 Annual report.**
16 1. The marketplace shall submit an annual report to the
17 commissioner, governor, general assembly, and the auditor of
18 state by January 15. The report shall include an accurate
19 accounting of all the activities of the marketplace and of all
20 its receipts and expenditures during the prior fiscal year.
21 2. The report shall describe how the operations and
22 activities of the marketplace serve the interests of the state
23 and further the purposes set forth in this chapter.
24 Sec. 15. NEW SECTION. **514M.15 Relation to other laws.**
25 This chapter, and action taken by the marketplace pursuant
26 to this chapter, shall not be construed to preempt or supersede
27 the authority of the commissioner to regulate the business
28 of insurance in this state. Except as expressly provided to
29 the contrary in this chapter, all health carriers offering
30 qualified health benefit plans in this state shall comply fully
31 with all applicable health insurance laws of this state and
32 rules adopted and orders issued by the commissioner.
33 Sec. 16. NEW SECTION. **514M.16 Transition provisions.**
34 1. *a.* Beginning on or before March 1, 2014, upon their
35 appointment, the board of directors of the marketplace

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1 shall meet, and in consultation with the commissioner, shall
2 begin plans to implement the transition of the functions and
3 administration of the federally facilitated exchanges or state
4 partnership exchanges in operation in the state as of January
5 1, 2014, pursuant to the federal Act, to the marketplace
6 established pursuant to this chapter, in accordance with the
7 federal Act and standards developed by the secretary, and
8 applicable state law.
9 *b.* The marketplace established pursuant to this chapter
10 shall be operational and shall offer enrollment in qualified
11 health benefit plans to qualified individuals and qualified
12 employers in this state on or before October 1, 2014. The
13 qualified health benefit plans that are offered through the
14 marketplace shall be effective on January 1, 2015.
15 2. The commissioner shall transfer the functions and
16 administration of the Iowa insurance information exchange
17 established in section 505.32 to the marketplace established
18 pursuant to this chapter on or before January 1, 2015.
19 DIVISION II
20 CORRESPONDING PROVISION
21 Sec. 17. Section 505.32, Code 2013, is amended by adding the
22 following new subsection:
23 NEW SUBSECTION. 6. This section is repealed on July 1,
24 2015.
25 DIVISION III
26 EFFECTIVE DATE
27 Sec. 18. EFFECTIVE DATE. This Act takes effect January 1,
28 2014.
29 EXPLANATION
30 This bill provides for the establishment of the Iowa health
31 benefit marketplace.
32 The bill creates new Code chapter 514M, which provides for
33 the establishment of a health benefit marketplace to facilitate
34 the sale and purchase of qualified health benefit plans in
35 this state by qualified individuals in the individual market

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1 and by qualified small employers in the small group market.
2 The intent of establishing such a marketplace is to reduce
3 the number of uninsured individuals in this state, provide a
4 transparent marketplace and consumer education, and assist
5 individuals with access to relevant federal and state programs,
6 premium assistance tax credits, and cost-sharing reductions.
7 For purposes of the bill, a qualified employer that can
8 participate in the small business health options program
9 component of the marketplace is an employer that employs an
10 average of at least one and not more than 50 employees during
11 the preceding calendar year and elects to make its full-time
12 employees, and at the employer's option, some or all of its
13 part-time employees, eligible for one or more qualified health
14 benefit plans offered through the small business health options
15 program component of the marketplace. A qualified employer
16 must either have its principal place of business in this state
17 and elect to provide health coverage through the marketplace to
18 all of its eligible employees wherever employed, or elect to
19 provide coverage through the marketplace to all of its eligible
20 employees who are principally employed in this state.
21 The Iowa health benefit marketplace is established as a
22 nonprofit corporation. The marketplace shall be operated on
23 a statewide basis pursuant to a plan of operation established
24 and approved by its board of directors in consultation
25 with the commissioner of insurance. The marketplace shall
26 include separate components which facilitate the purchase of
27 qualified health benefit plans by eligible individuals and
28 small employers as described in new Code chapter 514M and the
29 federal Patient Protection and Affordable Care Act, as amended.
30 The marketplace may employ staff to carry out its duties but
31 no employees of the marketplace may offer services for which
32 a license as an insurance producer is required pursuant to
33 Code chapter 522B. The marketplace is also authorized to
34 contract with an eligible entity to fulfill any of its duties
35 or responsibilities as described in new Code chapter 514M.

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1 The board of directors of the marketplace is comprised of
2 seven voting members appointed by the governor for three-year
3 staggered terms with two representing the interests of small
4 business; three representing the interests of consumers;
5 one who is a licensed insurance producer; and one who is a
6 health care provider. The voting members must be appointed
7 on or before March 1, 2014. There are also five ex officio,
8 nonvoting members of the board including four members of the
9 general assembly with one each appointed by the speaker and the
10 minority leader of the house of representatives, and by the
11 majority and minority leaders of the senate, and including the
12 secretary of the board.
13 The voting members of the board are required to appoint an
14 executive director, subject to confirmation by the senate, to
15 supervise the administrative affairs and general management
16 and operations of the marketplace. The board may appoint
17 other officers as the board deems necessary. The board is
18 also required to appoint a secretary of the board who keeps
19 a record of the board proceedings, is the custodian of all
20 books, documents, and papers filed with the board, including
21 information filed in an electronic format, and of the minute
22 book or journal of the board.
23 The marketplace has all the general powers of a nonprofit
24 corporation that are necessary and convenient to carry out its
25 purposes and duties and to exercise its specific powers as
26 provided in new Code chapter 514M.
27 The marketplace is required to make qualified health
28 benefit plans that are effective on or before January 1, 2015,
29 available to qualified individuals and qualified employers in
30 the state. The specific duties and powers of the marketplace
31 are set forth in new Code chapter 514M.
32 The marketplace is authorized to select entities licensed
33 and qualified to act as navigators in accordance with
34 the requirements of state and federal law for the purpose
35 of conducting public education activities, distributing

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1 fair and impartial information concerning enrollment in
2 qualified health benefit plans, facilitating such enrollment,
3 providing referrals to the appropriate federal or state
4 entity for grievances, complaints, or questions regarding an
5 enrollee's health benefit plan, and providing culturally and
6 linguistically appropriate information to persons served by
7 the marketplace. An entity licensed as a navigator under Code
8 chapter 522D shall not engage in any activities that require
9 licensure as an insurance producer unless the entity is also
10 licensed as an insurance producer under Code chapter 522B. The
11 marketplace is authorized to certify a health benefit plan as
12 a qualified health benefit plan if the plan meets specified
13 criteria.
14 The marketplace may charge assessments or user fees to
15 health carriers that offer health benefit plans through the
16 marketplace or otherwise generate the funding necessary to
17 support the operation of the marketplace as provided in the
18 marketplace's plan of operation. The marketplace is required
19 to publish the average costs of licensing, regulatory fees,
20 and any other payments required by the marketplace, as well
21 as the administrative costs of the marketplace on an internet
22 site for the purpose of educating consumers about the costs
23 of operating the marketplace. No state funding can be
24 appropriated or allocated for the operation or administration
25 of the marketplace. Any assessments or user fees charged must
26 provide for sharing the losses and expenses of the marketplace
27 on an equitable and proportionate basis among health carriers
28 in the state.
29 In consultation with and subject to the approval of the
30 board, the commissioner of insurance is required to adopt rules
31 pursuant to Code chapter 17A to effectuate and administer the
32 provisions of new Code chapter 514M. The board is required
33 to establish an advisory council consisting of various
34 stakeholders including representatives from the insurance
35 industry, insurance producer organizations, consumer advocacy

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1 groups, labor unions, employers, health care providers,
2 farmers, and other interested parties. The council shall
3 offer input to the board regarding rules proposed by the
4 commissioner, the plan of operation for the marketplace, and
5 any other relevant topics.
6 The marketplace is required to submit an annual report to the
7 commissioner, governor, general assembly, and the auditor of
8 state by January 15, which includes an accurate accounting of
9 all the activities of the marketplace and of all its receipts
10 and expenditures during the prior fiscal year. The report
11 shall also describe how the operations and activities of the
12 marketplace serve the interests of the state and further the
13 purposes of new Code chapter 514M.
14 The enactment of the Code chapter and actions taken by
15 the marketplace are not to be construed as preempting or
16 superseding the authority of the commissioner to regulate
17 insurance in this state.
18 The new Code chapter contains transition provisions that
19 require the new marketplace board to be appointed and meet
20 on or before March 1, 2014, and in consultation with the
21 commissioner of insurance, begin plans to implement the
22 transition of the functions and administration of the federally
23 facilitated exchanges or state partnership exchanges in
24 operation in the state as of January 1, 2014, pursuant to the
25 federal Act, to the marketplace established pursuant to new
26 Code chapter 514M.
27 The marketplace must be operational and offer enrollment in
28 qualified health benefit plans to qualified individuals and
29 qualified employers in this state on or before October 1, 2014.
30 The qualified health benefit plans that are offered through the
31 marketplace must be effective on January 1, 2015.
32 The commissioner of insurance is also directed to transfer
33 the functions and administration of the Iowa insurance
34 information exchange established in Code section 505.32 to the
35 marketplace on or before January 1, 2015, and Code section

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1 505.32 is repealed on that date.
2 The bill is effective January 1, 2014.

Senate File 73 - Introduced

SENATE FILE 73
BY DANIELSON

A BILL FOR

1 An Act providing for the issuance of special electric vehicle
2 registration plates, establishing fees, and including
3 effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1682XS (2) 85
dea/nh

S.F. 73

1 Section 1. Section 321.34, Code 2013, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 27. *Electric vehicle plates.*
4 *a.* The owner of a motor vehicle that operates on an electric
5 propulsion system or on a combination of an electric propulsion
6 system and an internal combustion propulsion system may,
7 upon written application to the department, order special
8 registration plates with an electric vehicle emblem. The
9 emblem shall be designed by the department in consultation with
10 the department of public safety.
11 *b.* Electric vehicle plates shall be issued as provided
12 in subsection 12. The special plate fees collected by the
13 director under subsection 12, paragraphs *"a"* and *"c"*, from the
14 issuance and annual validation of letter-number designated and
15 personalized electric vehicle plates shall be paid monthly to
16 the treasurer of state and deposited in the road use tax fund.
17 *c.* When the owner of a motor vehicle with electric vehicle
18 plates transfers or assigns ownership of the vehicle to another
19 person, the owner shall remove the electric vehicle plates
20 from the vehicle. The owner shall forward the plates to the
21 county treasurer where the motor vehicle is registered or the
22 owner may have the plates assigned to another motor vehicle
23 that meets the requirements under paragraph *"a"*. Electric
24 vehicle registration plates shall not be assigned to another
25 motor vehicle unless the motor vehicle operates on an electric
26 propulsion system or on a combination of an electric propulsion
27 system and an internal combustion propulsion system.
28 Sec. 2. EFFECTIVE DATE. This Act takes effect January 1,
29 2014.
30 EXPLANATION
31 This bill directs the department of transportation to issue
32 a new special motor vehicle registration plate bearing an
33 electric vehicle emblem, to be designed by the department in
34 consultation with the department of public safety. The special
35 electric vehicle plates will be available only for motor

S.F. 73

1 vehicles that operate on an electric propulsion system or on
2 a combination of electric propulsion and internal combustion
3 propulsion. The fees for electric vehicle plates are the
4 standard fees established for special registration plates. The
5 fee for issuance of the special plates is $25. An applicant
6 for personalized special plates must pay the $25 personalized
7 plate fee in addition to the $25 special plate fee. The
8 special plate renewal fee is $5, in addition to the annual
9 vehicle registration fee. For renewal of personalized special
10 plates, a $5 personalized plate renewal fee applies in addition
11 to the $5 special plate fee and the annual registration fee.
12 All fees for electric vehicle plates are to deposited in the
13 road use tax fund.
14 Under current law, when the owner of a vehicle transfers or
15 assigns ownership of the vehicle to another person, the owner
16 may have the plates assigned to another vehicle. Under the
17 bill, electric vehicle plates shall not be assigned to another
18 motor vehicle unless the motor vehicle operates on an electric
19 propulsion system or on a combination of electric propulsion
20 and internal combustion propulsion.
21 The bill takes effect January 1, 2014.

Senate File 74 - Introduced

SENATE FILE 74
BY DANIELSON

A BILL FOR

1 An Act relating to lifetime fishing and hunting licenses issued
2 to certain resident disabled veterans.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1708XS (2) 85
av/sc

S.F. 74

Section 1. Section 483A.24, subsection 15, Code 2013, is amended to read as follows:

15. *a.* Upon payment of the fee of five dollars for a lifetime fishing license or lifetime hunting and fishing combined license, the department shall issue a lifetime fishing license or lifetime hunting and fishing combined license to a resident ~~of Iowa who has served in the armed forces of the United States on federal active duty and who was disabled or was a prisoner of war during that veteran's military service~~ as defined in paragraph *"c"*.

b. The department shall prepare an application to be used by a person requesting a lifetime fishing license or lifetime hunting and fishing combined license under this subsection. The department of veterans affairs shall assist the department in verifying the status or claims of applicants under this subsection. As used in this subsection, *"disabled"* means entitled to a service connected rating under 38 U.S.C. ch. 11.

c. For the purposes of this subsection, *"resident"* means a natural person who meets all of the following conditions:

(1) Served in the armed forces of the United States on federal active duty and was disabled or was a prisoner of war during that veteran's military service.

(2) Physically resides in this state at the time of applying for or purchasing a license under this subsection.

(3) Paid personal income tax to the state of Iowa for the year previous to the year in which a license is applied for or purchased under this subsection.

EXPLANATION

This bill provides that for purposes of obtaining a special lifetime fishing or lifetime hunting and fishing combined license that is available to Iowa residents who are disabled veterans, a "resident" of Iowa includes a disabled veteran who resides in the state at the time the license is applied for or purchased and who paid personal income tax to the state of Iowa for the year previous to the year in which the license

S.F. 74

1 application is applied for or purchased.
2 Currently, in order to be considered a resident of Iowa, a
3 disabled veteran must physically reside in the state as the
4 person´s principal and primary residence for a period of not
5 less than 90 consecutive days immediately before applying for
6 or purchasing a resident license and have an Iowa driver´s
7 license or nonoperator´s identification card.

Senate File 75 - Introduced

SENATE FILE 75
BY JOHNSON

A BILL FOR

1 An Act relating to requirements for persons who perform
2 transvaginal ultrasounds.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1876XS (3) 85
pf/nh

S.F. 75

1 Section 1. DIAGNOSTIC MEDICAL SONOGRAPHICS — TRANSVAGINAL
2 ULTRASOUNDS. The department of public health shall adopt rules
3 pursuant to chapter 17A that require a person who performs
4 transvaginal ultrasounds in this state to be certified as a
5 diagnostic medical sonographer. The rules shall specify the
6 means by which a person may complete certification, including
7 but not limited to credentialing by the American registry
8 for diagnostic medical sonography. For the purposes of this
9 section, "diagnostic medical sonographer" means a person,
10 other than a licensed practitioner, who provides patient care
11 services using ultrasound.
12 EXPLANATION
13 This bill directs the department of public health to adopt
14 rules pursuant to Code chapter 17A that require a person who
15 performs transvaginal ultrasounds in the state to be certified
16 as a diagnostic medical sonographer. The rules are to specify
17 the means by which a person may complete certification,
18 including but not limited to credentialing by the American
19 registry for diagnostic medical sonography. "Diagnostic
20 medical sonographer" is defined as a person, other than a
21 licensed practitioner, who provides patient care services using
22 ultrasound.

Senate File 76 - Introduced

SENATE FILE 76
BY SORENSON, BERTRAND, ANDERSON, CHELGREN, FEENSTRA, WHITVER, and SEGEBART

A BILL FOR

1 An Act creating the penalty of death for the commission of
2 murder in the first degree, and the commission of either
3 kidnapping in the first degree or sexual abuse in the
4 first degree, or both, against the same minor who was
5 murdered, providing a penalty, and including effective date
6 provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1415XS (14) 85
jm/rj

S.F. 76

1 Section 1. Section 13B.4, Code 2013, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 6A. The state public defender shall perform
4 all of the following duties with respect to the appointment of
5 counsel for indigent persons in cases in which a sentence of
6 death may be or is to be imposed:
7 *a.* Provide or contract with attorneys for appointment as
8 lead counsel and cocounsel to provide legal services in cases
9 where a person is charged with murder in the first degree, and
10 with either kidnapping in the first degree or sexual abuse in
11 the first degree, or both, under section 902.15, and the state
12 has given notice of intent to seek the death penalty or in
13 cases in which a sentence of death is to be imposed.
14 *b.* Conduct or sponsor specialized training programs for
15 attorneys representing persons who may be executed.
16 Sec. 2. NEW SECTION. **602.10112 Qualifications of counsel**
17 **in death penalty cases.**
18 The supreme court shall prescribe rules which establish
19 minimum standards and procedures by which attorneys may become
20 qualified to provide legal services as lead counsel in cases in
21 which a sentence of death may be or is to be imposed.
22 Sec. 3. NEW SECTION. **812A.1 Procedure to determine sanity**
23 **of condemned inmate.**
24 1. At any time prior to execution of an inmate under section
25 902.1, if the director of the department of corrections or
26 the counsel for a person who is under a sentence of execution
27 has cause to believe that the inmate is suffering from such
28 a diseased or deranged condition of the mind as to prevent
29 the defendant from knowing the nature and quality of the act
30 the defendant has been convicted of, or from understanding
31 that trial on the offense has taken place and that execution
32 proceedings are about to take place, or to otherwise cause the
33 defendant to lack the capacity to understand the sentence which
34 has been imposed and to participate in any legal proceedings
35 relating to the sentence, the director or counsel may file a

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1 request with the court that issued the warrant for execution
2 for a determination of the inmate's sanity. If the district
3 court determines that there is not sufficient reason to believe
4 that the inmate is insane, the court shall enter an order
5 denying the request and shall state the grounds for denying the
6 request. If the court believes that there is sufficient reason
7 to believe that the inmate is insane, the court shall suspend
8 the execution and conduct a hearing to determine the sanity of
9 the inmate.
10 2. At the hearing, the court shall determine the issue of
11 the inmate's sanity. Prior to the hearing, the court shall
12 appoint two licensed physicians or licensed psychologists, or
13 one licensed physician and one licensed psychologist, who are
14 qualified by training and practice, for purposes of conducting
15 a psychiatric or psychological examination of the inmate. The
16 physicians or psychologists shall examine the inmate and report
17 any findings in writing to the court within ten days after
18 the order of examination is issued. The inmate shall have
19 the right to present evidence and cross-examine any witnesses
20 at the hearing. Any statement made by the inmate during the
21 course of any examination provided for in this section, whether
22 or not the inmate consents to the examination, shall not be
23 admitted into evidence against the inmate in any criminal
24 proceeding for purposes other than a determination of the
25 inmate's sanity.
26 3. If, at the conclusion of a hearing held pursuant to
27 this section, the court determines that the inmate is sane,
28 the court shall enter an order setting a date for the inmate's
29 execution, which shall be carried into effect in the same
30 manner as provided in the original sentence. A copy of the
31 order shall be sent to the director of the department of
32 corrections and the governor.
33 4. If, at the conclusion of a hearing held pursuant to this
34 section, the court determines that the inmate is insane, the
35 court shall suspend the execution until further order. At any

1 time after issuance of the order, if the court has sufficient
2 reason to believe that the inmate has become sane, the court
3 shall again determine the sanity of the inmate as provided
4 by this section. Proceedings pursuant to this section may
5 continue to be held at such times as the court orders until
6 it is either determined that the inmate is sane or incurably
7 insane.
8 Sec. 4. NEW SECTION. **814.28 Review of death sentence.**
9 1. In a case in which a sentence of death is imposed, the
10 supreme court shall automatically review the judgment and
11 sentence. The court's review of the case shall be de novo. The
12 case shall not be transferred to the court of appeals.
13 2. A review by the supreme court of a judgment and sentence
14 imposing the punishment of death has priority over all other
15 criminal and other actions pending before the supreme court.
16 3. The supreme court shall review the trial and judgment,
17 and shall separately review the sentencing proceeding. Upon
18 determining that errors did not occur at the trial requiring
19 reversal or modification of the judgment, the supreme court
20 shall proceed to determine if the sentence of death is lawfully
21 imposed. In its review of the sentencing proceeding the
22 supreme court shall determine all of the following:
23 *a.* Whether the sentence of death was imposed capriciously or
24 under the influence of prejudice or other arbitrary factor.
25 *b.* Whether the special verdicts returned under section
26 901.11 are supported by the evidence.
27 *c.* Whether the sentence of death is excessive or
28 disproportionate to the penalty imposed in similar cases,
29 considering both the crime and the defendant.
30 4. If the supreme court determines that the sentence of
31 death was not lawfully imposed, the court shall set aside the
32 sentence and shall remand the case to the trial court for a
33 second sentencing proceeding to determine if the imposition of
34 death is warranted.
35 5. If the supreme court affirms the judgment and sentence

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1 of death, the clerk of the supreme court shall certify the
2 judgment of the supreme court under the seal of the court to
3 the clerk of the trial court.
4 Sec. 5. Section 815.10, Code 2013, is amended by adding the
5 following new subsection:
6 NEW SUBSECTION. 1A. If two attorneys have not already
7 been appointed pursuant to section 13B.4 or 13B.9, the court
8 shall appoint, for each indigent person who is charged with
9 murder, and with either kidnapping or sexual abuse, or both,
10 under section 902.15, and in which a notice of intent to
11 seek the death penalty has been filed, two attorneys who are
12 qualified under section 602.10112 to represent the person in
13 the proceedings and in all state legal proceedings which take
14 place from the time the person is indicted or arraigned until
15 the person is sentenced on the charge. In addition, if at
16 any point in federal postconviction proceedings an indigent
17 person is not afforded court-appointed counsel, the state shall
18 provide counsel to the person to present any claims determined
19 meritorious by the federal court if the person is not otherwise
20 represented by legal counsel. Only private attorneys and
21 public defenders who are qualified to provide representation in
22 cases in which the death penalty may be imposed are eligible
23 for appointment or assignment to a case in which the death
24 penalty may be imposed.
25 Sec. 6. NEW SECTION. **901.11 Murder proceedings — request**
26 **for death penalty — penalty proceedings.**
27 1. If a notice of intent to seek the death penalty has
28 been filed, objections to the imposition of the death penalty
29 based upon allegations that a defendant was intellectually
30 disabled or mentally ill at the time of the commission of
31 the offense shall be raised within the time provided for the
32 filing of pretrial motions under rule of criminal procedure
33 2.11, Iowa court rules. The court may, for good cause shown,
34 allow late filing of the motion. Hearing on the motion shall
35 be held prior to trial and the burden of proof shall be on the

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1 defendant to prove intellectual disability or mental illness
2 by a preponderance of the evidence. However, a rebuttable
3 presumption of intellectual disability arises if a defendant
4 has an intelligence quotient of seventy or below. If the
5 court finds that the defendant is intellectually disabled, the
6 defendant, if convicted of murder, and of either kidnapping
7 or sexual abuse, or both, under section 902.15, shall not be
8 sentenced to death but shall be sentenced to life imprisonment
9 in the manner provided in section 902.1, subsection 1. A
10 finding by the court that the evidence presented by the
11 defendant at the hearing does not preclude the imposition of
12 the death penalty under this section and section 902.15 shall
13 not preclude the introduction of evidence of intellectual
14 disability or mental illness during the penalty proceeding.
15 If the court finds that evidence of intellectual disability
16 or mental illness does not preclude imposition of the death
17 penalty, evidence of intellectual disability or mental illness
18 may be reviewed by the jury in the penalty proceeding and
19 the jury shall not be informed of the finding in the initial
20 proceeding at any time during the penalty proceeding.
21 2. If at the trial on a charge of murder, and of either
22 kidnapping or sexual abuse, or both, under section 902.15, the
23 state intends to request that the death penalty be imposed
24 under section 902.1, subsection 3, the prosecutor shall file a
25 notice of intent to seek the death penalty, at the time of and
26 as part of the information or indictment filed in the case.
27 3. If a notice of intent to seek the death penalty has been
28 filed, the trial shall be conducted in bifurcated proceedings
29 before the same trier of fact. During the initial proceeding,
30 the jury, or the court, if the defendant waives the right to a
31 jury trial, shall decide only whether the defendant is guilty
32 or not guilty of murder, and of either kidnapping or sexual
33 abuse, or both, under section 902.15.
34 *a.* If, in the initial proceeding, the court or jury finds
35 the defendant guilty of, or the defendant pleads guilty to,

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1 an offense other than murder, and kidnapping or sexual abuse,
2 or both, under section 902.15, the court shall sentence the
3 defendant in accordance with the sentencing procedures set
4 forth in rule of criminal procedure 2.23, Iowa court rules, and
5 chapters 901 through 909, which are applicable to the offense.
6 *b.* If the court or jury finds the defendant guilty of, or
7 the defendant pleads guilty to, murder, and either kidnapping
8 or sexual abuse, or both, under section 902.15, but the
9 prosecuting attorney waives the death penalty, the court shall
10 sentence the defendant to life imprisonment in accordance
11 with the sentencing procedures set forth in rule of criminal
12 procedure 2.23, Iowa court rules, and chapters 901 through 909,
13 which are otherwise applicable to convictions of murder in the
14 first degree, kidnapping in the first degree, or sexual abuse
15 in the first degree.
16 *c.* If the court or jury finds the defendant guilty of
17 murder, and either kidnapping or sexual abuse, or both under
18 section 902.15, or a defendant enters a plea of guilty in the
19 initial proceeding, and the prosecuting attorney does not waive
20 imposition of the death penalty, a penalty proceeding shall be
21 held in the manner provided in subsections 4 through 12.
22 4. No sooner than twenty-four hours after a verdict of
23 guilty or a plea of guilty to the charge of murder, and either
24 kidnapping or sexual abuse, or both, under section 902.15 is
25 returned in the initial proceeding, a penalty proceeding shall
26 be held to determine whether the defendant shall be sentenced
27 to death or to life imprisonment. The proceeding shall be
28 conducted in the trial court before the trial jury, or before
29 the court if the defendant has waived the right to a jury trial
30 or has waived the right for the proceeding to be before the
31 trial jury. Both the state and the defendant shall have the
32 right to present opening statements at the commencement of
33 the proceeding. In the proceeding, evidence relevant to the
34 existence of any aggravating or mitigating circumstances may
35 be presented as follows:

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1 *a.* The state or the defendant may present evidence relevant
2 to the conviction of the criminal offenses enumerated in
3 section 902.15 and any aggravating circumstances other than
4 juvenile delinquency adjudications for offenses which carry
5 penalties equivalent to the penalties imposed for simple or
6 serious misdemeanors. The state may introduce evidence of the
7 actual harm caused by the commission of the murder, and either
8 the kidnapping or sexual abuse, or both, under section 902.15,
9 including but not limited to evidence relating to the life of
10 the victim and the impact of the loss of the victim to the
11 victim's family and society.
12 *b.* The defendant may present evidence that the defendant
13 was intellectually disabled at the time of the commission of
14 the offense. The burden of proof shall be on the defendant
15 to prove an intellectual disability by a preponderance of the
16 evidence. However, a rebuttable presumption of intellectual
17 disability arises if a defendant has an intelligence quotient
18 of seventy or below.
19 *c.* The state or the defendant may present evidence relevant
20 to any mitigating circumstances which may exist. Mitigating
21 circumstances may include the following circumstances:
22 (1) The defendant was under the influence of an extreme
23 mental or emotional disturbance insufficient to constitute a
24 defense.
25 (2) The age of the defendant at the time of the murder.
26 (3) The defendant's capacity to appreciate the wrongfulness
27 of the defendant's conduct and to conform that conduct to the
28 requirements of law was significantly impaired as a result of a
29 mental disease or defect or intellectual disability, but not to
30 a degree sufficient to constitute a defense.
31 (4) The defendant has no significant history of prior adult
32 criminal activity.
33 (5) The defendant acted under extreme duress or under the
34 substantial domination of another person.
35 (6) The defendant did not directly commit the murder,

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1 and either the kidnapping or sexual abuse, or both, and the
2 defendant did not intend to kill or anticipate that lethal
3 force would be used.
4 (7) Any other factor which is relevant to the defendant's
5 character or record or to the circumstances of the offense.
6 *d.* The state and the defendant or the defendant's counsel
7 shall be permitted to present and cross-examine witnesses and
8 present arguments for or against a sentence of death. Evidence
9 regarding aggravating and mitigating circumstances shall not
10 be governed by the rules governing admissibility of evidence,
11 except that introduction of evidence secured in violation of
12 the Constitution of the United States or of the Constitution of
13 the State of Iowa shall not be permitted.
14 5. At the conclusion of presentation of evidence in
15 the penalty proceeding, the state and the defendant or the
16 defendant's counsel shall be permitted to make closing
17 arguments, including any rebuttal arguments, in the same manner
18 as in the initial proceeding and the following issues shall be
19 determined by the jury or the court, if there is no jury:
20 *a.* Whether the aggravating circumstance or circumstances
21 have been established beyond a reasonable doubt and outweigh
22 any one or more mitigating circumstances.
23 *b.* Whether the defendant shall be sentenced to death.
24 6. A recommendation for a sentence of death shall not be
25 permitted if the recommendation is based on the race, color,
26 religious beliefs, national origin, or sex of the defendant
27 or of any victim. After submission of the issues, but prior
28 to the return of a finding in the penalty proceeding, if
29 the matter is tried before a jury, the court shall instruct
30 the jury that in considering whether a sentence of death
31 is justified, it shall not consider race, color, religious
32 beliefs, national origin, or sex of the defendant or of any
33 victim. The court shall further instruct the jury that it
34 shall not return a sentence of death unless it concludes
35 that such a sentence would be recommended no matter what the

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1 race, color, religious beliefs, national origin, or sex of the
2 defendant or of any victim may be.
3 7. After submission of the issues, but prior to the
4 commencement of the jury deliberations in the penalty
5 proceeding, the court shall instruct the jury that if the
6 defendant is not sentenced to death, the court is required by
7 law to impose a sentence of imprisonment until death without
8 parole. The court shall further instruct the jury that
9 the sentence of imprisonment until death without parole is
10 required by law if the jury fails to reach a unanimous verdict
11 recommending a sentence of death.
12 8. Concurrently with the return of the findings on the
13 issues submitted under subsection 5, the jury, or the court if
14 there is no jury, shall return special verdicts as follows:
15 *a.* Which aggravating circumstances were established beyond a
16 reasonable doubt and were considered in reaching the verdict.
17 *b.* Which mitigating circumstances were established and
18 were considered in reaching the verdict returned on the issue
19 specified in subsection 5, paragraph *"a"*.
20 9. If the jury, or the court if there is no jury, returns a
21 unanimous affirmative finding on each of the issues submitted
22 under subsection 5, paragraphs *"a"* and *"b"*, the court shall
23 enter a judgment of conviction and shall sentence the defendant
24 to death as provided in section 902.1, subsection 3.
25 10. However, if evidence that the defendant was not a major
26 participant in the commission of the murder, and either the
27 kidnapping or sexual abuse, or both, under section 902.15,
28 and that the defendant's conduct did not manifest a reckless
29 indifference to human life is presented to the jury, or the
30 court if there is no jury, the jury or the court shall also
31 return a special verdict on the issue. If the jury unanimously
32 determines, or the court, if there is no jury, finds that a
33 preponderance of evidence exists that shows that the defendant
34 was not a major participant in the commission of the murder,
35 and either the kidnapping or sexual abuse, or both, under

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1 section 902.15, and that the defendant's conduct did not
2 manifest a reckless indifference to human life, the court shall
3 enter a judgment of conviction and shall sentence the defendant
4 to life imprisonment as provided in section 902.1, subsection
5 1, even if the jury or the court returns unanimous affirmative
6 findings on each of the issues submitted under subsection 5.
7 11. If the jury, or the court if there is no jury, returns
8 a negative finding on any of the issues submitted under
9 subsection 5, paragraphs *"a"* or *"b"*, the court shall enter a
10 judgment of conviction and shall sentence the defendant to life
11 imprisonment as provided in section 902.1, subsection 1.
12 12. After a verdict has been rendered it shall be recorded
13 on the jury verdict form and shall be read and recorded in open
14 court. The jurors shall be collectively asked by the court
15 whether the verdict returned is their true and correct verdict.
16 Even though no juror makes any declaration to the contrary, the
17 jury shall, if either party so requests, be polled and each
18 juror shall be separately asked whether the verdict rendered by
19 the jury foreperson is the juror's true and correct verdict.
20 If, upon either the collective or the separate inquiry, any
21 juror denies that the verdict is the juror's verdict, the court
22 shall refuse to accept the verdict. The court may direct
23 inquiry or permit inquiry by counsel to ascertain whether any
24 juror has been subjected to coercion or has become confused
25 during the jury deliberation process. The court may, as
26 appropriate, direct the jury to resume deliberation in the
27 case. If no disagreement on the verdict is expressed by any of
28 the jurors, the court shall discharge the jury.
29 13. This section shall not apply to a defendant who
30 was under the age of eighteen at the time the offense was
31 committed.
32 Sec. 7. Section 902.1, subsection 1, Code 2013, is amended
33 to read as follows:
34 1. ~~Upon~~ Except as otherwise provided in subsection 2 or
35 3, upon a plea of guilty, a verdict of guilty, or a special

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1 verdict upon which a judgment of conviction of a class "A"
2 felony may be rendered, the court shall enter a judgment of
3 conviction and shall commit the defendant into the custody of
4 the director of the Iowa department of corrections for the
5 rest of the defendant's life. Nothing in the Iowa corrections
6 code pertaining to deferred judgment, deferred sentence,
7 suspended sentence, or reconsideration of sentence applies
8 to a sentence of life imprisonment for a class "A" felony,
9 and a person convicted of a class "A" felony and sentenced to
10 life imprisonment shall not be released on parole unless the
11 governor commutes the sentence to a term of years.
12 Sec. 8. Section 902.1, Code 2013, is amended by adding the
13 following new subsection:
14 NEW SUBSECTION. 3. Notwithstanding subsection 1, upon
15 return of a plea or verdict of guilty to the offense of murder
16 in the first degree, and either kidnapping in the first degree
17 or sexual abuse in the first degree, or both, under section
18 902.15, and a return of a verdict in favor of a sentence of
19 death in a penalty proceeding conducted as provided in section
20 901.11, the court shall enter a judgment of conviction and
21 shall commit the defendant into the custody of the director
22 of the Iowa department of corrections. The sentence shall
23 be carried out by the administration of a lethal injection
24 pursuant to rules adopted by the board of corrections. If
25 a defendant, for whom a warrant of execution is issued, is
26 pregnant, the execution shall not take place until after the
27 defendant is no longer pregnant. If a defendant, for whom
28 a warrant of execution is issued, is suffering from such a
29 diseased or deranged condition of the mind as to prevent the
30 defendant from knowing the nature and quality of the act
31 the defendant has been convicted of, or from understanding
32 that trial on the offense has taken place and that execution
33 proceedings are about to take place, or otherwise causes the
34 defendant to lack the capacity to understand the sentence which
35 has been imposed and to participate in any legal proceedings

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1 relating to the sentence, the execution shall not take place
2 until after the defendant's capacity is restored. If the
3 director of the department of corrections or the defendant's
4 counsel files a request with the court which issued the warrant
5 of execution, alleging that the defendant suffers from such
6 a diseased or deranged condition, a hearing on the matter
7 shall be held in the manner provided in section 812A.1. If a
8 defendant was under the age of eighteen at the time the offense
9 was committed, the defendant shall be sentenced as provided
10 in subsection 1. For the purposes of this section, *"lethal*
11 *injection"* means a continuous intravenous injection of a lethal
12 substance sufficient to cause death.
13 Sec. 9. NEW SECTION. **902.15 Commission of first degree**
14 **murder, and first degree kidnapping or first degree sexual abuse.**
15 A person who commits murder in the first degree in violation
16 of section 707.2, and either kidnapping in the first degree in
17 violation of section 710.2 or sexual abuse in the first degree
18 in violation of section 709.2, or both, with respect to the
19 same victim, who is not intellectually disabled or mentally
20 ill, and who is age eighteen or older at the time the offense
21 is committed, shall be eligible for a sentence of death under
22 section 902.1, subsection 3, if the victim was a minor.
23 For purposes of this section, *"intellectually disabled"*
24 means significant subaverage general intellectual functioning
25 accompanied by significant deficits or impairments in adaptive
26 functioning manifested in the developmental period, but no
27 later than the age of eighteen years, and accompanied by
28 deficits in adaptive behavior.
29 For purposes of this section, *"mentally ill"* means the
30 condition of a person who is suffering from a chronic and
31 persistent serious mental disease or disorder and who, by
32 reason of that condition, lacks sufficient judgment to make
33 responsible decisions regarding treatment and is reasonably
34 likely to injure the person's self or others who may come into
35 contact with the person if the person is allowed to remain at

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1 liberty without treatment.
2 Sec. 10. NEW SECTION. **902.16 Data collection for death**
3 **penalty.**
4 1. The supreme court shall collect data on all murder
5 charges accompanied by either kidnapping or sexual abuse
6 charges in which the death penalty is or was not waived, which
7 are filed and processed in the courts in this state. This data
8 may be used by the supreme court to determine whether death
9 sentences imposed are excessive or disproportionate, or under
10 the influence of prejudice as a result of racial discrimination
11 under section 814.28. The court shall make this data available
12 to litigants in death penalty cases.
13 2. Data collected by public officials concerning factors
14 relevant to the imposition of the death sentence shall be made
15 publicly available.
16 Sec. 11. NEW SECTION. **903C.1 Executions — refusal to**
17 **perform.**
18 An employee of the state who may lawfully perform, assist, or
19 participate in the execution of a person pursuant to section
20 902.1, and rules adopted by the department of corrections,
21 shall not be required to perform, assist, or participate in
22 the execution. State employees who refuse to perform, assist,
23 or participate in the execution of a person shall not be
24 discriminated against in any way, including but not limited
25 to employment, promotion, advancement, transfer, licensing,
26 education, training, or the granting of any privileges or
27 appointments because of the refusal to perform, assist, or
28 participate in the execution.
29 Sec. 12. Section 904.105, Code 2013, is amended by adding
30 the following new subsection:
31 NEW SUBSECTION. 9A. Adopt rules pursuant to chapter 17A
32 pertaining to executions of persons convicted of murder, and
33 kidnapping or sexual abuse, or both, under section 902.15.
34 Rules adopted shall include but are not limited to rules
35 permitting the witnessing of executions by members of the

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1 public and the victim's family. Invitations to witness
2 an execution shall at least be extended to the following
3 representatives of the news media:
4 *a.* A representative from a wire service serving Iowa.
5 *b.* A representative from a broadcasting network serving
6 Iowa.
7 *c.* A representative from a television station located in
8 Iowa.
9 *d.* A representative from a radio station located in Iowa.
10 *e.* A representative from a daily newspaper published in
11 Iowa.
12 *f.* A representative from a weekly newspaper published in
13 Iowa.
14 *g.* A representative from the news media from the community
15 in which the condemned person resided, if that community is
16 located in Iowa.
17 Sec. 13. RULES OF CRIMINAL PROCEDURE AMENDED. Rules of
18 criminal procedure, Iowa court rules, are amended by adding the
19 following four sections of this Act.
20 Sec. 14. **Rule 2.___ Death penalty — procedure.**
21 **2.___(1)** If a notice of intent to seek the death penalty has
22 been filed, objections to the imposition of the death penalty
23 based upon allegations that a defendant was intellectually
24 disabled at the time of the commission of the offense shall
25 be raised within the time provided for the filing of pretrial
26 motions under R.Cr.P. 2.11, Iowa court rules. The court
27 may, for good cause shown, allow late filing of the motion.
28 Hearing on the motion shall be held prior to trial and the
29 burden of proof shall be on the defendant to prove intellectual
30 disability by a preponderance of the evidence. However, a
31 rebuttable presumption of intellectual disability arises if a
32 defendant has an intelligence quotient of seventy or below.
33 A finding of the court that the evidence presented by the
34 defendant at the hearing does not preclude the imposition of
35 the death penalty under this rule and Iowa Code section 902.15

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1 shall not preclude the introduction of evidence of intellectual
2 disability during the penalty proceeding. If the court finds
3 that the evidence presented by the defendant does not preclude
4 the imposition of the death penalty, evidence of intellectual
5 disability may be reviewed by the jury during the penalty
6 proceeding and the jury shall not be informed of the finding
7 in the initial proceeding at any time during the penalty
8 proceeding.
9 **2.___(2)** Upon a finding or plea that a defendant is guilty
10 of murder, and either kidnapping or sexual abuse, or both,
11 under Iowa Code section 902.15, in an initial proceeding, if
12 a notice of intent to seek the death penalty has been filed
13 and has not been waived, the court shall conduct a separate
14 penalty proceeding to determine whether the defendant shall
15 be sentenced to death or to life imprisonment. The penalty
16 proceeding shall be conducted in the trial court before the
17 trial jury, or the court, if there is no jury, no sooner than
18 twenty-four hours after the return of the verdict or plea in
19 the initial proceeding. In the penalty proceeding, additional
20 evidence may be presented as to the conviction for murder,
21 and either kidnapping or sexual abuse, or both, under section
22 902.15, or any aggravating or mitigating circumstance which
23 may exist. Presentation of evidence which is relevant to the
24 existence of an aggravating or mitigating circumstance shall
25 not be bound by the rules of evidence. This subsection does
26 not authorize the introduction of any evidence secured in
27 violation of the Constitution of the United States or of the
28 Constitution of the State of Iowa. The state and the defendant
29 or the defendant´s counsel shall be permitted to cross-examine
30 witnesses and to present arguments for or against a sentence of
31 death.
32 **2.___(3)** On conclusion of the presentation of the evidence
33 in the penalty proceeding, the state and the defendant or
34 the defendant´s counsel shall be permitted to make closing
35 arguments, including any rebuttal arguments, in the same manner

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as in the initial proceeding and the court shall submit each of the following issues to the jury:

a. Whether one or more aggravating circumstances outweigh any one or more mitigating circumstances.

b. Whether the defendant shall be sentenced to death.

If the case is not tried to a jury, the court shall determine the issues.

2.___(4) The state must prove the issue in rule 2.___(3)(a) beyond a reasonable doubt, and the jury, or the court if there is no jury, shall return a special verdict of "yes" or "no" on each issue.

2.___(5) If the case is tried to a jury, the court shall charge the jury that:

a. It shall answer any issue "yes" if it agrees unanimously.

b. It shall answer any issue "no" if the jurors unanimously agree that the answer is "no" or if the jurors do not unanimously agree that the answer is "yes".

2.___(6) Concurrently with the return of the special verdicts under rule 2.___(3), the jury, or the court if there is no jury, shall also return special verdicts as follows:

a. Which aggravating circumstances were established beyond a reasonable doubt and were considered in reaching the verdict returned on the issue specified in rule 2.___(3)(a).

b. Which mitigating circumstances were established and were considered in reaching the verdict returned on the issue specified in rule 2.___(3)(a).

2.___(7) If the jury, or the court if there is no jury, returns an affirmative finding on all applicable issues, the court shall sentence the defendant to death. If the jury or the court returns a negative finding on any applicable issue, the court shall sentence the defendant to the custody of the director of the department of corrections for confinement for the rest of the defendant's life.

2.___(8) After a verdict has been rendered it shall be recorded on the jury verdict form and shall be read and

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1 recorded in open court. The jurors shall be collectively asked
2 by the court whether the verdict returned is their true and
3 correct verdict. Even though no juror makes any declaration
4 to the contrary, the jury shall, if either party so requests,
5 be polled and each juror shall be separately asked whether the
6 verdict rendered by the jury foreperson is the juror's true
7 and correct verdict. If, upon either the collective or the
8 separate inquiry, any juror denies that the verdict is the
9 juror's verdict, the court shall refuse to accept the verdict.
10 The court may direct inquiry or permit inquiry by counsel to
11 ascertain whether any juror has been subjected to coercion
12 or has become confused during the jury deliberation process.
13 The court may, as appropriate, direct the jury to resume
14 deliberation in the case. If no disagreement on the verdict
15 is expressed by any of the jurors, the court shall discharge
16 the jury.
17 **2.___(9)** Provisions relating to deferred judgment, deferred
18 sentence, suspended sentence, reconsideration of sentence,
19 probation, parole, or work release contained in Iowa Code
20 chapters 901 through 909 do not apply to a conviction of
21 murder, and either kidnapping or sexual abuse, or both, under
22 Iowa Code section 902.15 if the defendant is sentenced to
23 death.
24 Sec. 15. **Rule 2.___ Automatic review — stay of execution**
25 **of judgment.**
26 **2.___(1)** A judgment of conviction and sentence of death
27 shall be reviewed automatically in the manner provided in Iowa
28 Code section 814.28, and the Iowa supreme court has exclusive
29 jurisdiction of the review.
30 **2.___(2)** Upon entry of judgment and sentence of death, the
31 trial court shall prepare a complete record and transcript of
32 the action in the manner provided in the rules of criminal
33 procedure and shall docket the record and transcript with the
34 clerk of the supreme court.
35 **2.___(3)** The execution of judgment of the trial court is

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1 stayed as a matter of law from the time of its entry until
2 the judgment of the supreme court is certified to and entered
3 by the trial court. Upon entry of a judgment of the supreme
4 court which affirms the conviction and sentence, the stay of
5 execution of judgment terminates as a matter of law.
6 **2.___(3)** All court costs required due to the automatic
7 preparation of the record and transcript, docketing with the
8 supreme court, and stay of execution of judgment shall be
9 assessed to the state.
10 Sec. 16. **Rule 2.___ Issuance of warrant.**
11 **2.___(1)** Upon entry by the trial court of the judgment of
12 the supreme court affirming a judgment and sentence of death,
13 a district judge shall within five days of the entry issue
14 a warrant under the seal of the court for the execution of
15 the sentence of death. The warrant shall specifically set
16 forth the offense and the fact of conviction, shall state
17 the judgment and sentence of the court, shall state that the
18 judgment and sentence were affirmed by the supreme court and
19 the date of entry of judgment of the supreme court in the
20 trial court, and shall, subject to the requirements of Iowa
21 Code section 902.1, subsection 3, specify a range of five days
22 for execution of the defendant which shall be not less than
23 fifty nor more than sixty days after the date of entry in the
24 trial court of the judgment of the supreme court affirming the
25 judgment and sentence of death. The warrant shall be directed
26 to the director of the department of corrections commanding
27 the director to cause the warrant to be executed within the
28 dates specified. The trial court shall deliver the warrant
29 to the sheriff of the county in which judgment of conviction
30 was entered and the sheriff shall deliver the warrant to the
31 director of the department of corrections. The director of
32 the department of corrections shall acknowledge receipt of the
33 warrant and the defendant, and the sheriff shall return the
34 acknowledgment to the office of the clerk of the trial court
35 from which the warrant was issued.

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1 **2.___(2)** Immediately after issuance of a warrant ordering
2 a sentence of death, the clerk of the trial court issuing the
3 warrant shall transmit by certified mail to the governor a copy
4 of the indictment, the plea, the verdict and special findings,
5 the affirmation of judgment and sentence by the supreme court,
6 and the complete transcript of the trial court.
7 **2.___(3)** Notwithstanding rule 2.___(1), if a defendant,
8 for whom a warrant of execution is issued, is pregnant, the
9 execution shall not take place until after the defendant
10 is no longer pregnant. Notwithstanding rule 2.___(1), if
11 a defendant, for whom a warrant of execution is issued, is
12 suffering from such a diseased or deranged condition of the
13 mind as to prevent the defendant from knowing the nature
14 and quality of the act the defendant has been convicted of,
15 or from understanding that trial on the offense has taken
16 place and that execution proceedings are about to take place,
17 or to otherwise cause the defendant to lack the capacity
18 to understand the sentence which has been imposed and to
19 participate in any legal proceedings relating to the sentence,
20 the execution shall not take place until after the defendant is
21 no longer suffering from the condition.
22 Sec. 17. **Rule 2.___ Evidence at penalty proceeding where**
23 **death sentence requested.**
24 **2.___(1)** At a reasonable time before the commencement
25 of initial trial proceedings involving a murder, and either
26 kidnapping or sexual abuse, or both, in which a sentence of
27 death has been requested, each party shall file and serve upon
28 the other party the following:
29 *a.* A list of all aggravating or mitigating circumstances
30 which the party intends to prove during the sentencing
31 proceedings.
32 *b.* The names of all persons whom the party intends to call
33 as witnesses during the sentencing proceedings.
34 *c.* Notwithstanding rule 2.14, copies, or for inspection
35 purposes, the location, of all documents, including books,

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1 papers, writings, drawings, graphs, charts, photographs,
2 telephone records, and other data compilations from which
3 information can be obtained, or other objects which the
4 party intends to offer into evidence during the sentencing
5 proceedings. If copies are not supplied to opposing counsel,
6 the party shall make the items available for inspection and
7 copying without order of the court.
8 **2.___(2)** In proceedings to determine whether the sentence
9 shall be death or life imprisonment, evidence may be presented
10 as to any matter which the trial court deems relevant to
11 the sentence, including but not limited to the nature,
12 circumstances, and manner of completion of the murder,
13 and either kidnapping or sexual abuse, or both, and the
14 defendant´s character, background, history, and mental and
15 physical condition. The trial court shall admit any relevant
16 admissible evidence respecting any aggravating or mitigating
17 circumstances, if the party has included the circumstance on a
18 list provided pursuant to this rule, or good cause is shown for
19 the failure to do so.
20 Sec. 18. IMPLEMENTATION OF ACT. Section 25B.2, subsection
21 3, shall not apply to this Act.
22 Sec. 19. SEVERABILITY. If any provision of this Act or the
23 application thereof to any person is invalid, the invalidity
24 shall not affect the provisions or application of this Act
25 which can be given effect without the invalid provisions or
26 application and to this end, the provisions of this Act are
27 severable.
28 Sec. 20. EFFECTIVE DATE. This Act takes effect January 1,
29 2014, and applies to offenses committed on or after that date.
30 EXPLANATION
31 This bill amends the Iowa criminal code to provide for
32 punishment by death for murder in the first degree, and either
33 kidnapping in the first degree, or sexual abuse in the first
34 degree, or both, committed with respect to the same victim
35 who is a minor if the trial jury, or the judge if there

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1 is no jury, makes specific findings and whether the jury
2 believes the defendant should be put to death in a separate
3 penalty proceeding held after the close of the initial trial
4 proceeding. Under the bill, a death sentence could be imposed
5 if the murder would constitute murder in the first degree and
6 the state pleads and proves the defendant committed either
7 kidnaping in the first degree or sexual abuse in the first
8 degree, or both, against the murder victim who was a minor.
9 If a person is indigent and is charged with capital murder,
10 payment of costs for two attorneys is authorized. The supreme
11 court is required to establish standards for the competency of
12 counsel in death penalty cases. The state public defender is
13 charged with establishing teams of qualified lead and cocounsel
14 for death penalty cases, as well as conducting or sponsoring
15 specialized training programs for attorneys representing
16 persons who may be executed.
17 If such a case proceeds to trial and a notice of intent to
18 seek the death penalty has been filed, in addition to any other
19 defenses which may be presented to the charge, the defendant
20 may raise the issue of intellectual disability during the time
21 of filing pretrial motions, and the defendant is entitled to
22 a rebuttable presumption of intellectual disability if the
23 defendant establishes that the defendant has an intelligence
24 quotient of 70 or below.
25 Once the evidence is submitted to the jury, the court
26 will instruct the jury, at the defendant´s request, that in
27 considering whether a sentence of death is justified, the
28 race, color, religious beliefs, national origin, or sex of
29 the defendant or of any victim is not to be considered. The
30 supreme court shall collect evidence relating to whether the
31 death sentences imposed are excessive, disproportionate, or
32 imposed under the influence of prejudice at trial which will be
33 available to litigants.
34 The sentence of death is imposed only when the trier of fact
35 (the jury or the court if the defendant has waived the right to

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1 a jury trial) unanimously answers two questions affirmatively:
2 (1) whether aggravating circumstances established beyond a
3 reasonable doubt outweigh any mitigating circumstances that
4 may exist; and (2) whether the defendant should be sentenced
5 to death. Mitigating factors the trier of fact may consider
6 include the following: the defendant was under the influence
7 of an extreme mental or emotional disturbance; the age of
8 the defendant; the defendant's ability to appreciate the
9 wrongfulness of the conduct due to mental disease but not
10 to a degree to constitute a defense; the defendant has no
11 significant prior criminal history; the defendant was under
12 extreme duress; the defendant did not directly commit the
13 murder, and either the kidnapping or sexual abuse, or both; and
14 the defendant's character or record or the circumstances of the
15 offense. The sentencing proceeding is conducted separately
16 from the finding of guilt or innocence by the same trier of
17 fact.
18 For the sentencing proceeding, the trier of fact (the jury
19 or the court if the defendant has waived the right to have
20 the jury hear the proceedings) is to weigh any aggravating
21 circumstances established beyond a reasonable doubt by the
22 state against any of the enumerated mitigating circumstances
23 which may be presented by the defendant. Evidence of certain
24 juvenile delinquency adjudications is not admissible in any
25 proceeding to determine the sentence. If the jury fails to
26 agree unanimously on the required affirmative findings, the
27 penalty would be life imprisonment.
28 The death penalty sentence would be reviewed automatically
29 by the supreme court. The supreme court shall review the trial
30 and judgment separately from the sentencing proceeding. If the
31 supreme court finds error in the sentencing proceeding, the
32 supreme court may remand the case back to district court for a
33 new sentencing hearing. The bill requires the supreme court to
34 examine whether the sentence is excessive or disproportionate
35 to penalties in similar cases. If affirmed by the supreme

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1 court, the penalty would be accomplished by lethal injection.
2 The bill requires the board of corrections to adopt rules
3 pertaining to executions, including rules pertaining to the
4 witnessing of executions.
5 The bill further provides that in order to receive a sentence
6 of death, the defendant must be at least 18 years of age at
7 the time the offense is committed, must not be mentally ill or
8 intellectually disabled, and must have been a major participant
9 in the commission of the crime or must have shown a manifest
10 indifference to human life.
11 A person who is sentenced to death, but who is pregnant when
12 the warrant of execution is issued, is not to be executed until
13 the person is no longer pregnant. A procedure is also provided
14 to stay execution of a condemned inmate who becomes insane
15 after conviction but before execution.
16 An employee of the state shall not be required to perform or
17 assist in any execution and shall not be discriminated against
18 for refusing to participate.
19 The bill may include a state mandate as defined in Code
20 section 25B.3. The bill makes inapplicable Code section 25B.2,
21 subsection 3, which would relieve a political subdivision from
22 complying with a state mandate if funding for the cost of
23 the state mandate is not provided or specified. Therefore,
24 political subdivisions are required to comply with any state
25 mandate included in the bill.
26 The bill contains severability provisions and takes effect
27 January 1, 2014, and applies only to offenses committed on or
28 after that date.

Senate File 77 - Introduced

SENATE FILE 77
BY SORENSON

A BILL FOR

1 An Act allowing certain milk and products using milk to be
2 transferred directly by operators of dairy farms, and making
3 penalties applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1448XS (2) 85
da/nh

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1 Section 1. Section 159.6, subsection 7, Code 2013, is
2 amended to read as follows:
3 7. Regulation and inspection of foods, drugs, and other
4 articles, as provided in Title V, subtitle 4, but chapter 205
5 of that subtitle shall be enforced as provided in that chapter.
6 Except as expressly authorized in subtitle 4, the department
7 shall not regulate any of the following:
8 *a.* Producing, processing, labeling, or marketing of milk,
9 if the milk is produced by a person operating a dairy farm in
10 compliance with section 192.145.
11 *b.* Manufacturing, labeling, or marketing of a milk product
12 or dairy product, if the milk product or dairy product is
13 manufactured by a person operating a dairy farm in compliance
14 with section 192.145.
15 Sec. 2. Section 191.2, subsection 5, unnumbered paragraph
16 1, Code 2013, is amended to read as follows:
17 ~~All~~ Except as provided in subsection 5A, bottles,
18 containers, and packages enclosing milk or milk products shall
19 be conspicuously labeled or marked with the following:
20 Sec. 3. Section 191.2, Code 2013, is amended by adding the
21 following new subsection:
22 NEW SUBSECTION. 5A. A person who operates a dairy farm as
23 provided in chapter 192 and who sells milk or a milk product
24 to an individual in compliance with section 192.145 is not
25 required to label or mark a container which contains the milk
26 or milk product.
27 Sec. 4. NEW SECTION. **191.9A Exception for on-farm sale of**
28 **dairy products.**
29 A person who operates a dairy farm as provided in chapter 192
30 and who sells a dairy product to an individual in compliance
31 with section 192.145 is not required to label or mark a
32 container which contains the dairy product.
33 Sec. 5. Section 192.103, Code 2013, is amended to read as
34 follows:
35 **192.103 Sale of grade "A" milk to final consumer —**

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impoundment of adulterated or misbranded milk.

1. Only grade "A" pasteurized milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments~~;~~, except ~~in~~ as follows:

a. In an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized by the secretary, in which case, such products shall be labeled "ungraded".

b. A person who operates a dairy farm may sell milk or a milk product to an individual in compliance with section 192.145.

2. No person shall within the state produce, provide, sell, offer, or expose for sale, or have in possession with intent to sell, any milk or milk product which is adulterated or misbranded; except, in an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized by the secretary, in which case such products shall be labeled "ungraded".

3. Any adulterated or misbranded milk or milk product may be impounded by the secretary or authorized municipal corporation and disposed of in accordance with applicable laws or regulations.

Sec. 6. NEW SECTION. **192.144 Definitions.**

As used in this subchapter, unless the context otherwise requires:

1. *"Dairy product"* means a product, other than a milk product, in which milk is the principal ingredient at any temperature and in either a manufactured or unmanufactured state. To the extent that it is not classified as a milk product, a dairy product includes but is not limited to butter, cheese, cream, cottage cheese, ricotta cheese, kefir, or ice cream.

2. *"Manufacture"* means to convert or condition personal property by changing the form, composition, quality, or

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1 character of a product, and includes activities associated with
2 a creamery or cheese factory.
3 Sec. 7. NEW SECTION. **192.145 On-farm production,**
4 **processing, manufacturing, and marketing.**
5 1. A person who operates a dairy farm may do any of the
6 following:
7 *a.* Produce milk at the dairy farm or process the milk at the
8 dairy farm, if the person does not sell the milk. Nothing in
9 this paragraph prevents the person from disposing of the milk
10 without receiving compensation.
11 *b.* Produce milk at the dairy farm or process the milk at
12 the dairy farm, if the person sells the milk to an individual,
13 regardless of whether the milk is unpasteurized or ungraded.
14 The milk must be sold to the individual on a retail basis
15 and not for resale. The person may deliver, or cause to be
16 delivered, the milk to a location specified by the individual.
17 An individual who receives the milk shall not resell it.
18 2. A person who operates a dairy farm may manufacture a
19 milk product or dairy product at the dairy farm by using milk
20 produced at the dairy farm, if any of the following apply:
21 *a.* The person does not sell the milk product or dairy
22 product. Nothing in this paragraph prevents the person
23 from disposing of the milk product or dairy product without
24 receiving compensation.
25 *b.* The person sells the milk product or dairy product to
26 an individual, regardless of whether the milk product or dairy
27 product is unpasteurized or ungraded. The milk product or
28 dairy product must be sold to the individual on a retail basis
29 and not for resale. The person may deliver, or cause to be
30 delivered, the milk product or dairy product to a location
31 specified by the individual. An individual who receives the
32 milk product or dairy product shall not resell it.
33 3. A person who operates a dairy farm shall not be subject
34 to regulation by the department for acting in compliance with
35 this section. Such regulation includes but is not limited

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to labeling requirements under chapter 191 or licensing, permitting, or inspection requirements under this chapter or chapter 194.

Sec. 8. NEW SECTION. **194.22 On-farm production, processing, manufacturing, and marketing — exception.**

This chapter does not apply to any of the following:

1. Producing, processing, labeling, or marketing of milk, if the milk is produced by a person operating a dairy farm in compliance with section 192.145.

2. Manufacturing, labeling, or marketing of a milk product or dairy product, if the milk product or dairy product is manufactured by a person operating a dairy farm in compliance with section 192.145.

Sec. 9. CODE EDITOR DIRECTIVE. The Code editor is directed to divide chapter 192 into subchapters.

EXPLANATION

BACKGROUND. This bill amends provisions affecting persons who operate dairy farms, including provisions for the processing of milk and the manufacture of milk products, and dairy products on such farms. The provisions are administered and enforced by the department of agriculture and land stewardship.

Generally, statutory provisions and departmental rules regulating milk are based on model legislation referred to as the "Grade `A' Pasteurized Milk Ordinance" (Code section 192.101A). The "Grade `A' Pasteurized Milk Ordinance" defines a milk product as including cream, sour cream, dry milk, concentrated milk, eggnog, buttermilk, and yogurt. All food offered or exposed for sale must be labeled (Code section 191.1). This includes labeling the milk or milk product as "raw" (Code section 191.2(5)(e)). All milk must be sold on the basis of grade (Code section 194.10) and only grade "A" pasteurized milk and milk products can be sold to the final consumer (Code section 192.103). Grade "B" milk may be sold for manufacturing purposes (21 IAC 68.2). All dairy farms

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1 selling grade "A" or grade "B" milk must be issued a permit
2 by the department of agriculture and land stewardship (21 IAC
3 68.2).
4 The bill provides that these regulatory provisions do not
5 apply to a person who operates a dairy farm. The person may
6 produce milk and dispose of it or sell it to an individual on
7 a retail basis. The operator may also deliver the milk to a
8 location specified by the individual. The bill also provides
9 that the regulatory provisions do not apply to the operator of
10 a dairy farm who manufactures a milk product or dairy product,
11 who may dispose of the product or sell it in the same manner as
12 milk. A milk product is defined by the "Grade `A' Pasteurized
13 Milk Ordinance" and includes cream or yogurt. A dairy product
14 includes a product other than a milk product whose principal
15 ingredient is milk (e.g., ice cream).
16 A person who violates the bill's provisions is guilty of a
17 simple misdemeanor (Code section 189.21). A simple misdemeanor
18 is punishable by confinement for no more than 30 days or a fine
19 of at least $65 but not more than $625 or by both.

Senate File 78 - Introduced

SENATE FILE 78
BY SORENSON, FEENSTRA, and CHELGREN

A BILL FOR

1 An Act relating to jurors acting as finders of facts in a trial
2 as well as judging the law.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1317SS (4) 85
rh/rj

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1 Section 1. NEW SECTION. **624.39 Jury right to judge law.**
2 1. In all cases where the state or a political subdivision
3 of the state is the plaintiff, the rights of the defendant
4 include the right to inform the jury of the jury's right to
5 judge the law as well as be finders of fact, and to render a
6 verdict based upon conscience.
7 2. *a.* The right of the jury to judge the law and to render
8 a verdict based upon conscience in subsection 1 is absolute
9 and shall not be limited by the rules of civil or criminal
10 procedure, the juror's oath, a court order, or a procedure or
11 practice of the court.
12 *b.* A method or procedure shall not be used to exclude or
13 limit the empanelment of a juror willing to exercise the right
14 of a juror to judge the law and to render a verdict based upon
15 conscience.
16 3. After a jury has been informed of the right to judge
17 the law and to render a verdict based upon conscience, a party
18 shall not be prohibited from presenting arguments to the jury
19 which relate to issues of the law and conscience, including but
20 not limited to the following:
21 *a.* The merit, intent, constitutionality, or applicability
22 of the law in the case.
23 *b.* The motive, moral perspective, or circumstances of the
24 defendant.
25 *c.* The degree and direction of guilt or actual harm done in
26 the case.
27 *d.* The punishment, penalty, or other sanction that may be
28 applied to the losing party.
29 4. It shall be grounds for a mistrial if the court prohibits
30 a party from informing the jury about the right of the jury to
31 judge the law and to render a verdict based upon conscience,
32 to prohibit arguments appealing to conscience as provided in
33 subsection 3, or to instruct a jury to not act as judges of the
34 law.
35 EXPLANATION

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1 This bill relates to jurors judging the law as well as acting
2 as finders of fact in a trial.
3 The bill provides that in cases where the state or a
4 political subdivision of the state is the plaintiff, the rights
5 of the defendant include the right to inform the jury to judge
6 the law as well as be finders of fact, and to render a verdict
7 based upon the law and conscience.
8 The bill establishes the right of the jury to be absolute and
9 not to be limited by the rules of civil or criminal procedure,
10 the juror's oath, a court order, or a procedure or practice of
11 the court.
12 The bill prohibits the use of a method or procedure to
13 exclude or limit the empanelment of a juror willing to exercise
14 the right to judge the law.
15 Under the bill, a party may present evidence relating to the
16 merit, intent, constitutionality, or applicability of the law
17 in a case; the motive, moral perspective, or circumstances of
18 the defendant; the degree and direction of guilt or actual harm
19 done in the case; and the punishment or sanction which may be
20 applied to the losing party in the case.
21 Under the bill, it is grounds for a mistrial if the court
22 prohibits a party from informing the jury about the right of
23 the jury to judge the law, to prohibit arguments appealing to
24 conscience, or to instruct a jury to not act as judges of the
25 law.

Senate File 79 - Introduced

SENATE FILE 79
BY BOLKCOM, DOTZLER, HATCH,
and COURTNEY

A BILL FOR

1 An Act relating to marijuana, including the creation of a
2 medical marijuana Act, and providing for civil and criminal
3 penalties and fees.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1157XS (5) 85
rh/nh

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1 Section 1. Section 124.204, subsection 4, paragraph m, Code
2 2013, is amended by striking the paragraph.
3 Sec. 2. Section 124.204, subsection 4, paragraph u,
4 unnumbered paragraph 1, Code 2013, is amended to read as
5 follows:
6 Tetrahydrocannabinols, ~~except as otherwise provided~~
7 ~~by rules of the board for medicinal purposes,~~ meaning
8 tetrahydrocannabinols naturally contained in a plant of
9 the genus Cannabis (Cannabis plant) as well as synthetic
10 equivalents of the substances contained in the Cannabis plant,
11 or in the resinous extractives of such plant, and synthetic
12 substances, derivatives, and their isomers with similar
13 chemical structure and pharmacological activity to those
14 substances contained in the plant, such as the following:
15 Sec. 3. Section 124.204, subsection 7, Code 2013, is amended
16 by striking the subsection.
17 Sec. 4. Section 124.206, subsection 7, paragraph a, Code
18 2013, is amended to read as follows:
19 *a.* Marijuana ~~when used for medicinal purposes pursuant to~~
20 ~~rules of the board~~.
21 Sec. 5. Section 124.401, subsection 5, Code 2013, is amended
22 by adding the following new unnumbered paragraph:
23 NEW UNNUMBERED PARAGRAPH. A person may knowingly or
24 intentionally possess marijuana if the possession is in
25 accordance with the provisions of chapter 124D.
26 Sec. 6. NEW SECTION. **124D.1 Citation.**
27 This chapter shall be known and may be cited as the *"Medical*
28 *Marijuana Act"*.
29 Sec. 7. NEW SECTION. **124D.2 Definitions.**
30 As used in this chapter, the following definitions shall
31 apply:
32 1. *"Cardholder"* means a qualifying patient, a primary
33 caregiver, or a principal officer, board member, employee,
34 or agent of a nonprofit dispensary who has been issued and
35 possesses a valid registry identification card.

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2. *"Debilitating medical condition"* means any of the following:

a. Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail patella, or the treatment of any of these conditions.

b. A chronic or debilitating disease or medical condition or its treatment that produces intractable pain, which is pain that has not responded to ordinary medical or surgical measures for more than six months.

c. A chronic or debilitating disease or medical condition or its treatment that produces any of the following:

(1) Cachexia or wasting syndrome.

(2) Severe nausea.

(3) Seizures, including but not limited to those characteristic of epilepsy.

(4) Severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis.

d. Any other medical condition or its treatment approved by the department.

3. *"Department"* means the department of public health.

4. *"Enclosed, locked facility"* means a closet, room, greenhouse, or other enclosed area equipped with locks or other security devices that permit access only by a cardholder.

5. *"Felony drug offense"* means a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted. *"Felony drug offense"* does not include any of the following:

a. An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten or more years earlier.

b. An offense that involved conduct that would have been permitted under this chapter.

6. *"Marijuana"* means the same as defined in section 124.101,

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1 subsection 19.
2 7. *"Medical use"* means the acquisition, possession,
3 cultivation, manufacture, use, delivery, transfer, or
4 transportation of marijuana or paraphernalia relating to the
5 administration of marijuana to treat or alleviate a registered
6 qualifying patient's debilitating medical condition or symptoms
7 associated with the patient's debilitating medical condition.
8 8. *"Nonprofit dispensary"* means a not-for-profit entity
9 registered under section 124D.4 that acquires, possesses,
10 cultivates, manufactures, delivers, transfers, transports,
11 sells, supplies, or dispenses marijuana or related supplies and
12 educational materials to cardholders. A nonprofit dispensary
13 is a primary caregiver.
14 9. *"Physician"* means an individual licensed under the
15 provisions of chapter 148 to practice medicine and surgery or
16 osteopathic medicine and surgery.
17 10. *"Primary caregiver"* means a person twenty-one years
18 of age or older who has agreed to assist with a qualifying
19 patient's medical use of marijuana and who has never been
20 convicted of a felony drug offense, and includes a nonprofit
21 dispensary. Unless the primary caregiver is a nonprofit
22 dispensary, the primary caregiver shall not assist more than
23 five qualifying patients with their medical use of marijuana.
24 11. *"Qualifying patient"* means a person who has been
25 diagnosed by a physician with a debilitating medical condition.
26 12. *"Registered nonprofit dispensary"* means a nonprofit
27 dispensary registered by the department pursuant to section
28 124D.4.
29 13. *"Registry identification card"* means a document issued
30 by the department that identifies a person as a registered
31 qualifying patient, registered primary caregiver, or a
32 principal officer, board member, employee, or agent of a
33 nonprofit dispensary.
34 14. *"Unusable marijuana"* means marijuana seeds, stalks,
35 seedlings, and unusable roots. *"Seedling"* means a marijuana

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1 plant without flowers which is less than twelve inches in
2 height and less than twelve inches in diameter.
3 15. *"Usable marijuana"* means the dried leaves and flowers of
4 the marijuana plant, and any mixture or preparation thereof,
5 but does not include the seeds, stalks, and roots of the
6 plant and does not include the weight of other ingredients in
7 marijuana prepared for consumption as food.
8 16. *"Visiting qualifying patient"* means a patient with a
9 debilitating medical condition who is not a resident of this
10 state or who has been a resident of this state for less than
11 thirty days.
12 17. *"Written certification"* means a document signed by
13 a physician, stating that in the physician's professional
14 opinion the patient is likely to receive therapeutic or
15 palliative benefit from the medical use of marijuana to treat
16 or alleviate the patient's debilitating medical condition or
17 symptoms associated with the debilitating medical condition.
18 A written certification shall be made only in the course of a
19 bona fide physician-patient relationship after the physician
20 has completed a full assessment of the qualifying patient's
21 medical history. The written certification shall specify the
22 qualifying patient's debilitating medical condition.
23 Sec. 8. NEW SECTION. **124D.3 Medical use of marijuana.**
24 1. A qualifying patient who has been issued and possesses a
25 registry identification card shall not be subject to arrest,
26 prosecution, or penalty in any manner, or denied any right
27 or privilege, including but not limited to a civil penalty
28 or disciplinary action by a business or occupational or
29 professional licensing board or bureau, for the medical use
30 of marijuana in accordance with this chapter, provided the
31 marijuana possessed by the qualifying patient:
32 *a.* Is not more than two and one-half ounces of usable
33 marijuana.
34 *b.* If the qualifying patient has not designated a primary
35 caregiver to cultivate marijuana for the qualifying patient,

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1 does not exceed six marijuana plants, which must be kept in
2 an enclosed, locked facility unless the plants are being
3 transported because the qualifying patient is moving or the
4 plants are being transported to the qualifying patient's
5 property.
6 2. A primary caregiver other than a nonprofit dispensary who
7 has been issued and possesses a registry identification card
8 shall not be subject to arrest, prosecution, or penalty in any
9 manner, or denied any right or privilege, including but not
10 limited to a civil penalty or disciplinary action by a business
11 or occupational or professional licensing board or bureau, for
12 assisting a qualifying patient to whom the primary caregiver is
13 connected through the department's registration process with
14 the medical use of marijuana in accordance with this chapter,
15 provided that the marijuana possessed by the primary caregiver:
16 *a.* Is not more than two and one-half ounces of usable
17 marijuana for each qualifying patient to whom the primary
18 caregiver is connected through the department's registration
19 process.
20 *b.* For each qualifying patient who has designated the
21 primary caregiver to cultivate marijuana for the qualifying
22 patient, does not exceed six marijuana plants, which must be
23 kept in an enclosed, locked facility unless the plants are
24 being transported because the primary caregiver is moving.
25 3. Any incidental amount of seeds, stalks, and unusable
26 roots shall be allowed and shall not be included in the amounts
27 specified in subsections 1 and 2.
28 4. *a.* There shall be a presumption that a qualifying
29 patient or primary caregiver is engaged in the medical use of
30 marijuana pursuant to this chapter if the qualifying patient or
31 primary caregiver does both of the following:
32 (1) Possesses a registry identification card.
33 (2) Possesses an amount of marijuana that does not exceed
34 the amount allowed under this chapter.
35 *b.* The presumption may be rebutted by evidence that

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1 conduct related to marijuana use or possession was not for the
2 purpose of treating or alleviating the qualifying patient's
3 debilitating medical condition or symptoms associated with
4 the debilitating medical condition, in accordance with this
5 chapter.
6 5. A cardholder shall not be subject to arrest, prosecution,
7 or penalty in any manner, or denied any right or privilege,
8 including but not limited to civil penalty or disciplinary
9 action by a business or occupational or professional licensing
10 board or bureau, for giving an amount of marijuana the person
11 is allowed to possess under subsection 1 or 2 to a cardholder
12 for a registered qualifying patient's medical use where nothing
13 of value is transferred in return, or to offer to do the same.
14 6. A school, employer, or landlord shall not refuse to
15 enroll, employ, or lease to, or otherwise penalize, a person
16 solely on the basis of the person's status as a registered
17 qualifying patient or a registered primary caregiver, unless
18 failing to do so would put the school, employer, or landlord
19 in violation of federal law or cause the school, employer, or
20 landlord to lose a federal contract or funding.
21 7. A person shall not be denied custody or visitation of
22 a minor for acting in accordance with this chapter, unless
23 the person's behavior is such that it creates an unreasonable
24 danger to the minor that can be clearly articulated and
25 substantiated.
26 8. A registered primary caregiver may receive compensation
27 for costs associated with assisting a registered qualifying
28 patient's medical use of marijuana, provided that the
29 registered primary caregiver is connected to the registered
30 qualifying patient through the department's registration
31 process. Any such compensation shall not constitute the sale
32 of controlled substances.
33 9. A physician shall not be subject to arrest, prosecution,
34 or penalty in any manner, or denied any right or privilege,
35 including but not limited to a civil penalty or disciplinary

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1 action by the board of medicine or by any other business or
2 occupational or professional licensing board or bureau, solely
3 for providing written certifications or for otherwise stating
4 that, in the physician's professional opinion, a patient is
5 likely to receive therapeutic benefit from the medical use of
6 marijuana to treat or alleviate the patient's debilitating
7 medical condition or symptoms associated with the debilitating
8 medical condition, provided that nothing shall prevent a
9 professional licensing board from sanctioning a physician for
10 failing to properly evaluate a patient's medical condition or
11 otherwise violating the standard of care for evaluating medical
12 conditions.
13 10. A person shall not be subject to arrest, prosecution,
14 or penalty in any manner, or denied any right or privilege,
15 including but not limited to a civil penalty or disciplinary
16 action by a business or occupational or professional licensing
17 board or bureau, for providing a registered qualifying patient
18 or a registered primary caregiver with marijuana paraphernalia
19 for purposes of a qualifying patient's medical use of
20 marijuana.
21 11. Any marijuana, marijuana paraphernalia, licit property,
22 or interest in licit property that is possessed, owned, or used
23 in connection with the medical use of marijuana, as allowed
24 under this chapter, or property incidental to such use, shall
25 not be seized or forfeited.
26 12. A person shall not be subject to arrest, prosecution,
27 or penalty in any manner, or denied any right or privilege,
28 including but not limited to a civil penalty or disciplinary
29 action by a business or occupational or professional licensing
30 board or bureau, simply for being in the presence or vicinity
31 of the medical use of marijuana as allowed under this chapter,
32 or for assisting a registered qualifying patient with using or
33 administering marijuana.
34 13. A registry identification card, or its equivalent, that
35 is issued under the laws of another state, district, territory,

1 commonwealth, or insular possession of the United States that
2 allows the medical use of marijuana by a visiting qualifying
3 patient, shall have the same force and effect as a registry
4 identification card issued by the department for purposes of
5 this chapter.
6 Sec. 9. NEW SECTION. **124D.4 Nonprofit dispensaries.**
7 1. The department shall register and issue a registration
8 certificate to a nonprofit dispensary within thirty days of
9 receiving an application for registration of a nonprofit
10 dispensary if the prospective nonprofit dispensary provided all
11 of the following, in accordance with the department's rules:
12 *a.* An application fee of five thousand dollars.
13 *b.* The legal name of the nonprofit dispensary.
14 *c.* The physical address of the nonprofit dispensary and
15 the physical address of one additional location, if any, where
16 marijuana will be cultivated.
17 *d.* The name, address, and date of birth of each principal
18 officer and board member of the nonprofit dispensary.
19 *e.* The name, address, and date of birth of any person who is
20 an agent of or employed by the nonprofit dispensary.
21 2. The department shall track the number of registered
22 qualifying patients who designate a nonprofit dispensary as
23 a primary caregiver and issue to each nonprofit dispensary
24 a written statement of the number of qualifying patients
25 who have designated the nonprofit dispensary to cultivate
26 marijuana for them. This statement shall be updated each time
27 a registered qualifying patient newly designates the nonprofit
28 dispensary or ceases to designate the nonprofit dispensary and
29 may be transmitted electronically if the department's rules so
30 provide. The department may provide by rule that the updated
31 written statements may not be issued more frequently than once
32 each week.
33 3. Except as provided in subsection 4, the department shall
34 issue each principal officer, board member, agent, or employee
35 of a nonprofit dispensary a registry identification card within

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1 ten days of receipt of the person's name, address, date of
2 birth, and a fee in an amount established by the department.
3 Each registry identification card shall specify that the
4 cardholder is a principal officer, board member, agent, or
5 employee of a nonprofit dispensary and shall contain all of the
6 following information:
7 *a.* The name, address, and date of birth of the principal
8 officer, board member, agent, or employee.
9 *b.* The legal name of the nonprofit dispensary with which
10 the principal officer, board member, agent, or employee is
11 affiliated.
12 *c.* A random identification number that is unique to the
13 cardholder.
14 *d.* The date of issuance and expiration date of the registry
15 identification card.
16 *e.* A photograph, if the department requires inclusion of a
17 photograph by rule.
18 4. The department shall not issue a registry identification
19 card to any principal officer, board member, agent, or employee
20 of a nonprofit dispensary who has been convicted of a felony
21 drug offense. The department may conduct a background check
22 of each principal officer, board member, agent, or employee
23 in order to carry out this subsection. The department shall
24 notify the nonprofit dispensary in writing of the reason for
25 denying the registry identification card.
26 5. *a.* A nonprofit dispensary registration certificate and
27 the registry identification card for each principal officer,
28 board member, agent, or employee shall expire one year after
29 the date of issuance. The department shall issue a renewal
30 nonprofit dispensary registration certificate or renewal
31 registry identification card within ten days to any person who
32 complies with the requirements in subsection 3.
33 *b.* A registry identification card of a principal officer,
34 board member, agent, or employee shall expire ten days after
35 notification by a nonprofit dispensary that such person ceases

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1 to work at the nonprofit dispensary.
2 6. A nonprofit dispensary is subject to reasonable
3 inspection by the department. The department shall give
4 reasonable notice of an inspection.
5 7. *a.* A nonprofit dispensary shall be operated on a
6 not-for-profit basis for the mutual benefit of its members
7 and patrons. The bylaws of a nonprofit dispensary and its
8 contracts with patrons shall contain such provisions relative
9 to the disposition of revenues and receipts as may be necessary
10 and appropriate to establish and maintain its not-for-profit
11 status. However, a nonprofit dispensary need not be recognized
12 as tax-exempt by the federal internal revenue service and is
13 not required to incorporate pursuant to chapter 504.
14 *b.* A nonprofit dispensary shall notify the department within
15 ten days of when a principal officer, board member, agent, or
16 employee ceases to work at the nonprofit dispensary.
17 *c.* A nonprofit dispensary shall notify the department in
18 writing of the name, address, and date of birth of any new
19 principal officer, board member, agent, or employee and shall
20 submit a fee in an amount established by the department for
21 a new registry identification card before the new principal
22 officer, board member, agent, or employee begins working at the
23 nonprofit dispensary.
24 *d.* A nonprofit dispensary shall implement appropriate
25 security measures to deter and prevent unauthorized entrance
26 into areas containing marijuana and the theft of marijuana.
27 *e.* The operating documents of a nonprofit dispensary
28 shall include procedures for the oversight of the nonprofit
29 dispensary and procedures to ensure accurate recordkeeping.
30 *f.* A nonprofit dispensary is prohibited from acquiring,
31 possessing, cultivating, manufacturing, delivering,
32 transferring, transporting, supplying, or dispensing marijuana
33 for any purpose except to assist registered qualifying patients
34 with the medical use of marijuana directly or through the
35 qualifying patients' other primary caregivers.

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1 *g.* All principal officers and board members of a nonprofit
2 dispensary shall be residents of the state of Iowa.
3 *h.* All cultivation of marijuana shall take place in an
4 enclosed, locked facility.
5 *i.* A nonprofit dispensary shall not be located within
6 five hundred feet of the property line of a public or private
7 school.
8 8. A nonprofit dispensary or a principal officer, board
9 member, agent, or employee of a nonprofit dispensary shall not
10 dispense more than two and one-half ounces of usable marijuana
11 to a qualifying patient or to a primary caregiver on behalf of
12 a qualifying patient during a fifteen-day period.
13 9. *a.* A nonprofit dispensary shall not be subject to
14 prosecution, search, seizure, or penalty, or be denied any
15 right or privilege, including but not limited to a civil
16 penalty or disciplinary action by a business, occupational, or
17 licensing board or entity, solely for acting in accordance with
18 this chapter to provide usable marijuana or to otherwise assist
19 registered qualifying patients connected with the nonprofit
20 dispensary with the medical use of marijuana.
21 *b.* A principal officer, board member, agent, or employee
22 of a registered nonprofit dispensary shall not be subject
23 to arrest, prosecution, search, seizure, or penalty in any
24 manner or denied any right or privilege, including but not
25 limited to a civil penalty or disciplinary action by a court or
26 occupational or professional licensing board or entity, solely
27 for acting in accordance with this chapter and department rules
28 to acquire, possess, cultivate, manufacture, deliver, transfer,
29 transport, supply, or dispense marijuana or related supplies
30 and educational materials to registered qualifying patients,
31 to registered primary caregivers on behalf of registered
32 qualifying patients, or to other nonprofit dispensaries.
33 10. *a.* A nonprofit dispensary shall not possess more
34 than six live marijuana plants for each registered qualifying
35 patient who has designated the nonprofit dispensary as a

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1 primary caregiver and has designated that the nonprofit
2 dispensary will be permitted to cultivate marijuana for the
3 registered qualifying patient's medical use.
4 *b.* A principal officer, board member, employee, or agent
5 of a nonprofit dispensary shall not dispense, deliver,
6 or otherwise transfer marijuana to a person other than a
7 qualifying patient who has designated the nonprofit dispensary
8 as a primary caregiver.
9 *c.* The department shall immediately revoke the registry
10 identification card of a principal officer, board member,
11 employee, or agent of a nonprofit dispensary who is found to
12 be in violation of paragraph "*b*", and such a person shall be
13 disqualified from serving as a principal officer, board member,
14 agent, or employee of a nonprofit dispensary.
15 *d.* Except as otherwise provided, a person who has been
16 convicted of an offense that was classified as a felony in
17 the jurisdiction where the person was convicted shall not be
18 eligible to be a principal officer, board member, agent, or
19 employee of a nonprofit dispensary.
20 (1) A person who is a principal officer, board member,
21 agent, or employee of a nonprofit dispensary in violation of
22 this lettered paragraph "*d*" is subject to a civil penalty of up
23 to one thousand dollars.
24 (2) A person who is a principal officer, board member,
25 agent, or employee of a nonprofit dispensary in violation
26 of this lettered paragraph "*d*" and who, at the time of the
27 violation, has been previously found to have been in violation
28 of this lettered paragraph "*d*" commits a class "D" felony.
29 *e.* A nonprofit dispensary shall not acquire usable marijuana
30 or mature marijuana plants except through the cultivation of
31 marijuana by that nonprofit dispensary.
32 Sec. 10. NEW SECTION. **124D.5 Departmental rules.**
33 1. Not later than one hundred twenty days after the
34 effective date of this Act, the department shall adopt rules to
35 carry out the purposes of this chapter.

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1 2. Not later than one hundred twenty days after the
2 effective date of this Act, the department shall adopt
3 rules that govern the manner in which the department shall
4 consider petitions from the public to add medical conditions
5 or treatments to the list of debilitating medical conditions
6 set forth in section 124D.2, subsection 2. In considering
7 such petitions, the department shall include public notice
8 of, and an opportunity to comment in, a public hearing upon
9 such petitions. The department shall, after hearing, approve
10 or deny such petitions within one hundred eighty days of
11 their submission. The approval or denial of such a petition
12 constitutes final agency action, subject to judicial review.
13 3. Not later than one hundred twenty days after the
14 effective date of this Act, the department shall adopt rules
15 governing the manner in which it considers applications for and
16 renewals of registry identification cards. The department's
17 rules must establish application and renewal fees that generate
18 revenues sufficient to offset all expenses of implementing
19 and administering this chapter. The department may establish
20 a sliding scale of application and renewal fees based upon
21 a qualifying patient's income. The department may accept
22 donations from private sources to reduce application and
23 renewal fees.
24 Sec. 11. NEW SECTION. **124D.6 Registry identification cards**
25 **— application — fee — penalty.**
26 1. The department shall issue a registry identification
27 card to a qualifying patient who submits an application
28 containing all of the following:
29 *a.* A written certification.
30 *b.* An application or renewal fee.
31 *c.* The name, address, and date of birth of the qualifying
32 patient except that if the applicant is homeless, no address
33 is required.
34 *d.* The name, address, and telephone number of the qualifying
35 patient's physician.

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1 *e.* The name, address, and date of birth of each primary
2 caregiver, if any, of the qualifying patient. A qualifying
3 patient may designate only one primary caregiver unless
4 the qualifying patient is under eighteen years of age and
5 requires a parent to serve as a primary caregiver or the
6 qualifying patient designates a nonprofit dispensary to
7 cultivate marijuana for the qualifying patient's medical use
8 and the qualifying patient requests the assistance of a second
9 caregiver to assist with the qualifying patient's medical use.
10 *f.* If the qualifying patient designates one or more primary
11 caregivers, a designation as to who will be allowed under state
12 law to cultivate marijuana plants for the qualifying patient's
13 medical use. Only one person may be allowed to cultivate
14 marijuana plants for a qualifying patient.
15 2. The department shall not issue a registry identification
16 card to a qualifying patient who is under the age of eighteen
17 unless all of the following requirements are met:
18 *a.* The qualifying patient's physician has explained the
19 potential risks and benefits of the medical use of marijuana
20 to the qualifying patient and to a parent, guardian, or legal
21 custodian of the qualifying patient.
22 *b.* The parent, guardian, or person having legal custody
23 consents in writing to all of the following:
24 (1) Allowing the qualifying patient's medical use of
25 marijuana.
26 (2) Serving as the qualifying patient's primary caregiver.
27 (3) Controlling the acquisition of the marijuana, the
28 dosage, and the frequency of the medical use of marijuana by
29 the qualifying patient.
30 3. The department shall verify the information contained
31 in an application or renewal application submitted pursuant
32 to this section, and shall approve or deny an application
33 or renewal application within thirty days of receiving the
34 application or renewal application. The department may deny
35 an application or a renewal application only if the applicant

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1 fails to provide the information required pursuant to this
2 section, or the department determines that the information
3 provided was falsified. Rejection of an application or a
4 renewal application is considered a final agency action subject
5 to judicial review pursuant to chapter 17A.
6 4. The department shall issue a registry identification
7 card to the primary caregiver, if any, who is named in
8 a qualifying patient's approved application or renewal
9 application, up to a maximum of one primary caregiver per
10 qualifying patient, provided the primary caregiver meets the
11 requirements of section 124D.2, subsection 10.
12 5. The department shall issue a registry identification
13 card to a qualifying patient and to the primary caregiver
14 within five days of approving an application or a renewal
15 application, which shall expire one year after the date of
16 issuance. A registry identification card shall contain all of
17 the following:
18 *a.* The name, address, and date of birth of the qualifying
19 patient.
20 *b.* The name, address, and date of birth of the primary
21 caregiver, if any, of the qualifying patient.
22 *c.* The date of issuance and expiration date of the registry
23 identification card.
24 *d.* A random identification number.
25 *e.* A photograph, if the department requires a photograph.
26 *f.* A clear designation indicating whether the cardholder
27 shall be allowed under law to cultivate marijuana plants for
28 the qualifying patient's medical use, to be determined based
29 upon the qualifying patient's preference.
30 6. *a.* A registered qualifying patient shall notify the
31 department of any change in the registered qualifying patient's
32 name, address, or primary caregiver, preference regarding who
33 may cultivate marijuana for the registered qualifying patient,
34 or if the registered qualifying patient ceases to have a
35 debilitating medical condition, within ten days of such change.

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1 *b.* A registered qualifying patient who fails to notify the
2 department of any of the changes in paragraph *"a"* is subject
3 to a civil penalty of up to one hundred fifty dollars. If
4 the registered qualifying patient's certifying physician
5 notifies the department in writing that the registered
6 qualifying patient no longer suffers from a debilitating
7 medical condition, the registered qualifying patient's registry
8 identification card shall become void upon notification by the
9 department to the qualifying patient.
10 *c.* A registered primary caregiver shall notify the
11 department of any change in the registered primary caregiver's
12 name or address within ten days of such change. A registered
13 primary caregiver who fails to notify the department of such
14 change is subject to a civil penalty of up to one hundred fifty
15 dollars.
16 *d.* When a registered qualifying patient or registered
17 primary caregiver notifies the department of any changes
18 listed in this subsection and submits a fee of ten dollars,
19 the department shall issue the cardholder a new registry
20 identification card within ten days of receiving the updated
21 information.
22 *e.* When a registered qualifying patient changes the
23 registered qualifying patient's registered primary caregiver,
24 the department shall notify the primary caregiver within
25 ten days. The registered primary caregiver's protections
26 as provided in this chapter shall expire ten days after
27 notification by the department.
28 *f.* If a cardholder loses the cardholder's registry
29 identification card, the cardholder shall notify the department
30 and submit a fee of ten dollars within ten days of losing the
31 card. Within five days after such notification, the department
32 shall issue a new registry identification card with a new
33 random identification number to the cardholder.
34 7. Possession of, or application for, a registry
35 identification card shall not constitute probable cause or

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1 reasonable suspicion and shall not be used to support the
2 search of the person or property of the person possessing or
3 applying for the registry identification card. The possession
4 of or application for a registry identification card does not
5 prevent the issuance of a warrant if probable cause exists on
6 other grounds.
7 8. The following confidentiality rules shall apply:
8 *a.* Applications and supporting information submitted by
9 a qualifying patient, including information regarding the
10 qualifying patient's primary caregiver and physician, are
11 confidential.
12 *b.* Applications and supporting information submitted by a
13 primary caregiver operating in compliance with this chapter,
14 including the physical address of a nonprofit dispensary, are
15 confidential.
16 *c.* The department shall maintain a confidential list
17 of the persons to whom the department has issued registry
18 identification cards. Individual names and other identifying
19 information on the list shall be confidential and not subject
20 to disclosure, except to authorized employees of the department
21 as necessary to perform official duties of the department.
22 *d.* The department shall verify to law enforcement personnel
23 whether a registry identification card is valid without
24 disclosing more information than is reasonably necessary to
25 verify the authenticity of the registry identification card.
26 *e.* (1) A person, including an employee or official of the
27 department or another state agency or local government, who
28 breaches the confidentiality of information obtained pursuant
29 to this chapter commits a serious misdemeanor punishable by
30 imprisonment of up to one hundred days and a fine of up to one
31 thousand dollars.
32 (2) Notwithstanding this lettered paragraph "*e*", department
33 employees may notify law enforcement about falsified or
34 fraudulent information submitted to the department, if the
35 employee who suspects that falsified or fraudulent information

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1 has been submitted confers with the employee's supervisor
2 and the employee and the employee's supervisor agree that
3 circumstances exist that warrant reporting.
4 9. A cardholder who sells marijuana to a person who is not
5 allowed to possess marijuana for medical purposes under this
6 chapter shall have the cardholder's registry identification
7 card revoked and is subject to any other penalties for the
8 sale of marijuana. The department shall revoke the registry
9 identification card of any cardholder who violates this chapter
10 and the cardholder is subject to any other penalties for the
11 violation.
12 10. The department shall submit an annual report to
13 the general assembly by January 15 of each year that does
14 not disclose any identifying information about cardholders
15 or physicians, but does contain, at a minimum, all of the
16 following information:
17 *a.* The number of applications and renewal applications
18 submitted for registry identification cards.
19 *b.* The number of registered qualifying patients and
20 registered primary caregivers in each county.
21 *c.* The nature of the debilitating medical conditions of the
22 qualifying patients.
23 *d.* The number of registry identification cards revoked.
24 *e.* The number of physicians providing written certifications
25 for qualifying patients.
26 *f.* The number of registered nonprofit dispensaries.
27 *g.* The number of principal officers, board members,
28 employees, and agents of nonprofit dispensaries.
29 11. The application for a qualifying patient's registry
30 identification card shall include a question on whether the
31 patient would like the department to notify the patient about
32 any clinical studies regarding marijuana's risks or efficacy
33 that seek human subjects.
34 Sec. 12. NEW SECTION. **124D.7 Scope of chapter.**
35 1. This chapter does not permit any person to do any of the

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following:

a. Undertake any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice.

b. Possess marijuana, or otherwise engage in the medical use of marijuana, in any of the following places:

(1) In a school bus.

(2) On the grounds of any preschool or primary or secondary school.

(3) In any correctional facility.

c. Smoke marijuana in any of the following:

(1) Any form of public transportation.

(2) Any public place.

d. Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana.

e. Use marijuana if that person does not have a debilitating medical condition.

2. Nothing in this chapter shall be construed to require any of the following:

a. A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana.

b. An employer to accommodate the ingestion of marijuana in any workplace or any employee working while under the influence of marijuana.

3. Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution is a simple misdemeanor, punishable by a fine of five hundred dollars, in addition to any other penalties that may apply for making a false statement or for the use of marijuana other than use undertaken pursuant to this chapter.

Sec. 13. NEW SECTION. **124D.8 Affirmative defenses — dismissal.**

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1 1. Except as provided in section 124D.7, a qualifying
2 patient and a qualifying patient's primary caregiver, other
3 than a nonprofit dispensary, may assert the medical purpose for
4 using marijuana as a defense to any prosecution of an offense
5 involving marijuana intended for the patient's medical use, and
6 this defense shall be presumed valid where the evidence shows
7 all of the following:
8 *a.* A physician has stated that, in the physician's
9 professional opinion, after having completed a full assessment
10 of the patient's medical history and current medical
11 condition made in the course of a bona fide physician-patient
12 relationship, the qualifying patient is likely to receive
13 therapeutic or palliative benefit from the medical use of
14 marijuana to treat or alleviate the qualifying patient's
15 debilitating medical condition or symptoms associated with the
16 qualifying patient's debilitating medical condition.
17 *b.* The qualifying patient and the qualifying patient's
18 primary caregiver, if any, were collectively in possession of
19 a quantity of marijuana that was not more than was reasonably
20 necessary to ensure the uninterrupted availability of marijuana
21 for the purpose of treating or alleviating the qualifying
22 patient's debilitating medical condition or symptoms associated
23 with the qualifying patient's debilitating medical condition.
24 *c.* The qualifying patient and the qualifying patient's
25 primary caregiver were engaged in the acquisition, possession,
26 cultivation, manufacture, use, delivery, transfer, or
27 transportation of marijuana or paraphernalia relating to the
28 administration of marijuana solely to treat or alleviate the
29 qualifying patient's debilitating medical condition or symptoms
30 associated with the qualifying patient's debilitating medical
31 condition.
32 2. A person may assert the medical purpose for using
33 marijuana in a motion to dismiss and the charges shall be
34 dismissed following an evidentiary hearing where the person
35 shows all of the elements listed in subsection 1.

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1 3. If a qualifying patient or a patient's primary caregiver
2 demonstrates the qualifying patient's medical purpose for using
3 marijuana pursuant to this section, the qualifying patient and
4 the patient's primary caregiver shall not be subject to any of
5 the following for the qualifying patient's use of marijuana for
6 medical purposes:
7 *a.* Disciplinary action by a business or occupational or
8 professional licensing board or bureau.
9 *b.* Forfeiture of any interest in or right to nonmarijuana,
10 licit property.
11 Sec. 14. NEW SECTION. **124D.9 Enforcement.**
12 1. If the department fails to adopt rules to implement the
13 requirements of this chapter within one hundred twenty days
14 of the effective date of this Act, a qualifying patient may
15 commence an action in district court to compel the department
16 to perform the department's duties pursuant to this chapter.
17 2. If the department fails to issue a valid registry
18 identification card or a registration certificate in response
19 to a valid application or renewal application submitted
20 pursuant to this chapter within forty-five days of its
21 submission, the registry identification card or registration
22 certificate is deemed granted, and a copy of the registry
23 identification card application or renewal application is
24 deemed a valid registry identification card.
25 3. If at any time after January 1, 2014, the department
26 is not accepting applications pursuant to this chapter,
27 including if it has not promulgated rules allowing qualifying
28 patients to submit applications, a notarized statement by a
29 qualifying patient containing the information required in
30 an application, pursuant to section 124D.6, together with
31 a written certification, shall be deemed a valid registry
32 identification card.
33 Sec. 15. Section 453B.6, Code 2013, is amended by adding the
34 following new unnumbered paragraph:
35 NEW UNNUMBERED PARAGRAPH. A person who is in possession

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1 of marijuana for medical purposes in accordance with chapter
2 124D is in lawful possession of a taxable substance and is not
3 subject to the requirements of this chapter.
4 EXPLANATION
5 This bill relates to marijuana, including the creation of
6 a medical marijuana Act, and provides for civil and criminal
7 penalties and fees.
8 MARIJUANA CLASSIFICATION. The bill reclassifies marijuana
9 as a schedule II controlled substance instead of a schedule I
10 controlled substance and strikes references to the authority of
11 the board of pharmacy to adopt rules for the use of marijuana
12 or tetrahydrocannabinols for medicinal purposes. A schedule I
13 controlled substance is a highly addictive substance that has
14 no accepted medical use in the United States and a schedule
15 II controlled substance is a highly addictive substance
16 that has an accepted medical use in the United States. The
17 reclassification of marijuana from a schedule I controlled
18 substance to a schedule II controlled substance allows a
19 physician to issue a prescription for marijuana.
20 It is a class "C" felony pursuant to Code section 124.401,
21 subsection 1, paragraph "c", subparagraph (8), for any
22 unauthorized person to violate a provision of Code section
23 124.401 involving a classified substance placed on schedule
24 I, II, or III pursuant to the bill. The penalties remain
25 unchanged for marijuana under the bill. The penalties under
26 Code section 124.401 range from a class "B" felony punishable
27 by up to 50 years of confinement to a serious misdemeanor
28 punishable by up to six months of confinement depending on the
29 amount of marijuana involved in the offense.
30 MEDICAL MARIJUANA ACT. The bill establishes new Code
31 chapter 124D, the medical marijuana Act, relating to the
32 possession and use of marijuana for therapeutic purposes,
33 provides for the creation of nonprofit dispensaries, and
34 provides for civil and criminal penalties and fees.
35 The bill provides that a qualifying patient who has been

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1 issued and possesses a registry identification card shall not
2 be subject to arrest, prosecution, or civil penalty, or denied
3 any right or privilege, for the qualifying patient's medical
4 use of marijuana pursuant to the provisions of the bill.
5 The bill defines a qualifying patient as a person who has
6 been diagnosed by a physician with a debilitating medical
7 condition defined as cancer, glaucoma, positive status for
8 human immunodeficiency virus, acquired immune deficiency
9 syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's
10 disease, agitation of Alzheimer's disease, nail patella,
11 a chronic or debilitating disease or medical condition or
12 its treatment that produces intractable pain, a chronic or
13 debilitating medical condition that produces one or more of
14 the following: cachexia or wasting syndrome, severe nausea,
15 certain seizures, or certain muscle spasms, or any other
16 medical condition or its treatment approved by the department
17 of public health (department). A primary caregiver is defined
18 as a person, 21 or older, who has agreed to assist with a
19 qualifying patient's medical use of marijuana who has never
20 been convicted of a felony drug offense. A primary caregiver
21 also includes a nonprofit dispensary. A physician is defined
22 as a physician or surgeon or osteopathic physician or surgeon
23 licensed under Code chapter 148.
24 The bill provides for the creation of nonprofit
25 dispensaries. The bill defines a nonprofit dispensary as
26 a not-for-profit organization registered by the department
27 that acquires, possesses, cultivates, manufactures, delivers,
28 transfers, transports, sells, supplies, or dispenses marijuana
29 or related supplies and educational materials to qualifying
30 patients and primary caregivers who possess a valid registry
31 identification card. The bill provides specific guidelines for
32 regulation of nonprofit dispensaries and principal officers,
33 board members, employees, or agents of a nonprofit dispensary
34 by the department. A person who has been convicted of a felony
35 offense shall not be eligible to be a principal officer, board

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1 member, agent, or employee of a nonprofit dispensary, unless
2 otherwise permitted by the department. A first violation
3 of this provision is punishable by a civil penalty of up to
4 $1,000. A subsequent violation is a class "D" felony.
5 The bill provides that the department shall adopt rules
6 for implementing the bill including rules relating to the
7 consideration of petitions from the public to add additional
8 debilitating medical conditions to the list of debilitating
9 medical conditions specified in the bill, rules relating
10 to applications and renewal applications for registry
11 identification cards issued to qualifying patients and primary
12 caregivers, and rules relating to registration certificates for
13 nonprofit dispensaries. The department shall establish fees
14 which shall meet certain requirements.
15 The bill provides that the department shall issue a
16 registry identification card to a qualifying patient who
17 submits certain specified information to the department. The
18 department shall not issue a registry identification card to
19 a qualifying patient who is under the age of 18 unless the
20 qualifying patient's physician has explained the potential
21 risks and benefits of the medical use of marijuana to the
22 qualifying patient and to the qualifying patient's parent,
23 guardian, or legal representative and such persons provide
24 the appropriate consent. The department shall also issue a
25 registry identification card to each primary caregiver named
26 in a qualifying patient's approved application for a registry
27 identification card, up to a maximum of one primary caregiver
28 per qualifying patient. The bill places restrictions on the
29 amount of marijuana that may be possessed by a qualifying
30 patient or a primary caregiver and on the persons authorized
31 to cultivate marijuana for a qualifying patient. The bill
32 requires the department to submit an annual report to the
33 general assembly by January 15 of each year concerning
34 information related to registry identification cards.
35 The bill provides that a registered qualifying patient or

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1 a registered primary caregiver who loses their registration
2 identification card or who makes changes to certain information
3 relevant to their registration identification card shall
4 notify the department. A registered qualifying patient or a
5 registered primary caregiver who fails to notify the department
6 of any changes in information relevant to the registration
7 identification card is subject to a civil penalty of up to
8 $150.
9 The bill provides that applications and supporting
10 information submitted by a qualifying patient, primary
11 caregiver, physician, nonprofit dispensary, or board member,
12 employee, or agent of a nonprofit dispensary, are confidential.
13 The bill also provides that a person, including an employee or
14 official of the department or another state or local agency,
15 who disseminates information received in connection with an
16 application for a registry identification card pursuant to the
17 bill, is guilty of a serious misdemeanor and is subject to
18 confinement in jail for up to 100 days and a fine of $1,000.
19 The bill prohibits the possession and use of medical
20 marijuana in certain places and during certain activities.
21 The bill provides that any fraudulent representation to a law
22 enforcement official relating to the use of medical marijuana
23 is a simple misdemeanor, punishable by a fine of up to $500.
24 The bill amends Code section 124.401, relating to prohibited
25 acts involving controlled substances, to provide that it is
26 lawful for a person to knowingly or intentionally possess
27 marijuana if the possession is in accordance with the
28 provisions of the bill. The bill also amends Code section
29 453B.6, relating to tax stamps for controlled substances, to
30 specify that possession in accordance with the provisions of
31 the bill is lawful possession and a tax stamp is not required.

Senate File 80 - Introduced

SENATE FILE 80
BY BOLKCOM, HOGG, DVORSKY, DOTZLER, SENG, PETERSEN, HATCH, HORN, DEARDEN, QUIRMBACH, and McCOY

A BILL FOR

1 An Act requiring policies at public institutions of higher
2 education for granting resident status to certain
3 individuals for purposes of paying postsecondary tuition and
4 fees.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1458XS (3) 85
kh/nh

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1 Section 1. LEGISLATIVE FINDINGS AND INTENT. The general
2 assembly finds that young people who were brought to this
3 country by their parents and who have been educated in the
4 state's accredited high schools or received a high school
5 equivalency diploma in this state and who wish to remain in
6 the state to attend college, start businesses, develop new
7 technologies, or work in Iowa's businesses and industries, are
8 Iowans by choice; it is therefore the intent of the general
9 assembly that these individuals be considered residents of the
10 state for purposes of determining tuition and fees at Iowa's
11 state postsecondary institutions.
12 Sec. 2. Section 260C.14, Code 2013, is amended by adding the
13 following new subsection:
14 NEW SUBSECTION. 24. Adopt a policy, to take effect
15 not later than January 1, 2014, relating to an additional
16 classification of students for purposes of determining tuition
17 and fees, that provides equal opportunity for granting resident
18 status to individuals who meet all of the following conditions:
19 *a.* Attended an accredited school in this state for at
20 least five years as of the date the individual graduated from
21 an accredited Iowa high school or received a high school
22 equivalency diploma in this state.
23 *b.* Is accepted for enrollment by the community college.
24 *c.* Was not required to pay tuition to attend a public high
25 school in this state.
26 *d.* Signs an affidavit, if the individual does not have a
27 social security number, stating that the individual will pursue
28 citizenship in the United States at the earliest possible time
29 the individual is able to do so.
30 Sec. 3. Section 262.9, Code 2013, is amended by adding the
31 following new subsection:
32 NEW SUBSECTION. 38. Adopt a policy, to take effect
33 not later than January 1, 2014, relating to an additional
34 classification of students for purposes of determining tuition
35 and fees, that provides equal opportunity for granting resident

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1 status to individuals who meet all of the following conditions:
2 *a.* Attended an accredited school in this state for at
3 least five years as of the date the individual graduated from
4 an accredited Iowa high school or received a high school
5 equivalency diploma in this state.
6 *b.* Is accepted for enrollment by a university under the
7 control of the board.
8 *c.* Was not required to pay tuition to attend a public high
9 school in this state.
10 *d.* Signs an affidavit, if the individual does not have a
11 social security number, stating that the individual will pursue
12 citizenship in the United States at the earliest possible time
13 the individual is able to do so.
14 EXPLANATION
15 This bill provides legislative findings and intent that
16 certain individuals be considered residents for purposes of
17 determining tuition and fees at Iowa's state postsecondary
18 institutions. The bill directs the board of directors of a
19 community college and the state board of regents to adopt
20 policies that take effect not later than January 1, 2014,
21 relating to an additional classification of students for
22 purposes of determining tuition and fees, which provide
23 equal opportunity for granting resident status to certain
24 individuals.
25 To meet the requirements of the policy, an individual
26 must have attended an accredited school in this state for
27 at least five years or received a high school equivalency
28 diploma in this state, be accepted for enrollment by a public
29 postsecondary institution in this state, must not have been
30 required to pay tuition to attend a public high school in this
31 state, and must sign an affidavit, if the individual does not
32 have a social security number, stating that the individual
33 will pursue U.S. citizenship at the earliest possible time the
34 individual is able to do so.

Senate File 81 - Introduced

SENATE FILE 81
BY SORENSON, FEENSTRA, and CHELGREN

A BILL FOR

1 An Act declaring the federal Patient Protection and Affordable
2 Care Act invalid, null and void, and of no effect in this
3 state, providing penalties, and including effective date
4 provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1318XS (3) 85
av/rj

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1 Section 1. LEGISLATIVE FINDINGS. The general assembly of
2 the state of Iowa finds that:
3 1. The people of the several states comprising the United
4 States of America created the federal government to be their
5 agent for certain enumerated purposes, and nothing more.
6 2. The Tenth Amendment to the Constitution of the United
7 States defines the total scope of federal powers as being that
8 which has been delegated by the people of the several states
9 to the federal government, and all powers not delegated to the
10 federal government in the Constitution of the United States
11 are reserved to the states respectively, or to the people
12 themselves.
13 3. The assumption of power that the federal government has
14 made by enacting the federal Patient Protection and Affordable
15 Care Act interferes with the right of the people of the state
16 of Iowa to regulate health care as they see fit, and makes a
17 mockery of James Madison's assurance in Federalist Number 45
18 that the powers delegated to the federal government are few and
19 defined, while those of the states are numerous and indefinite.
20 Sec. 2. NEW SECTION. **1.19 Nullification of federal patient**
21 **protection and affordable care Act — penalties.**
22 1. The general assembly of the state of Iowa declares that
23 the federal law known as the Patient Protection and Affordable
24 Care Act, signed by President Barack Obama on March 23, 2010,
25 is not authorized by the Constitution of the United States and
26 violates its true meaning and intent as given by the founders
27 and ratifiers of the Constitution of the United States, and
28 is hereby declared to be invalid in this state, shall not be
29 recognized by this state, is specifically rejected by this
30 state, and shall be considered null and void and of no effect
31 in this state.
32 2. It shall be the duty of the general assembly of this
33 state to adopt and enact any and all measures as may be
34 necessary to prevent the enforcement of the federal Patient
35 Protection and Affordable Care Act within the limits of this

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1 state.
2 3. An official, agent, or employee of the United States
3 government or an employee of a corporation providing services
4 to the United States government that enforces or attempts to
5 enforce an act, order, law, statute, rule, or regulation of the
6 United States government in violation of this section shall be
7 guilty of a class "D" felony.
8 4. A public officer or employee of this state that enforces
9 or attempts to enforce an act, order, law, statute, rule, or
10 regulation of the United States government in violation of this
11 section shall be guilty of an aggravated misdemeanor.
12 5. Any aggrieved party shall also have a private action
13 against any person violating the provisions of subsection 3 or
14 4.
15 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
16 immediate importance, takes effect upon enactment.
17 EXPLANATION
18 This bill makes legislative findings that the enactment
19 of the federal Patient Protection and Affordable Care Act
20 violates the Tenth Amendment of the United States Constitution
21 by interfering with the rights of the people and the state of
22 Iowa to regulate health care. New Code section 1.19 rejects
23 the federal Act, prohibits recognition of the federal Act, and
24 declares that the federal Act is invalid, null and void, and of
25 no effect in this state.
26 New Code section 1.19 also provides that an official, agent,
27 or employee of the United States government or an employee of a
28 corporation providing services to the United States government
29 who enforces or attempts to enforce a federal act, order,
30 statute, rule, or regulation in violation of this bill is
31 guilty of a class "D" felony. A class "D" felony is punishable
32 by confinement for no more than five years and a fine of at
33 least $750 but not more than $7,500.
34 The bill further provides that a public officer or employee
35 of Iowa that enforces or attempts to enforce a federal act,

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1 order, statute, rule, or regulation in violation of this
2 bill is guilty of an aggravated misdemeanor. An aggravated
3 misdemeanor is punishable by confinement for no more than two
4 years and a fine of at least $625 but not more than $6,250.
5 The bill also gives an aggrieved party a private action
6 against a federal or state official, agent, or employee who
7 enforces or attempts to enforce the federal Patient Protection
8 and Affordable Care Act.
9 The bill is effective upon enactment.

Senate File 82 - Introduced

SENATE FILE 82
BY SORENSON

A BILL FOR

1 An Act relating to unfunded federal mandates related to federal
2 health care reforms and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1319XS (1) 85
av/nh

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1 Section 1. NEW SECTION. **1.19 Federal health care reforms**
2 **— unfunded federal mandates.**
3 1. It is the intent of the general assembly to affirm the
4 power of this state under the Tenth Amendment to the United
5 States Constitution to exercise those powers reserved to the
6 states including but not limited to providing state-based
7 regulation of the health insurance market, providing aggressive
8 oversight of all aspects of this market, and enforcing consumer
9 protection as well as ensuring a local, responsive presence for
10 Iowa consumers.
11 2. If, on or after the effective date of this Act, the
12 United States Congress enacts, effectuates, or otherwise
13 imposes a mandate that requires the state to engage in any
14 new activity, to provide any new service, or to provide any
15 service beyond that required by any law enacted or requirement
16 otherwise imposed prior to the effective date of this Act
17 related to regulation of the health insurance market, and the
18 United States Congress does not appropriate moneys to fully
19 fund the cost of the mandate or other requirement, the state is
20 not required to perform the activity or provide the service and
21 the state shall not be subject to the imposition of any fines
22 or penalties for failure to comply with the federal mandate or
23 other requirement.
24 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
25 immediate importance, takes effect upon enactment.
26 EXPLANATION
27 This bill affirms the intent of the general assembly to
28 exercise those powers reserved to the states, including
29 but not limited to providing state-based regulation of the
30 health insurance market, providing aggressive oversight of
31 this market, and enforcing consumer protection and a local,
32 responsive presence for Iowa consumers.
33 The bill provides that if the United States Congress enacts,
34 effectuates, or otherwise imposes a mandate that requires
35 the state to engage in any new activity or provide any new

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1 or expanded service and does not appropriate moneys to fully
2 fund the cost of the mandate or other requirement, the state
3 is not required to perform the activity or provide the service
4 and shall not be subject to the imposition of any fines or
5 penalties for failure to do so. The bill is effective upon
6 enactment.

Senate File 83 - Introduced

SENATE FILE 83
BY HOGG

A BILL FOR

1 An Act relating to the income considered available in
2 determining client participation in payment of medical
3 institution care under Medicaid.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1048XS (6) 85
pf/nh

S.F. 83

1 Section 1. AVAILABLE INCOME — DETERMINATION OF CLIENT
2 PARTICIPATION FOR MEDICAL INSTITUTION CARE UNDER MEDICAL
3 ASSISTANCE PROGRAM — ALIMONY. The department of human
4 services shall adopt rules pursuant to chapter 17A to exclude
5 an amount paid as court-ordered alimony by a client from the
6 department's determination of the client's total monthly income
7 that is available for client participation in the cost of
8 medical institution care under the medical assistance program.
9 Notwithstanding the amount specified by the court to be paid
10 as alimony, the amount excluded shall not exceed the minimum
11 monthly maintenance needs allowance as defined in section
12 249B.1 granted as spousal support for a community spouse.
13 EXPLANATION
14 This bill relates to the determination of an individual's
15 participation in payment for medical institution care under
16 the Medicaid program. The bill provides that in determining
17 a client's total monthly income that is available for client
18 participation, the amount paid by the client as court-ordered
19 alimony is to be excluded. However, notwithstanding the
20 amount specified by the court to be paid as alimony, the
21 amount excluded cannot exceed the minimum monthly maintenance
22 needs allowance as defined in Code section 249B.1 granted
23 as spousal support for a community spouse. The amount is
24 established pursuant to the federal Social Security Act, 42
25 U.S.C. § 1396r-5(d)(3)(C) and is indexed for inflation annually
26 according to the consumer price index. Effective January
27 1, 2013, the minimum monthly maintenance needs allowance is
28 $2,898.

Senate File 84 - Introduced

SENATE FILE 84
BY SORENSON, FEENSTRA, and ANDERSON

A BILL FOR

1 An Act relating to an automated electronic notification system
2 within the missing person information clearinghouse to
3 notify hunters and others of missing children in designated
4 geographical areas.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1418XS (6) 85
kh/rj

S.F. 84

1 Section 1. Section 483A.10, Code 2013, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 3. Applications for licenses issued
4 pursuant to this chapter shall allow an applicant to subscribe
5 to the automated electronic mail notification system maintained
6 within the missing person information clearinghouse pursuant to
7 section 694.10, subsection 2, paragraph *"l"*, and to designate
8 the counties or zip code areas for which the applicant wishes
9 to receive notice. At least monthly, the department shall
10 transmit to the missing person information clearinghouse
11 updated subscriber information.
12 Sec. 2. Section 694.10, subsection 2, Code 2013, is amended
13 by adding the following new paragraph:
14 NEW PARAGRAPH. *l.* Maintain an automated electronic mail
15 notification system to notify system subscribers immediately,
16 free of charge, when a complaint of a missing person has been
17 filed pursuant to this chapter and the missing person is a
18 child who is under the age of eighteen whose temporary or
19 permanent residence is in Iowa. The notification given to
20 the subscribers shall contain the same type of information or
21 information similar to that contained in the monthly bulletins
22 distributed pursuant to paragraph *"g"*. The geographic radius
23 of notification shall be determined by the department. The
24 department and the department of natural resources shall
25 collaborate to publicize the availability of the system to,
26 at a minimum, persons who possess or who apply for a hunting
27 license issued pursuant to chapter 483A.
28 EXPLANATION
29 This bill directs the department of public safety to
30 maintain, in connection with the missing person information
31 clearinghouse established by the department, an automated
32 electronic mail notification system to notify system
33 subscribers immediately, free of charge, when a complaint
34 of a missing person has been filed by a person with a law
35 enforcement agency and the missing person is a child under the

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1 age of 18 whose temporary or permanent residence is in Iowa.
2 Applications for hunting licenses must allow an applicant to
3 subscribe to the system and to designate the counties or zip
4 code areas for which the applicant wishes to receive notice.
5 The notification must contain the same type of information
6 or information similar to that provided in monthly missing
7 person bulletins distributed to the public.
8 The geographic radius of notification shall be determined
9 by the department. The department shall collaborate with the
10 department of natural resources to publicize the availability
11 of the system to, at a minimum, persons who possess or who
12 apply for a hunting license.

Senate File 85 - Introduced

SENATE FILE 85
BY SORENSON, DIX, BREITBACH, BEHN, ZUMBACH, SCHNEIDER, CHAPMAN, SEGEBART, SMITH, KAPUCIAN, BOETTGER, WHITVER, CHELGREN, ERNST, GUTH, FEENSTRA, SINCLAIR, ROZENBOOM, ZAUN, ANDERSON, JOHNSON, GREINER, HOUSER, and BERTRAND

A BILL FOR

1 An Act relating to proof of identification and proof of
2 residence in order to register to vote or to vote,
3 establishing a criminal offense for falsely swearing
4 certain oaths and affidavits, and including applicability
5 provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1726XS (6) 85
aw/sc

S.F. 85

1 DIVISION I
2 VOTER IDENTIFICATION REQUIREMENTS
3 Section 1. Section 39A.2, subsection 1, paragraph b, Code
4 2013, is amended by adding the following new subparagraph:
5 NEW SUBPARAGRAPH. (6) Falsely swears to an oath required
6 pursuant to section 49.77, subsection 3, or an affidavit
7 pursuant to section 49.81, subsection 5, paragraph *"b"*.
8 Sec. 2. Section 48A.7A, subsection 1, paragraph a, Code
9 2013, is amended to read as follows:
10 *a.* A person who is eligible to register to vote and to vote
11 may register on election day by appearing in person at the
12 polling place for the precinct in which the individual resides
13 and completing a voter registration application, making written
14 oath, and providing proof of identity and ~~residence~~ proof of
15 residence pursuant to paragraph *"b"*.
16 Sec. 3. Section 48A.7A, subsection 1, paragraph b, Code
17 2013, is amended by striking the paragraph and inserting in
18 lieu thereof the following:
19 *b.* (1) For purposes of this section, a person may establish
20 identity by showing proof of identification as required in
21 section 49.77, subsection 3.
22 (2) For purposes of this section, a person may establish
23 residence using a proof of identification document described
24 in section 49.77, subsection 3, paragraph *"b"*, if the proof of
25 identification contains the person's current address in the
26 precinct. If the proof of identification does not contain the
27 person's current address in the precinct, the person shall also
28 present one of the following documents that shows the person's
29 name and current address in the precinct:
30 (a) Utility bill.
31 (b) Bank statement.
32 (c) Paycheck.
33 (d) Government check.
34 (e) Other government document.
35 Sec. 4. Section 48A.7A, subsections 2 and 3, Code 2013, are

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1 amended to read as follows:
2 2. The oath required in subsection 1, paragraph "a", and
3 in paragraph "c", if applicable, shall be executed on the
4 same piece of paper and attached to the voter registration
5 application.
6 3. At any time before election day, and after the deadline
7 for registration in section 48A.9, a person who appears in
8 person at the commissioner's office or at a satellite absentee
9 voting station or whose ballot is delivered to a health care
10 facility pursuant to section 53.22 may register to vote and
11 vote an absentee ballot by following the procedure in this
12 section for registering to vote on election day. A person who
13 wishes to vote in person at the polling place on election day
14 and who has not registered to vote before the deadline for
15 registering in section 48A.9, is required to register to vote
16 at the polling place on election day following the procedure
17 in this section. However, the person may complete the voter
18 registration application at the commissioner's office and,
19 after the commissioner has reviewed the completed application,
20 may present the application to the appropriate precinct
21 election official along with proof of ~~identity and residency~~
22 identification and proof of residence.
23 Sec. 5. Section 49.53, subsection 1, Code 2013, is amended
24 to read as follows:
25 1. The commissioner shall not less than four nor more than
26 twenty days before the day of each election, except those for
27 which different publication requirements are prescribed by law,
28 publish notice of the election. The notice shall contain a
29 facsimile of the portion of the ballot containing the first
30 rotation as prescribed by section 49.31, subsection 2, and
31 shall show the names of all candidates or nominees and the
32 office each seeks, and all public questions, to be voted upon
33 at the election. The sample ballot published as a part of the
34 notice may at the discretion of the commissioner be reduced in
35 size relative to the actual ballot but such reduction shall not

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1 cause upper case letters appearing in candidates' names or in
2 summaries of public measures on the published sample ballot to
3 be less than nine point type. The notice shall also state the
4 date of the election, the hours the polls will be open, that
5 all voters will be required to show proof of identification
6 before casting a ballot, the location of each polling place at
7 which voting is to occur in the election, and the names of the
8 precincts voting at each polling place, but the statement need
9 not set forth any fact which is apparent from the portion of
10 the ballot appearing as a part of the same notice. The notice
11 shall include the full text of all public measures to be voted
12 upon at the election.
13 Sec. 6. Section 49.77, subsection 3, Code 2013, is amended
14 by striking the subsection and inserting in lieu thereof the
15 following:
16 3. *a.* A precinct election official shall require the voter
17 to present for inspection proof of identification before being
18 allowed to vote.
19 *b.* For purposes of this section, *"proof of identification"*
20 refers to a document that satisfies all of the following:
21 (1) The document shows the name of the individual to whom
22 the document was issued which shall conform to the name on the
23 election register.
24 (2) The document shows a photograph of the individual to
25 whom it was issued.
26 (3) The document was issued by the government of the
27 United States, the state of Iowa, an Iowa public or private
28 university or college, an Iowa secondary school, or a political
29 subdivision of the state of Iowa. In the case of a document
30 issued by a political subdivision, the document shall be
31 issued not later than the close of voter registration for
32 the applicable election as set forth in section 48A.9 and
33 shall meet all other requirements established by the state
34 commissioner by rule.
35 *c.* In lieu of paragraph *"b"*, a person wishing to vote may

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establish proof of identity by written oath of the person wishing to vote and of an attesting person who provides proof of identification pursuant to paragraph "*b*". The oath shall be in the form prescribed by the state commissioner of elections and shall state the identity and attest to the stated identity of the person wishing to vote. The oath must be signed by the attesting person and the person wishing to vote in the presence of the appropriate precinct election official. A person who has signed an oath attesting to a person's identity as provided in this paragraph is prohibited from signing any further oaths as provided in this paragraph for the same election. The oath shall advise the person wishing to vote and the attesting person that falsely signing such an oath or falsely attesting to a voter's identity is a class "D" felony.

d. The commissioner shall, within forty-five days after each election, review all attestations received under this subsection and if any individual is found to have attested for more than one voter in a particular election, the commissioner shall immediately notify the state commissioner and the county attorney.

Sec. 7. Section 49.77, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. *a.* If proof of identification or proof of identity is established under subsection 3, the person shall be allowed to vote.

b. If a person is unable or refuses to present proof of identification, or the precinct election official determines the proof of identification presented by the person does not qualify as proof of identification under subsection 3, paragraph "*b*", or proof of identity under subsection 3, paragraph "*c*", the person shall be offered the option to vote a ballot, but only in accordance with section 49.81.

Sec. 8. Section 49.77, subsection 4, paragraph a, Code 2013, is amended to read as follows:

a. A person whose name does not appear on the election

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register of the precinct in which that person claims the right to vote shall not be permitted to vote, unless the person affirms that the person is currently registered in the county ~~and presents proof of identity,~~ or the commissioner informs the precinct election officials that an error has occurred and that the person is a registered voter of that precinct, and the person presents proof of identification pursuant to subsection 3. If the commissioner finds no record of the person's registration but the person insists that the person is a registered voter of that precinct, the precinct election officials shall allow the person to cast a ballot in the manner prescribed by section 49.81.

Sec. 9. Section 49.81, subsection 1, Code 2013, is amended to read as follows:

1. A prospective voter who is prohibited under section 48A.8, subsection 4, section 49.77, subsection 3A, paragraph "*b*", section 49.77, subsection 4, section 49.80, ~~or~~ section 53.19, subsection 3, or section 53.22, subsection 1, paragraph "*d*", from voting except under this section shall be notified by the appropriate precinct election official that the voter may cast a provisional ballot. The voter shall mark the ballot and immediately seal it in an envelope of the type prescribed by subsection 4. The voter shall deliver the sealed envelope to a precinct election official who shall deposit it in an envelope marked "provisional ballots". The ballot shall be considered as having been cast in the special precinct established by section 53.20 for purposes of the postelection canvass.

Sec. 10. Section 49.81, subsection 2, paragraph b, Code 2013, is amended to read as follows:

b. If the person is casting a provisional ballot because the person ~~failed~~ was unable or refused to provide a required form of identification pursuant to section 48A.8, subsection 4, section 49.77, subsection 3A, paragraph "*b*", section 49.77, subsection 4, or section 53.22, subsection 1, paragraph "*d*", a list of the types of acceptable identification and notification

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that the person must show identification before the ballot can be counted.

Sec. 11. Section 49.81, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 5. *a.* If a voter casts a provisional ballot pursuant to section 49.77, subsection 3A, paragraph *"b"*, the precinct election official shall indicate on the provisional ballot envelope that the voter is casting a provisional ballot due to the voter's inability or refusal to present proof of identification.

b. At the time a provisional ballot is cast the voter may also execute an affidavit in the form prescribed by the state commissioner which shall be attached to the provisional ballot envelope, affirming that the voter is the person the voter claims to be and further affirming either of the following:

(1) The voter is indigent and is unable to obtain proof of identification without the payment of a fee.

(2) The voter has a religious objection to being photographed.

c. A provisional ballot cast pursuant to section 49.77, subsection 3A, paragraph *"b"*, which is accompanied by an affidavit executed pursuant to paragraph *"b"* of this subsection shall be presumed valid by the special precinct board and shall be counted unless additional written statements or documents are delivered to the commissioner's office prior to the date provisional ballots are considered by the special precinct election board and the special precinct election board determines such additional evidence successfully rebuts the presumption of validity.

Sec. 12. Section 53.10, subsection 2, Code 2013, is amended to read as follows:

2. Each person who wishes to vote by absentee ballot at the commissioner's office shall first sign an application for a ballot including the following information: name, current address, and the election for which the ballot is

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1 requested. The person may report a change of address or other
2 information on the person's voter registration record at that
3 time. The person must also provide proof of identification
4 pursuant to section 49.77, subsection 3, or be offered the
5 option to vote a provisional ballot pursuant to section 49.77,
6 subsection 3A, paragraph "b", before receiving an absentee
7 ballot. Upon receipt of the absentee ballot, the registered
8 voter shall immediately mark the ballot; enclose the ballot in
9 a secrecy envelope, if necessary, and seal it in an affidavit
10 envelope; subscribe to the affidavit on the reverse side of the
11 envelope; and return the absentee ballot to the commissioner.
12 The commissioner shall record the numbers appearing on the
13 application and affidavit envelope along with the name of the
14 registered voter.
15 Sec. 13. Section 53.22, subsection 1, Code 2013, is amended
16 by adding the following new paragraph:
17 NEW PARAGRAPH. *d.* Before receiving a ballot under
18 this subsection, each applicant shall present proof of
19 identification pursuant to section 49.77, subsection 3, to
20 the special precinct election board members. If an applicant
21 is unable to present proof of identification, the applicant
22 shall have an opportunity to execute an affidavit in the form
23 prescribed by the state commissioner of elections affirming
24 that the voter does not have and is unable to obtain proof of
25 identification and that the voter resides in a hospital or
26 health care facility and is casting a ballot pursuant to this
27 section. If the applicant refuses to execute an affidavit, the
28 voter's ballot shall be considered a provisional ballot cast
29 pursuant to section 49.81.
30 Sec. 14. Section 321.190, subsection 1, paragraph d, Code
31 2013, is amended to read as follows:
32 *d.* The fee for a nonoperator's identification card shall
33 be five dollars and the card shall be valid for a period
34 of five years from the date of issuance. A nonoperator's
35 identification card shall be issued without expiration

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1 to anyone age seventy or over. If an applicant for a
2 nonoperator's identification card is a foreign national
3 who is temporarily present in this state, the nonoperator's
4 identification card shall be issued only for the length of time
5 the foreign national is authorized to be present as determined
6 by the department, not to exceed two years. An issuance fee
7 shall not be charged for a person whose driver's license or
8 driving privilege has been suspended under section 321.210,
9 subsection 1, paragraph "*a*", subparagraph (3), or for a person
10 obtaining an identification card to be used under section
11 49.77, subsection 3, for voting purposes. Identification cards
12 obtained for voting purposes shall be labeled by the department
13 as "For Voting Purposes Only".
14 DIVISION II
15 CONFORMING PROVISIONS
16 Sec. 15. Section 48A.8, subsection 2, unnumbered paragraph
17 1, Code 2013, is amended to read as follows:
18 An eligible elector who registers by mail and who has
19 not previously voted in an election for federal office in
20 the county of registration shall be required to provide
21 additional identification documents when voting for the first
22 time in the county, unless the registrant provided on the
23 registration form the registrant's Iowa driver's license
24 number, or the registrant's Iowa nonoperator's identification
25 card number, or the last four numerals of the registrant's
26 social security number and the driver's license, nonoperator's
27 identification, or partial social security number matches
28 an existing state or federal identification record with the
29 same number, name, and date of birth. If the registrant
30 is required to show additional identification under this
31 subsection and votes in person at the polls, or by absentee
32 ballot at the commissioner's office or at a satellite voting
33 station, the registrant shall provide a current and valid
34 photo identification card, or shall present to the appropriate
35 election official one of the following current documents that

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1 shows the name and address of the registrant:
2 Sec. 16. Section 48A.8, subsection 4, Code 2013, is amended
3 to read as follows:
4 4. A registrant under subsection 2 who is required to
5 present additional identification when casting a ballot in
6 person shall be permitted to vote a provisional ballot if the
7 voter does not provide the required additional identification
8 documents pursuant to subsection 2. If a voter who is required
9 to present such additional identification when casting a ballot
10 votes an absentee ballot by mail, the ballot returned by the
11 voter shall be considered a provisional ballot pursuant to
12 sections 49.81 and 53.31.
13 Sec. 17. Section 48A.27, subsection 4, paragraph c,
14 subparagraph (2), Code 2013, is amended to read as follows:
15 (2) The notice shall contain a statement in substantially
16 the following form:
17 Information received from the United States postal service
18 indicates that you are no longer a resident of, and therefore
19 not eligible to vote in (name of county) County, Iowa. If this
20 information is not correct, and you still live in (name of
21 county) County, please complete and mail the attached postage
22 paid card at least ten days before the primary or general
23 election and at least eleven days before any other election at
24 which you wish to vote. If the information is correct and you
25 have moved, please contact a local official in your new area
26 for assistance in registering there. ~~If you do not mail in~~
27 ~~the card, you may be required to show identification before~~
28 ~~being allowed to vote in (name of county) County.~~ If you do not
29 return the card, and you do not vote in an election in (name
30 of county) County, Iowa, on or before (date of second general
31 election following the date of the notice) your name will be
32 removed from the list of voters in that county.
33 Sec. 18. Section 48A.29, subsection 1, paragraph b, Code
34 2013, is amended to read as follows:
35 *b.* The notice shall contain a statement in substantially the

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following form:

Information received from the United States postal service indicates that you are no longer a resident of (residence address) in (name of county) County, Iowa. If this information is not correct, and you still live in (name of county) County, please complete and mail the attached postage paid card at least ten days before the primary or general election and at least eleven days before any other election at which you wish to vote. If the information is correct, and you have moved, please contact a local official in your new area for assistance in registering there. ~~If you do not mail in the card, you may be required to show identification before being allowed to vote in (name of county) County.~~ If you do not return the card, and you do not vote in some election in (name of county) County, Iowa, on or before (date of second general election following the date of the notice) your name will be removed from the list of voters in that county.

Sec. 19. Section 48A.29, subsection 3, paragraph b, Code 2013, is amended to read as follows:

b. The notice shall contain a statement in substantially the following form:

Information received by this office indicates that you are no longer a resident of (residence address) in (name of county) County, Iowa. If the information is not correct, and you still live at that address, please complete and mail the attached postage paid card at least ten days before the primary or general election and at least eleven days before any other election at which you wish to vote. If the information is correct, and you have moved within the county, you may update your registration by listing your new address on the card and mailing it back. If you have moved outside the county, please contact a local official in your new area for assistance in registering there. ~~If you do not mail in the card, you may be required to show identification before being allowed to vote in (name of county) County.~~ If you do not return the card, and you

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1 do not vote in some election in (name of county) County, Iowa,
2 on or before (date of second general election following the
3 date of the notice) your name will be removed from the list of
4 registered voters in that county.
5 DIVISION III
6 APPLICABILITY
7 Sec. 20. APPLICABILITY. This Act applies to elections held
8 on or after January 1, 2015.
9 EXPLANATION
10 This bill requires that a person provide certain proof of
11 identification at the time that the person votes and modifies
12 proof of identification and proof of residence requirements for
13 election day and in-person absentee registration.
14 Division I of the bill modifies the proof of identification
15 and proof of residence requirements for election day and
16 in-person absentee registration. The bill requires that
17 acceptable proof of identification is the same proof of
18 identification required of a voter who is already registered
19 to vote. The bill removes residential leases and property tax
20 statements from the list of acceptable documents to provide
21 proof of residence for election day and in-person absentee
22 registration.
23 The bill maintains current law allowing a person wishing
24 to register to vote on election day, or in person when voting
25 an absentee ballot, to establish proof of identity and proof
26 of residence by written oath of a person who is registered to
27 vote in the precinct, but requires that the oath of the person
28 wishing to vote and the registered voter´s oath be executed on
29 the same piece of paper.
30 The bill requires that a voter provide proof of
31 identification to a precinct election official before being
32 allowed to vote, and also requires that a person wishing to
33 vote by absentee ballot at a county commissioner of elections
34 office or at a satellite absentee voting station present
35 the same proof of identification. The bill requires that

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1 acceptable proof of identification show the name of the
2 individual voter, include a photograph of the voter, and be
3 issued by the government of the United States, the state of
4 Iowa, an Iowa public or private university or college, an Iowa
5 secondary school, or a political subdivision of the state.
6 The bill provides that, in lieu of providing identification
7 in order to vote, a person may establish proof of identity by
8 written oath of the person wishing to vote and of a person who
9 provides their own proof of identification and who attests
10 to the voter's identity. The bill provides that the oath
11 shall be in the form prescribed by the state commissioner of
12 elections, and that the oath shall state the identity of the
13 person wishing to vote and shall attest to the stated identity
14 of the person wishing to vote. The bill requires that the oath
15 be signed by both the attesting person and the person wishing
16 to vote. The bill makes it a class "D" felony to falsely sign
17 an oath pursuant to this provision or to falsely attest to a
18 voter's identity. The bill requires that the oath advise both
19 persons that falsely stating or attesting to a voter's identity
20 is a class "D" felony. A class "D" felony is punishable by
21 confinement for no more than five years and a fine of at least
22 $750 but not more than $7,500. The bill provides that an
23 attesting person is prohibited from signing any additional such
24 oaths for the same election.
25 The bill provides that if proof of identification is
26 established the person shall then be allowed to vote. If a
27 person is unable or refuses to present proof of identification,
28 or if the precinct election official determines that the
29 proof of identification does not meet specified requirements,
30 the person shall be offered the option to vote a provisional
31 ballot. If a person is casting a provisional ballot
32 under these circumstances, the person shall receive a
33 printed statement giving notice of the types of acceptable
34 identification and notice that the person is required to show
35 acceptable identification before the provisional ballot can be

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1 counted unless the voter executes an affidavit pursuant to Code
2 section 49.81, subsection 5. If a voter casts a provisional
3 ballot for these reasons, the precinct election official shall
4 indicate on the provisional ballot that the voter is casting
5 a provisional ballot due to the voter's inability or refusal
6 to present proof of identification. The bill provides that a
7 voter casting a provisional ballot for this reason may execute
8 an affidavit in the form prescribed by the state commissioner
9 of elections, affirming that the voter is the person the voter
10 claims to be and affirming that the voter is either indigent
11 and unable to obtain proof of identification without the
12 payment of a fee or that the voter has a religious objection to
13 being photographed.
14 The bill makes it a class "D" felony to falsify an affidavit
15 that attests to identity. A class "D" felony is punishable by
16 confinement for no more than five years and a fine of at least
17 $750 but not more than $7,500. The bill also provides that
18 any provisional ballot cast accompanied by such an affidavit
19 shall be presumed valid unless additional written statements
20 or documents are delivered to the county commissioner of
21 elections office prior to the date that provisional ballots
22 are considered and the precinct election board determines that
23 such additional evidence successfully rebuts the presumption
24 of validity.
25 The bill also makes changes to the election notice to be
26 published by the county commissioner of elections to require
27 that election notices include a statement that all voters will
28 be required to show proof of identification before casting a
29 ballot.
30 The bill requires that certain persons residing in a
31 hospital or health care facility who apply to vote by absentee
32 ballot shall present proof of identification. If the applicant
33 is unable to present proof of identification they shall be able
34 to execute an affidavit in the form prescribed by the state
35 commissioner of elections, stating that the voter does not have

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and is unable to obtain proof of identification and that the voter resides in a hospital or health care facility. If the applicant refuses to execute such an affidavit and is unable to present proof of identification, the voter is allowed to cast a provisional ballot.

The bill also provides that a person obtaining a nonoperator's identification card for the purpose of voting shall not be charged for the issuance of the nonoperator's identification card. The bill requires that nonoperator's identification cards issued to serve as proof of identification for voting be labeled by the department as "For Voting Purposes Only".

Division II of the bill makes conforming changes to certain required notices on forms related to voter registration and registration by mail.

Division III of the bill provides that the bill applies to elections held on or after January 1, 2015.

Senate File 86 - Introduced

SENATE FILE 86
BY BERTRAND, FEENSTRA, ANDERSON, ERNST, WHITVER, BOETTGER, GUTH, SMITH, JOHNSON, KAPUCIAN, ROZENBOOM, SEGEBART, HOUSER, BEHN, SINCLAIR, ZUMBACH, SCHNEIDER, BREITBACH, DIX, and SORENSON

(COMPANION TO HF 1 BY SANDS)

A BILL FOR

1 An Act relating to the taxpayers trust fund by modifying the
2 transfer of moneys from the Iowa economic emergency fund
3 to the taxpayers trust fund, allowing transfers from the
4 taxpayers trust fund, creating an Iowa taxpayers trust fund
5 tax credit and fund and providing for the transfer of moneys
6 from the taxpayers trust fund for purposes of the credit,
7 and including effective date and retroactive applicability
8 provisions.
9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1420XS (4) 85
mm/sc

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DIVISION I
TAXPAYERS TRUST FUND

Section 1. Section 8.54, subsection 5, Code 2013, is amended by striking the subsection.

Sec. 2. Section 8.55, subsection 2, Code 2013, is amended to read as follows:

2. The maximum balance of the fund is the amount equal to two and one-half percent of the adjusted revenue estimate for the fiscal year. If the amount of moneys in the Iowa economic emergency fund is equal to the maximum balance, moneys in excess of this amount shall be ~~distributed as follows:~~

~~*a.* The first sixty million dollars of the difference between the actual net revenue for the general fund of the state for the fiscal year and the adjusted revenue estimate for the fiscal year shall be~~ transferred to the taxpayers trust fund.

~~*b.* The remainder of the excess, if any, shall be transferred to the general fund of the state.~~

Sec. 3. Section 8.57E, subsection 2, Code 2013, is amended to read as follows:

2. Moneys in the taxpayers trust fund shall only be used pursuant to appropriations <u>or transfers</u> made by the general assembly for tax relief.

Sec. 4. Section 8.58, Code 2013, is amended to read as follows:

8.58 Exemption from automatic application.

1. ~~To the extent that moneys appropriated under section 8.57 do not result in moneys being credited to the general fund under section 8.55, subsection 2, moneys~~ <u>Moneys</u> appropriated ~~under~~ <u>in</u> section 8.57 and moneys contained in the cash reserve fund, rebuild Iowa infrastructure fund, environment first fund, Iowa economic emergency fund, and taxpayers trust fund shall not be considered in the application of any formula, index, or other statutory triggering mechanism which would affect appropriations, payments, or taxation rates, contrary provisions of the Code notwithstanding.

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2. ~~To the extent that moneys appropriated under section 8.57 do not result in moneys being credited to the general fund under section 8.55, subsection 2, moneys~~ Moneys appropriated ~~under~~ in section 8.57 and moneys contained in the cash reserve fund, rebuild Iowa infrastructure fund, environment first fund, Iowa economic emergency fund, and taxpayers trust fund shall not be considered by an arbitrator or in negotiations under chapter 20.

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

Sec. 6. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to July 1, 2012, to moneys attributed to fiscal years beginning on or after July 1, 2012.

DIVISION II

IOWA TAXPAYERS TRUST FUND TAX CREDIT

Sec. 7. TAXPAYERS TRUST FUND —— IOWA TAXPAYERS TRUST FUND TAX CREDIT TRANSFER. During the fiscal year beginning July 1, 2013, there is transferred from the taxpayers trust fund created in section 8.57E to the Iowa taxpayers trust fund tax credit fund created in section 422.11E, an amount equal to the balance of the taxpayers trust fund at the close of the fiscal year beginning July 1, 2012, and ending June 30, 2013, to be used for the Iowa taxpayers trust fund tax credit in accordance with section 422.11E, subsection 5.

Sec. 8. Section 257.21, Code 2013, is amended to read as follows:

257.21 Computation of instructional support amount.

1. The department of management shall establish the amount of instructional support property tax to be levied and the amount of instructional support income surtax to be imposed by a district in accordance with the decision of the board under section 257.19 for each school year for which the instructional support program is authorized. The department of management shall determine these amounts based upon the

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1 most recent figures available for the district's valuation of
2 taxable property, individual state income tax paid, and budget
3 enrollment in the district, and shall certify to the district's
4 county auditor the amount of instructional support property
5 tax, and to the director of revenue the amount of instructional
6 support income surtax to be imposed if an instructional support
7 income surtax is to be imposed.
8 2. The instructional support income surtax shall be imposed
9 on the state individual income tax for the calendar year during
10 which the school's budget year begins, or for a taxpayer's
11 fiscal year ending during the second half of that calendar year
12 and after the date the board adopts a resolution to participate
13 in the program or the first half of the succeeding calendar
14 year, and shall be imposed on all individuals residing in the
15 school district on the last day of the applicable tax year.
16 As used in this section, *"state individual income tax"* means
17 the taxes computed under section 422.5, less the amounts of
18 nonrefundable credits allowed under chapter 422, division II,
19 except for the Iowa taxpayers trust fund tax credit allowed
20 under section 422.11E.
21 Sec. 9. NEW SECTION. **422.11E Iowa taxpayers trust fund tax**
22 **credit.**
23 1. For purposes of this section, *"eligible individual"* means,
24 with respect to a tax year, an individual who makes and files
25 an individual income tax return pursuant to section 422.13.
26 *"Eligible individual"* does not include an estate or trust, or
27 an individual for whom an individual income tax return was not
28 timely filed, including extensions.
29 2. The taxes imposed under this division, less the credits
30 allowed under this division except the credits for withheld
31 tax and estimated tax paid in section 422.16, shall be reduced
32 by an Iowa taxpayers trust fund tax credit to an eligible
33 individual for the tax year beginning January 1 immediately
34 preceding July 1 of any fiscal year during which a transfer, if
35 any, is made from the taxpayers trust fund in section 8.57E to

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1 the Iowa taxpayers trust fund tax credit fund created in this
2 section.
3 3. The credit shall be equal to the quotient of the amount
4 transferred to the Iowa taxpayers trust fund tax credit fund in
5 the applicable fiscal year, divided by the number of eligible
6 individuals for the tax year immediately preceding the tax year
7 for which the credit in this section is allowed, as determined
8 by the director of revenue in accordance with this section,
9 rounded down to the nearest whole dollar. The department of
10 revenue shall draft the income tax form for any tax year in
11 which a credit will be allowed under this section to provide
12 the information and space necessary for eligible individuals to
13 claim the credit.
14 4. Any credit in excess of the taxpayer's liability for the
15 tax year is not refundable and shall not be credited to the tax
16 liability for any following year or carried back to a tax year
17 prior to the tax year in which the taxpayer claims the credit.
18 5. *a.* There is established within the state treasury under
19 the control of the department an Iowa taxpayers trust fund tax
20 credit fund consisting of any moneys transferred by the general
21 assembly from the taxpayers trust fund created in section 8.57E
22 for purposes of the credit provided in this section. No later
23 than December 31 in the year following each tax year in which
24 a credit is allowed pursuant to this section, the department
25 shall transfer from the Iowa taxpayers trust fund tax credit
26 fund to the general fund of the state, the lesser of the
27 balance of the Iowa taxpayers trust fund tax credit fund or
28 an amount of money equal to the Iowa taxpayers trust fund tax
29 credits claimed under this section for the applicable tax year.
30 Any moneys remaining in the fund on December 31 after the
31 transfer provided in the previous sentence shall immediately
32 revert to the taxpayers trust fund created in section 8.57E.
33 *b.* The moneys transferred to the general fund of the state
34 in accordance with this subsection shall not be considered new
35 revenues for purposes of the state general fund expenditure

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limitation under section 8.54 but instead as replacement of a like amount included in the expenditure limitation for the fiscal year in which the transfer is made.

Sec. 10. Section 422D.2, Code 2013, is amended to read as follows:

422D.2 Local income surtax.

A county may impose by ordinance a local income surtax as provided in section 422D.1 at the rate set by the board of supervisors, of up to one percent, on the state individual income tax of each individual residing in the county at the end of the individual's applicable tax year. However, the cumulative total of the percents of income surtax imposed on any taxpayer in the county shall not exceed twenty percent. The reason for imposing the surtax and the amount needed shall be set out in the ordinance. The surtax rate shall be set to raise only the amount needed. For purposes of this section, *"state individual income tax"* means the tax computed under section 422.5, less the amounts of nonrefundable credits allowed under chapter 422, division II, except for the Iowa taxpayers trust fund tax credit allowed under section 422.11E.

Sec. 11. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 12. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to January 1, 2013, for tax years beginning on or after that date.

EXPLANATION

This bill relates to the taxpayers trust fund by modifying the transfer of moneys from the Iowa economic emergency fund to the taxpayers trust fund, allowing transfers from the taxpayers trust fund, creating an Iowa taxpayers trust fund tax credit and fund, and providing for the transfer of moneys from the taxpayers trust fund for purposes of the credit.

Division I of the bill relates to the transfer of moneys from the Iowa economic emergency fund to the taxpayers trust fund.

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1 Under current law in Code section 8.55, when the balance of
2 the Iowa economic emergency fund is equal to the fund's maximum
3 balance, the excess is first distributed to the taxpayers trust
4 fund up to a formula amount and the remainder is transferred to
5 the general fund of the state. The division provides that the
6 entire excess is transferred to the taxpayers trust fund and
7 moneys would no longer be transferred to the general fund of
8 the state.
9 Code section 8.54, relating to the state general fund
10 expenditure limitation, is amended to delete a subsection that
11 provides for readjustment of the expenditure limitation to
12 reflect moneys anticipated to be transferred to the general
13 fund of the state from the Iowa economic emergency fund.
14 Code section 8.58, providing an exemption from statutory
15 triggering mechanisms and consideration by an arbitrator or in
16 a collective bargaining negotiation under Code chapter 20 for
17 moneys in various funds, is amended to eliminate a reference
18 to the transfer from the Iowa economic emergency fund to the
19 general fund of the state.
20 The division amends Code section 8.57E to allow transfers
21 by the general assembly from the taxpayers trust fund for tax
22 relief in addition to appropriations which are already allowed
23 under Iowa law.
24 The division takes effect upon enactment and applies
25 retroactively to July 1, 2012, to moneys attributed to fiscal
26 years beginning on or after July 1, 2012.
27 Division II of the bill creates an Iowa taxpayers trust fund
28 tax credit and provides for a transfer from the taxpayers trust
29 fund for purposes of the credit.
30 The division provides for an Iowa taxpayers trust fund
31 tax credit for eligible individuals. "Eligible individual"
32 is defined, with respect to a tax year, as an individual who
33 timely files an Iowa individual income tax return. An eligible
34 individual does not include an estate or trust. The credit
35 is allowed to eligible individuals for the tax year beginning

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1 January 1 immediately preceding July 1 of any fiscal year in
2 which a transfer is made from the taxpayers trust fund to
3 the Iowa taxpayers trust fund tax credit fund created in the
4 division. When such a transfer is made, a credit will be
5 allowed in an amount equal to the amount transferred divided by
6 the number of eligible individuals for the tax year immediately
7 preceding the tax year for which the credit is allowed, rounded
8 down to the nearest whole dollar.
9 The credit may be claimed against any individual income
10 tax liability remaining after subtracting all refundable and
11 nonrefundable credits except the credits for withheld tax and
12 estimated tax paid in Code section 422.16. The credit is
13 nonrefundable and shall not be credited to the tax liability
14 for any following year or carried back to a tax year prior to
15 the tax year in which the taxpayer claims the credit.
16 The division creates an Iowa taxpayers trust fund tax
17 credit fund within the state treasury under the control of the
18 department of revenue. The division requires that whenever
19 a transfer is made into the fund, the Iowa taxpayers trust
20 fund tax credit is allowed and the department of revenue shall
21 reimburse the general fund of the state an amount equal to the
22 lesser of the balance of the fund or an amount of money equal
23 to the Iowa taxpayers trust fund tax credits claimed for the
24 applicable tax year. The transfer from the Iowa taxpayers
25 trust fund tax credit fund to the general fund of the state
26 is required to be made no later than December 31 in the year
27 following the tax year in which an Iowa taxpayers trust fund
28 tax credit is allowed. Any moneys remaining in the fund after
29 the transfer will immediately revert back to the taxpayers
30 trust fund.
31 The division provides for a transfer from the taxpayers
32 trust fund to the Iowa taxpayers trust fund tax credit fund
33 during the fiscal year beginning July 1, 2013. The amount
34 transferred shall be the ending balance of the taxpayers trust
35 fund at the close of the fiscal year beginning July 1, 2012,

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and ending June 30, 2013. The division provides that this transfer will result in a taxpayers trust fund tax credit being allowed to eligible individuals for the 2013 tax year.

Finally, the division excludes the Iowa taxpayers trust fund tax credit from the definition of "state individual income tax" for purposes of computing the emergency medical services income surtax in Code chapter 422D, the instructional support income surtax in Code section 257.21, and, by reference, the educational improvement income surtax in Code section 257.29 and the physical plant and equipment income surtax in Code section 298.2.

The division takes effect upon enactment and applies retroactively to January 1, 2013, for tax years beginning on or after that date.

Senate File 87 - Introduced

SENATE FILE 87
BY DANIELSON

A BILL FOR

1 An Act relating to the authorized use of revenues from
2 the physical plant and equipment levy and including
3 applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1720XS (2) 85
md/sc

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Section 1. Section 298.3, subsection 1, paragraph i, Code 2013, is amended to read as follows:

i. ~~Purchase~~ The purchase of transportation equipment for transporting students and the repair of such transportation equipment. For the purposes of this paragraph, *"repair"* means restoring an existing item of equipment to its original condition, as near as may be, after decay, waste, injury, or partial destruction, and includes maintenance of an item of equipment.

Sec. 2. APPLICABILITY. This Act applies to school budget years beginning on or after July 1, 2014.

EXPLANATION

Current Code section 298.3 authorizes revenues from the regular and voter-approved physical plant and equipment levies to be used for the purchase of transportation equipment for transporting students. This bill authorizes a school district to use revenues from such levies for the repair of transportation equipment for transporting students. The bill defines "repair".

The bill applies to budget years beginning on or after July 1, 2014.

Senate File 88 - Introduced

SENATE FILE 88
BY BOLKCOM, DOTZLER, DVORSKY, RAGAN, DANIELSON, SENG, BRASE, HATCH, TAYLOR, HORN, DEARDEN, WILHELM, GRONSTAL, JOCHUM, McCOY, BEALL, BOWMAN, MATHIS, SODDERS, PETERSEN, SCHOENJAHN, BLACK, and QUIRMBACH

A BILL FOR

1 An Act relating to the amount of the earned income tax credit
2 and including retroactive applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1123XS (2) 85
mm/sc

S.F. 88

1 Section 1. Section 422.12B, subsection 1, Code 2013, is
2 amended to read as follows:
3 1. The taxes imposed under this division less the credits
4 allowed under section 422.12 shall be reduced by an earned
5 income credit equal to ~~seven~~ twenty percent of the federal
6 earned income credit provided in section 32 of the Internal
7 Revenue Code. Any credit in excess of the tax liability is
8 refundable.
9 Sec. 2. RETROACTIVE APPLICABILITY. This Act applies
10 retroactively to January 1, 2013, for tax years beginning on
11 or after that date.
12 EXPLANATION
13 This bill increases the amount of the state earned income
14 tax credit. Currently, the credit is equal to 7 percent of the
15 amount of a taxpayer's federal earned income tax credit. The
16 bill increases the amount of the credit to 20 percent.
17 The bill applies retroactively to January 1, 2013, for tax
18 years beginning on or after that date.

Senate File 89 - Introduced

SENATE FILE 89
BY ANDERSON

A BILL FOR

1 An Act relating to activities conducted by local emergency
2 management commissions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1624XS (1) 85
tm/sc

S.F. 89

Section 1. Section 29C.9, subsection 2, Code 2013, is amended to read as follows:

2. The commission shall be composed of a member of the board of supervisors, the sheriff, and the mayor from each city within the county. A commission member may designate an alternate to represent the designated entity. ~~For any activity relating to section 29C.17, subsection 2, or chapter 24, participation shall only be by a commission member or a designated alternate that is an elected official from the same designated entity.~~

EXPLANATION

This bill relates to activities conducted by local emergency management commissions.

Currently, activities involving budgeting for local emergency management commissions can only be conducted by commission members or designated alternate members that are elected officials. The bill eliminates the requirement. As a result, a designated alternate member that is not an elected official could participate in commission activities that relate to budgeting.

Senate Study Bill 1077 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON McCOY)

A BILL FOR

1 An Act requiring notice of a change of beneficiary under an
2 individual policy of accident and sickness insurance and
3 including applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1385XC (2) 85
av/nh

S.F. _____

1 Section 1. Section 514A.3, subsection 1, paragraph 1, Code
2 2013, is amended to read as follows:
3 *1.* A provision as follows:
4 *Change of beneficiary:* Unless the insured makes an
5 irrevocable designation of beneficiary, the right to change
6 of beneficiary is reserved to the insured and the consent of
7 the beneficiary or beneficiaries shall not be requisite to
8 surrender or assignment of this policy or to any change of
9 beneficiary or beneficiaries, or to any other changes in this
10 policy. However, if a change of beneficiary is made, including
11 but not limited to termination of coverage of a dependent
12 or a former dependent, the insurer shall provide written
13 notification of the change to all beneficiaries of the policy
14 at least sixty days prior to the effective date of the change
15 of beneficiary. The notice shall specifically include an
16 explanation of the rights of a beneficiary under such coverage
17 to elect a continuation of the coverage, if the individual so
18 elects, immediately upon termination of the coverage under
19 which the individual was covered as a beneficiary.
20 (The first clause of this provision, relating to the
21 irrevocable designation of beneficiary, may be omitted at the
22 insurer's option.)
23 Sec. 2. APPLICABILITY. This Act applies to individual
24 policies of accident and sickness insurance delivered, issued
25 for delivery, continued, or renewed in this state on or after
26 January 1, 2014.
27 EXPLANATION
28 This bill requires that an individual policy of accident
29 and sickness insurance must include a provision requiring that
30 if a change of beneficiary is made, the insurer shall provide
31 written notification of the change to all beneficiaries of the
32 policy, including but not limited to termination of coverage
33 of a dependent or former dependent, at least 60 days prior to
34 the effective date of the change. The notice must specifically
35 include an explanation of the rights of a beneficiary under

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1 such coverage to elect a continuation of the coverage, if
2 the individual so elects, immediately upon termination of
3 the coverage. The bill applies to individual policies of
4 accident and sickness insurance delivered, issued for delivery,
5 continued, or renewed in this state on or after January 1,
6 2014.

Senate Study Bill 1078 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON McCOY)

A BILL FOR

1 An Act relating to insurance coverage for dental care services.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1343XC (2) 85
av/nh

S.F. _____

1 Section 1. NEW SECTION. **514C.3C Dental coverage —**
2 **assignment of health insurance benefits.**
3 A person who is the owner of any rights or benefits under a
4 policy or contract of insurance which provides for coverage of
5 dental care services shall be permitted to assign all or any
6 part of that person's rights and privileges under the policy or
7 contract, including but not limited to the right to designate
8 a beneficiary and to have an individual policy or contract
9 issued in accordance with the terms of the policy or contract.
10 Such assignment shall be without prejudice to the insurer on
11 account of any payment the insurer makes or individual policy
12 or contract the insurer issues before receiving notice of the
13 assignment, provided that the insurer was acting in good faith.
14 If written proof of an assignment of benefits is presented to
15 an insurer, health maintenance organization, managed care plan,
16 health care plan, preferred provider organization, or other
17 third-party payor, then payment shall be made directly to the
18 health care professional or health care facility providing the
19 dental services. Nothing in this section shall be construed to
20 prevent any persons from reconciling duplicate payments.
21 Sec. 2. NEW SECTION. **514C.3D Uniform coordination of**
22 **benefits.**
23 A policy or contract of insurance which provides for
24 coverage of dental care services shall provide for coordination
25 of benefits in a manner so that the policy or contract pays the
26 same amount for the dental care services provided regardless
27 of the existence of other coverage for the dental care
28 services, so long as the total amount paid does not exceed one
29 hundred percent of the amount of the applicable claim. Such
30 coordination of benefits shall be effected consistent with
31 rules adopted by the commissioner of insurance under chapter
32 17A, based upon similar model rules developed by the national
33 association of insurance commissioners.
34 Sec. 3. NEW SECTION. **514C.3E Freedom of choice of dentists**
35 **in dental plans.**

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1 1. A dental plan which is delivered, renewed, issued for
2 delivery, or otherwise contracted for in this state on or after
3 July 1, 2013, shall not do either of the following:
4 *a.* Prevent any person who is a party to or a beneficiary
5 of such dental plan from selecting the dentist of the person's
6 choice to furnish the dental care services offered by the
7 dental plan, or interfere with such selection.
8 *b.* Deny any dentist the right to participate as a
9 contracting provider for the dental plan.
10 2. The payment or reimbursement for a noncontracting
11 provider by a dental plan shall be the same as or greater
12 than the payment or reimbursement for a contracting provider.
13 However, a dental plan is not required to make a payment or
14 reimbursement in an amount that is greater than the amount
15 specified in the dental plan or that is greater than the fee
16 charged by the dentist for the dental care services rendered.
17 3. Any provision in a dental plan which is delivered,
18 renewed, issued for delivery, or otherwise contracted for in
19 this state on or after July 1, 2013, which is contrary to this
20 section is, to the extent of the conflict, void.
21 4. For the purposes of this section:
22 *a.* *"Contracting provider"* means, with respect to any dental
23 plan, a dentist who has entered into a contract with the dental
24 plan for the provision of dental care services to covered
25 individuals under the dental plan.
26 *b.* *"Dental care services"* means any services furnished to a
27 person for the purpose of preventing, alleviating, curing, or
28 healing human dental abnormalities, accidents, or diseases.
29 *c.* *"Dental plan"* means any policy or contract of insurance
30 which provides for coverage of dental care services not in
31 connection with a medical plan that provides for the coverage
32 of medical services.
33 *d.* *"Dentist"* means any person who furnishes dental care
34 services and who is licensed as a dentist pursuant to chapter
35 153.

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1 *e. "Noncontracting provider"* means, with respect to any
2 dental plan, a dentist who has not entered into a contract with
3 the dental plan for the provision of dental care services to
4 covered individuals under the dental plan.
5 Sec. 4. Section 514J.103, subsection 1, Code 2013, is
6 amended to read as follows:
7 1. Except as provided in subsection 2, this chapter shall
8 apply to all health carriers, including health carriers issuing
9 a policy or certificate that provides coverage for dental care.
10 Sec. 5. Section 514J.103, subsection 2, paragraph a, Code
11 2013, is amended to read as follows:
12 *a.* A policy or certificate that provides coverage only for a
13 specified disease, specified accident or accident-only, credit,
14 disability income, hospital indemnity, long-term care, ~~dental~~
15 ~~care,~~ vision care, or any other limited supplemental benefit.
16 EXPLANATION
17 This bill relates to insurance coverage for dental care
18 services.
19 New Code section 514C.3C provides that a person who owns
20 rights or benefits under a policy or contract of insurance
21 which provides for coverage of dental care services must be
22 allowed to assign any or part of that person's rights and
23 privileges under the policy or contract, including the right
24 to designate a beneficiary and to have an individual policy or
25 contract issued. The assignment is without prejudice to an
26 insurer that makes a payment in good faith under the policy
27 or contract before receiving notice of the assignment. If
28 written proof of the assignment of benefits is presented to an
29 insurer, health maintenance organization, managed care plan,
30 health care plan, preferred provider organization, or other
31 third-party payor, the payment for coverage of dental care
32 services shall be made directly to the health care provider
33 providing the services. The section shall not be construed to
34 prevent reconciliation of duplicate payments.
35 New Code section 514C.3D provides that a policy or contract

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1 of insurance which provides for coverage of dental care
2 services shall provide for coordination of benefits in a
3 manner so that the policy or contract pays the same amount
4 for the dental care services provided regardless of whether
5 there is other coverage for the services, so long as the total
6 amount paid does not exceed 100 percent of the amount of the
7 claim. The commissioner of insurance shall adopt rules to
8 provide for such coordination of benefits, based on similar
9 model rules developed by the national association of insurance
10 commissioners.
11 New Code section 514C.3E provides that a policy or contract
12 of insurance which provides for coverage of dental care
13 services not in connection with a medical plan that covers
14 medical services, shall not prevent a party or beneficiary
15 of the dental plan from selecting a dentist of the person's
16 choice to furnish dental care services provided by the plan
17 or deny any dentist the right to participate as a contracting
18 dentist for the dental plan. The payment or reimbursement for
19 a noncontracting dentist by a dental plan must be the same or
20 greater than the payment or reimbursement for a contracting
21 dentist. However, a dental plan is not required to make a
22 payment or reimbursement in an amount greater than the amount
23 specified in the plan or that is greater than the fee charged
24 by the dentist. A provision in a dental plan that is contrary
25 to the new Code section is void. New Code section 514C.3E is
26 applicable to a dental plan that is delivered, renewed, issued
27 for delivery, or otherwise contracted for in this state on or
28 after July 1, 2013.
29 Code section 514J.103 is amended to provide that decisions
30 of health carriers issuing a policy or certificate that
31 provides coverage for dental care are subject to the external
32 review provisions of Code chapter 514J, and the chapter is also
33 applicable to a policy or certificate that provides coverage
34 only for dental care.

Senate Study Bill 1079 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF COMMERCE/INSURANCE DIVISION BILL)

A BILL FOR

1 An Act relating to a risk management framework for insurers and
2 insurance groups and including penalty and applicability
3 provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1269DP (7) 85
av/nh

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1 Section 1. NEW SECTION. **522.1 Purpose and scope —**
2 **legislative intent.**
3 1. The purpose of this chapter is to require insurers
4 to maintain a risk management framework and complete an own
5 risk and solvency assessment and to provide guidance and
6 instructions for the filing of own risk and solvency assessment
7 reports with the commissioner.
8 2. The general assembly finds and declares that own risk and
9 solvency assessment summary reports will contain confidential
10 and sensitive information related to an insurer's or insurance
11 group's identification of risks material and relevant to the
12 insurer or insurance group filing the report. This information
13 will include proprietary and trade secret information that has
14 the potential for harm and competitive disadvantage to the
15 insurer or insurance group if the information is made public.
16 It is the intent of the general assembly that own risk and
17 solvency assessment summary reports filed with the commissioner
18 are confidential documents, shall be shared only as provided in
19 this chapter and to assist the commissioner in the performance
20 of the commissioner's duties, and shall not be subject to
21 public disclosure.
22 Sec. 2. NEW SECTION. **522.2 Definitions.**
23 1. *"Affiliate"*, or a person affiliated with a specific
24 person, means the same as defined in section 521A.1.
25 2. *"Commissioner"* means the Iowa commissioner of insurance.
26 3. *"Insurance group"* means the insurers and affiliates
27 included within an insurance holding company system as defined
28 in section 521A.1.
29 4. *"Insurer"* means the same as defined in section 521A.1.
30 5. *"Own risk and solvency assessment"* or *"assessment"* means
31 a confidential internal assessment, appropriate to the nature,
32 scale, and complexity of an insurer or insurance group, that is
33 conducted by that insurer or insurance group, of the material
34 and relevant risks associated with the insurer or insurance
35 group's current business plan, and the sufficiency of capital

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1 resources to support those risks.
2 6. *"Own risk and solvency assessment guidance manual"* or
3 *"guidance manual"* means the current version of the own risk
4 and solvency assessment guidance manual developed and adopted
5 by the national association of insurance commissioners and
6 amended from time to time. A change in the guidance manual is
7 effective and applicable to this chapter on January 1 following
8 the calendar year in which the change was adopted by the
9 national association of insurance commissioners.
10 7. *"Own risk and solvency assessment summary report"* or
11 *"summary report"* means a confidential high-level summary of the
12 own risk and solvency assessment conducted by an insurer or
13 insurance group.
14 8. *"Supervisory college"* means a temporary or permanent
15 forum for communication and cooperation between regulators
16 charged with supervision of an insurer or its affiliates.
17 Sec. 3. NEW SECTION. **522.3 Risk management framework.**
18 An insurer shall maintain a risk management framework to
19 assist the insurer with identifying, assessing, monitoring,
20 managing, and reporting on the insurer's material and relevant
21 risks. This requirement is satisfied if the insurance group
22 of which the insurer is a member maintains a risk management
23 framework applicable to the operations of the insurer.
24 Sec. 4. NEW SECTION. **522.4 Own risk and solvency assessment**
25 **requirement.**
26 1. Subject to section 522.6, an insurer, or the insurance
27 group of which the insurer is a member, shall regularly conduct
28 an own risk and solvency assessment consistent and comparable
29 with the assessment process contained in the own risk and
30 solvency assessment guidance manual.
31 2. An own risk and solvency assessment shall be conducted at
32 least annually, but an assessment shall also be conducted at
33 any time when there are significant changes to the risk profile
34 of an insurer or the insurance group of which the insurer is a
35 member.

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1 Sec. 5. NEW SECTION. **522.5 Own risk and solvency assessment**
2 **summary report.**
3 1. *a.* Beginning in 2015, an insurer shall annually submit
4 to the commissioner an own risk and solvency assessment summary
5 report or any combination of reports that together contain the
6 information described in the own risk and solvency assessment
7 guidance manual that is applicable to the insurer or the
8 insurance group of which the insurer is a member.
9 *b.* If the insurer is a member of an insurance group, the
10 insurer shall submit the report or reports required by this
11 section to the state commissioner that is the lead state
12 commissioner of the insurance group of which the insurer is
13 a member, as determined by the procedures contained in the
14 financial analysis handbook adopted by the national association
15 of insurance commissioners.
16 *c.* The own risk and solvency assessment summary report shall
17 be filed after the insurer or the insurance group of which the
18 insurer is a member conducts the insurer's or insurance group's
19 strategic planning process. The insurer or insurance group
20 shall notify the commissioner as to the date that the summary
21 report will be filed.
22 2. The own risk and solvency assessment summary report shall
23 include the signature of the insurer's or insurance group's
24 chief risk officer or another executive having responsibility
25 for the oversight of the insurer's enterprise risk management
26 process, attesting that to the best of that person's belief and
27 knowledge the insurer applies the enterprise risk management
28 process described in the summary report and that a copy of the
29 summary report has been provided to the insurer's or insurance
30 group's board of directors or the appropriate committee of that
31 board.
32 3. An insurer may comply with subsection 1 by submitting
33 the most recent and substantially similar report provided by
34 the insurer or another member of the insurance group of which
35 the insurer is a member to the commissioner of insurance of

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1 another state or to a supervisor or regulator of a foreign
2 jurisdiction, if that report provides information that is
3 comparable to the information described in the own risk and
4 solvency assessment guidance manual. Any such report that is
5 submitted in a language other than English must be accompanied
6 by a translation of that report into the English language.
7 Sec. 6. NEW SECTION. **522.6 Exemption.**
8 1. An insurer is exempt from the requirements of this
9 chapter if both of the following apply:
10 *a.* The insurer has annual direct written and unaffiliated
11 assumed premium, including international direct and assumed
12 premium, but excluding premiums reinsured with the federal crop
13 insurance corporation and the federal flood program, of less
14 than five hundred million dollars.
15 *b.* The insurance group of which the insurer is a member
16 has annual direct written and unaffiliated assumed premium,
17 including international direct and assumed premium, but
18 excluding premiums reinsured with the federal crop insurance
19 corporation and the federal flood program, of less than one
20 billion dollars.
21 2. If an insurer qualifies for exemption from the
22 requirements of this chapter pursuant to paragraph *"a"* of
23 subsection 1, but the insurance group of which the insurer
24 is a member does not qualify for exemption pursuant to
25 paragraph *"b"* of subsection 1, then the own risk and solvency
26 assessment summary report that is required pursuant to section
27 521H.5 shall include information concerning every insurer
28 in the insurance group. This requirement may be satisfied
29 by the submission of more than one summary report for any
30 combination of insurers in the insurance group provided that
31 the combination of reports submitted includes every insurer in
32 the insurance group.
33 3. If an insurer does not qualify for exemption pursuant
34 to paragraph *"a"* of subsection 1, but the insurance group of
35 which the insurer is a member qualifies for exemption pursuant

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1 to paragraph "*b*" of subsection 1, then the only own risk and
2 solvency assessment summary report that is required pursuant to
3 section 522.5 is the report applicable to that insurer.
4 4. An insurer that does not qualify for exemption pursuant
5 to subsection 1 may apply to the commissioner for a waiver
6 from the requirements of this chapter based upon unique
7 circumstances. In deciding whether to grant the insurer's
8 request for a waiver, the commissioner may consider the type
9 and volume of business written, ownership and organizational
10 structure, and any other factors the commissioner considers
11 relevant to the insurer or the insurance group of which the
12 insurer is a member. If the insurer is part of an insurance
13 group with insurers domiciled in more than one state, the
14 commissioner shall coordinate with the state commissioner
15 that is the lead state commissioner of the insurance group,
16 as determined pursuant to section 522.5, and with the other
17 domiciliary commissioners in considering whether to grant the
18 insurer's request for a waiver.
19 5. Notwithstanding the exemptions provided in this section,
20 the commissioner may do the following:
21 *a.* Require that an insurer maintain a risk management
22 framework, conduct an own risk and solvency assessment, and
23 file an own risk and solvency assessment summary report based
24 on unique circumstances including but not limited to the type
25 and volume of business written, ownership and organizational
26 structure, federal agency requests, and international
27 supervisor requests.
28 *b.* Require that an insurer maintain a risk management
29 framework, conduct an own risk and solvency assessment,
30 and file an own risk and solvency assessment summary report
31 if the insurer has a risk-based capital level that is a
32 company-action-level event as set forth in section 521E.3 for
33 insurers and section 521F.4 for health organizations or that
34 would cause the insurer to be in hazardous financial condition
35 as set forth in 191 IAC 110, or if the insurer otherwise

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1 exhibits qualities of a troubled insurer as determined by the
2 commissioner.
3 6. If an insurer that qualifies for an exemption pursuant
4 to subsection 1 subsequently no longer qualifies for that
5 exemption due to changes in premium as reflected in the
6 insurer's most recent annual statement or in the most recent
7 annual statements of the other insurers in the insurance group
8 of which the insurer is a member, the insurer shall have one
9 year following the year the threshold is exceeded to comply
10 with the requirements of this chapter.
11 Sec. 7. NEW SECTION. **522.7 Contents of own risk and**
12 **solvency assessment summary report.**
13 1. The own risk and solvency assessment summary report
14 shall be prepared consistent with the own risk and solvency
15 assessment guidance manual, subject to the requirements of
16 subsection 2. Documentation and supporting information shall
17 be maintained and made available upon examination of an insurer
18 or upon request of the commissioner.
19 2. The review of an own risk and solvency assessment summary
20 report, and any additional requests for information, shall
21 be made using procedures similar to the procedures currently
22 used in the analysis and examination of multistate or global
23 insurers and insurance groups.
24 Sec. 8. NEW SECTION. **522.8 Confidentiality.**
25 1. Documents, materials, or other information, including
26 an own risk and solvency assessment summary report, in
27 the possession or control of the insurance division of the
28 department of commerce, that are obtained by, created by,
29 or disclosed to the commissioner or to any other person
30 pursuant to this chapter, are recognized in this state as being
31 proprietary and containing trade secrets. All such documents,
32 materials, or other information, including the summary report,
33 shall be confidential and privileged, shall not be subject to
34 chapter 22, shall not be subject to subpoena, and shall not be
35 subject to discovery or admissible in evidence in any private

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1 civil action. However, the commissioner is authorized to use
2 such documents, materials, or other information, including the
3 summary report, in the furtherance of any regulatory or legal
4 action brought as a part of the commissioner's official duties.
5 The commissioner shall not otherwise make the documents,
6 materials, or other information, including the summary report,
7 public without the prior written consent of the insurer that
8 provided the documents, materials, or other information,
9 including the summary report.
10 2. The commissioner or any person who received documents,
11 materials, or other information related to own risk and
12 solvency assessments, through examination or otherwise, while
13 acting under the authority of the commissioner or with whom
14 such documents, materials, or other information are shared
15 pursuant to this chapter, shall not be permitted or required to
16 testify in any private civil action concerning any confidential
17 documents, materials, or information, including summary
18 reports, subject to subsection 1.
19 3. In order to assist in the performance of the
20 commissioner's regulatory duties, the commissioner may do any
21 of the following:
22 *a.* Upon request, share documents, materials, or other own
23 risk and solvency assessment-related information, including
24 the confidential and privileged documents, materials, or
25 information subject to subsection 1, and including proprietary
26 and trade secret documents, materials, or information, with
27 other state, federal, or international financial regulatory
28 agencies, including members of any supervisory college, with
29 the national association of insurance commissioners, and with
30 any third-party consultants designated by the commissioner,
31 provided that the recipient agrees in writing to maintain
32 the confidentiality and privileged status of the documents,
33 materials, or other assessment-related information and verifies
34 in writing the legal authority to maintain such confidentiality
35 and privilege.

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1 *b.* Receive documents, materials, or other own risk
2 and solvency assessment-related information, including
3 otherwise confidential and privileged documents, materials,
4 or information, and proprietary and trade secret documents,
5 materials, and information, from regulatory officials of other
6 foreign or domestic jurisdictions, including members of any
7 supervisory college, and from the national association of
8 insurance commissioners, and shall maintain as confidential or
9 privileged any documents, materials, or information received
10 with notice or the understanding that the documents, materials,
11 or other information received are confidential and privileged
12 under the laws of the jurisdiction that is the source of the
13 documents, materials, or information.
14 4. In order to assist in the performance of the
15 commissioner's regulatory duties, the commissioner shall enter
16 into a written agreement with the national association of
17 insurance commissioners or with a third-party consultant that
18 is consistent with subsection 3, governing the sharing and use
19 of information provided pursuant to this chapter, and that does
20 all of the following:
21 *a.* Specifies procedures and protocols regarding the
22 confidentiality and security of information shared with the
23 national association of insurance commissioners or with a
24 third-party consultant pursuant to this chapter, including
25 procedures and protocols of the national association of
26 insurance commissioners for sharing information with other
27 state regulators from states in which an insurance group has
28 domiciled insurers. The agreement shall require that the
29 recipient of such information must agree in writing to maintain
30 the confidentiality and privileged status of the own risk and
31 solvency assessment-related documents, materials, or other
32 information and verify in writing the legal authority to
33 maintain confidentiality and privilege.
34 *b.* Specifies that ownership of information shared with
35 the national association of insurance commissioners or with

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1 a third-party consultant pursuant to this chapter remains
2 with the commissioner and that use of the information by
3 the national association of insurance commissioners or by a
4 third-party consultant is subject to the direction of the
5 commissioner.
6 *c.* Prohibits the national association of insurance
7 commissioners or a third-party consultant from storing the
8 information shared pursuant to this chapter in a permanent
9 database after the underlying analysis is completed.
10 *d.* Requires that prompt notice be given to an insurer whose
11 confidential information is in the possession of the national
12 association of insurance commissioners or a third-party
13 consultant pursuant to this chapter, that the information is
14 subject to a request or subpoena to the national association
15 of insurance commissioners or the third-party consultant for
16 disclosure or production.
17 *e.* Requires the national association of insurance
18 commissioners or a third-party consultant to consent to
19 intervention by an insurer in any judicial or administrative
20 action in which the national association of insurance
21 commissioners or the third-party consultant may be required
22 to disclose confidential information about the insurer that
23 was shared with the association or consultant pursuant to this
24 chapter.
25 *f.* In the case of an agreement involving a third-party
26 consultant, provides for the insurer's written consent to the
27 agreement.
28 5. The sharing of documents, materials, or information by
29 the commissioner pursuant to this chapter shall not constitute
30 a delegation of regulatory authority or rulemaking, and the
31 commissioner is solely responsible for the administration,
32 execution, and enforcement of the provisions of this chapter.
33 6. No waiver of any applicable privilege or claim of
34 confidentiality in the documents, proprietary and trade secret
35 materials, or other own risk and solvency assessment-related

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1 information shall occur as a result of the disclosure of such
2 documents, materials, or information to the commissioner under
3 this section or as a result of the sharing of those documents,
4 materials, or information as authorized in this chapter.
5 7. Documents, materials, or other information in the
6 possession or control of the national association of insurance
7 commissioners or a third-party consultant pursuant to this
8 chapter shall be confidential and privileged, shall not be
9 subject to chapter 22, shall not be subject to subpoena, and
10 shall not be subject to discovery or admissible in evidence in
11 any private civil action.
12 Sec. 9. NEW SECTION. **522.9 Penalties.**
13 1. If an insurer fails, without just cause, to file an
14 own risk and solvency assessment summary report by the filing
15 date stipulated to the commissioner pursuant to section 522.5,
16 subsection 1, the commissioner shall, after notice and hearing,
17 impose a penalty of five hundred dollars for each day after
18 the stipulated date that the summary report is not filed. The
19 penalties shall be collected by the commissioner and deposited
20 in the general fund of the state. The maximum penalty which
21 may be imposed under this section is fifty thousand dollars.
22 2. The commissioner may reduce the penalty to be imposed if
23 the insurer demonstrates to the commissioner that imposition
24 of the penalty would constitute a financial hardship to the
25 insurer.
26 Sec. 10. NEW SECTION. **522.10 Severability.**
27 If any provision of this chapter, or the application of this
28 chapter to any person or circumstance, is held invalid, such
29 holding shall not affect the provisions or applications of this
30 chapter which can be given effect without the invalid provision
31 or application, and to that end the provisions of this chapter
32 are severable.
33 Sec. 11. APPLICABILITY DATE. The provisions of this Act are
34 applicable beginning on January 1, 2015.
35 EXPLANATION

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1 This bill creates new Code chapter 522, which requires
2 certain insurers domiciled in the state to maintain a risk
3 management framework, complete an own risk and solvency
4 assessment, and file a summary report of the assessment with
5 the commissioner of insurance. Generally, the Code chapter
6 applies to insurers with annual premium of $500 million or
7 more and to insurance groups of which domiciled insurers are
8 members, with annual premium of $1 billion or more.
9 The bill requires an insurer or the insurance group of
10 which the insurer is a member, to regularly conduct an own
11 risk and solvency assessment consistent and comparable
12 with the assessment process contained in the own risk and
13 solvency assessment guidance manual developed and adopted by
14 the national association of insurance commissioners. The
15 assessment must be conducted at least annually and also at any
16 time there are significant changes to the risk profile of an
17 insurer or insurance group.
18 Beginning in 2015, an insurer is required to submit an
19 annual own risk and solvency assessment summary report to the
20 commissioner that contains the information described in the
21 guidance manual. The report shall be filed after the insurer
22 or insurance group of which the insurer is a member conducts
23 its strategic planning process. The insurer or insurance group
24 must notify the commissioner as to the date that the summary
25 report will be filed. The report must be attested to by the
26 insurer's or insurance group's chief risk officer or other
27 officer having responsibility for risk management and must be
28 written in English or accompanied by a translation written in
29 English.
30 An insurer is exempt from the new Code chapter's
31 requirements if the insurer has annual premium of less than
32 $500 million and the insurance group of which the insurer is
33 a member has annual premium of less than $1 billion. If an
34 insurer is exempt but the insurance group is not exempt, the
35 own risk and solvency assessment summary report must include

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1 information about every insurer in the insurance group. If
2 an insurer is not exempt but the insurance group of which the
3 insurer is a member is exempt, the assessment summary report
4 must only include that insurer.
5 An insurer that does not qualify for exemption may apply
6 to the commissioner for a waiver from the requirements, based
7 on unique circumstances. Even if an insurer is qualified
8 for exemption from the new Code chapter's requirements, the
9 commissioner may require the insurer to meet those requirements
10 based on the unique circumstances of the insurer or based on
11 the insurer's risk-based capital level or other reasons that
12 would cause the insurer to be in hazardous financial condition
13 or to exhibit qualities of a troubled insurer as determined by
14 the commissioner.
15 If an insurer that qualifies for an exemption subsequently
16 no longer qualifies due to changes in premium, the insurer has
17 one year following the increase in premium to comply with the
18 new Code chapter's requirements.
19 The own risk and solvency assessment summary report shall be
20 prepared consistent with the own risk and solvency assessment
21 guidance manual. Documentation and supporting information
22 shall be maintained and available when an insurer is examined
23 or at the request of the commissioner. The summary report
24 shall be reviewed using procedures similar to those currently
25 used in the analysis and examination of multistate or global
26 insurers and insurance groups.
27 Documents, materials, or other information, including own
28 risk and solvency assessment summary reports, in the possession
29 or control of the insurance division of the department of
30 commerce or any other person pursuant to the bill that are
31 obtained by, created by, or disclosed to the commissioner
32 or to any other person pursuant to the bill, are recognized
33 in this state as being proprietary and containing trade
34 secrets. Such documents, materials, or other information is
35 confidential, is not subject to Code chapter 22 (open records),

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1 shall not be subject to subpoena, and shall not be subject to
2 discovery or evidence in any private civil action. However,
3 the commissioner is authorized to use such information in the
4 furtherance of any regulatory or legal action brought as part
5 of the commissioner's official duties. The commissioner shall
6 not otherwise make such information public without the prior
7 written consent of the insurer. The commissioner or any other
8 person with access to information obtained pursuant to the bill
9 shall not be permitted or required to testify in any private
10 civil action concerning confidential information.
11 In performing regulatory duties, the commissioner may
12 share confidential and privileged information with specified
13 regulatory and other entities including certain third-party
14 consultants, and receive confidential and privileged
15 information from other specified regulatory and other entities.
16 In performing regulatory duties, the commissioner is
17 required to enter into a written agreement with the national
18 association of insurance commissioners or with a third-party
19 consultant that governs the sharing and use of information
20 provided pursuant to the bill. The agreement must specify
21 procedures and protocols for the confidentiality and security
22 of information shared and require that the recipient of such
23 information agree in writing to maintain the confidential and
24 privileged status of the information; specify that ownership of
25 shared information remains with the commissioner, who directs
26 its use; prohibit storage of the information in a permanent
27 database after analysis is complete; require prompt notice
28 to an insurer if the insurer's information is subject to a
29 request or subpoena for disclosure or production; require
30 that an insurer be allowed to intervene in any judicial or
31 administrative action in which the insurer's confidential
32 information may be disclosed; and provide for the insurer's
33 consent to retention of a third-party consultant.
34 The sharing of information pursuant to the bill does not
35 constitute a delegation of regulatory authority or rulemaking

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1 by the commissioner, or a waiver of any applicable privilege
2 or claim of confidentiality, and such shared information is
3 confidential and privileged, not subject to Code chapter 22,
4 not subject to subpoena, and not subject to discovery or
5 admissible in evidence in any private civil action.
6 If an insurer, without just cause, fails to file an own
7 risk and solvency assessment summary report by the filing date
8 stipulated to the commissioner pursuant to new Code section
9 521H.5, the commissioner, after notice and hearing, shall
10 impose a penalty of $500 for each day after that date that
11 the summary report is not filed, up to a maximum penalty of
12 $50,000. The penalties collected by the commissioner are to be
13 deposited in the general fund of the state. The commissioner
14 may reduce the penalty if the insurer demonstrates that
15 imposition of the penalty would constitute a financial hardship
16 to the insurer.
17 The provisions of the new Code chapter are severable in the
18 event that the application of the Code chapter to any person or
19 circumstance is held to be invalid.
20 New Code chapter 522 is applicable beginning on January 1,
21 2015.

Senate Study Bill 1080 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF COMMERCE/BANKING DIVISION BILL)

A BILL FOR

1 An Act relating to matters under the purview of the banking
2 division of the department of commerce, and providing for
3 fees.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1297DP (8) 85
rn/nh

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Section 1. Section 12C.7, subsection 1, Code 2013, is amended to read as follows:

1. A depository ~~shall not directly or indirectly~~ may pay interest to a public officer on ~~a demand deposit~~ deposits of public funds, and a public officer ~~shall not~~ may take or receive interest on ~~demand~~ deposits of public funds. ~~This provision does not apply to interest on time certificates of deposit or savings accounts for public funds.~~

Sec. 2. Section 524.904, subsection 5, paragraph b, subparagraph (1), Code 2013, is amended by striking the subparagraph.

Sec. 3. Section 533A.2, Code 2013, is amended by adding the following new subsections:

NEW SUBSECTION. 7. The superintendent may authorize applicants and licensees to be licensed through a nationwide licensing system and to pay the corresponding system processing fees. The superintendent may establish by rule or order new requirements as necessary, including but not limited to requirements that applicants, including officers and directors and those who have control of the applicant, submit to fingerprinting and criminal history checks.

NEW SUBSECTION. 8. For the purposes of this section and in order to reduce the points of contact which the federal bureau of investigation may be required to maintain for purposes of subsection 7, the superintendent may use the nationwide licensing system as a channeling agent for requesting information from and distributing information to the United States department of justice or other governmental agency, or to or from any other source so directed by the superintendent.

Sec. 4. Section 533A.4, Code 2013, is amended to read as follows:

533A.4 Expiration date.

The license issued under this chapter shall expire on ~~July 1 next~~ December 31 following its issuance unless sooner surrendered, revoked, or suspended, but may be renewed as

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1 provided in this chapter.
2 Sec. 5. Section 533A.5, subsection 1, Code 2013, is amended
3 to read as follows:
4 1. To continue in the business of debt management, each
5 licensee shall annually apply on or before ~~June~~ December
6 1 to the superintendent for renewal of its license. The
7 superintendent may assess a late fee of ten dollars per day for
8 applications submitted and accepted for processing after ~~June~~
9 December 1.
10 Sec. 6. Section 533A.10, Code 2013, is amended by adding the
11 following new subsection:
12 NEW SUBSECTION. 4. The superintendent may receive
13 documents, materials, or other information, including otherwise
14 confidential and privileged documents, materials, or other
15 information, through a nationwide licensing system and from
16 other local, state, federal, or international regulatory
17 agencies, the conference of state bank supervisors and
18 its affiliates and subsidiaries, the national association
19 of consumer credit administrators and its affiliates and
20 subsidiaries, and any other regulator association, and shall
21 maintain as confidential and privileged any such document,
22 material, or other information received with notice or the
23 understanding that it is confidential or privileged under the
24 laws of the jurisdiction that is the source of the document,
25 material, or other information.
26 Sec. 7. Section 533C.202, subsection 4, Code 2013, is
27 amended to read as follows:
28 4. A nonrefundable application fee of one thousand dollars
29 and a license fee must accompany an application for a license
30 under this article. The license fee must be refunded if the
31 application is denied. The license fee shall be the sum of
32 five hundred dollars plus an additional ten dollars for each
33 location in this state at which business is conducted through
34 authorized delegates or employees of the licensee, but shall
35 not exceed five thousand dollars. Fees for locations added

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1 after the initial application shall be submitted with the
2 quarterly reports pursuant to section 533C.503, subsection
3 2. If the licensee has no locations in this state at which
4 business is conducted through authorized delegates or
5 employees of the licensee, the license fee shall be set by the
6 superintendent, but shall not exceed five thousand dollars. A
7 license under this article expires on the next ~~September 30~~
8 December 31 after its issuance. The initial license fee is
9 considered an annual fee and the superintendent shall prorate
10 the license fee, refunding any amount due to a partial license
11 year. However, no refund of a license fee shall be made when a
12 license is suspended, revoked, or surrendered.
13 Sec. 8. Section 533C.202, Code 2013, is amended by adding
14 the following new subsections:
15 NEW SUBSECTION. 6. The superintendent may authorize
16 applicants and licensees to be licensed through a nationwide
17 licensing system and to pay the corresponding system processing
18 fees. The superintendent may establish by rule or order
19 new licensing requirements as necessary, including but not
20 limited to requirements that applicants, including officers and
21 directors and those who have control of the applicant, submit
22 to fingerprinting and criminal history checks.
23 NEW SUBSECTION. 7. For the purposes of this section and in
24 order to reduce the points of contact which the federal bureau
25 of investigation may be required to maintain for purposes
26 of subsection 6, the superintendent may use the nationwide
27 licensing system as a channeling agent for requesting
28 information from and distributing information to the United
29 States department of justice or other governmental agency, or
30 to or from any other source so directed by the superintendent.
31 Sec. 9. Section 533C.205, subsections 1 and 3, Code 2013,
32 are amended to read as follows:
33 1. A licensee under this article shall pay an annual
34 renewal fee as determined below by no later than ~~September~~
35 December 1 of the year of expiration. The renewal fee shall be

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1 five hundred dollars plus an additional ten dollars for each
2 location in this state at which business is conducted through
3 authorized delegates or employees of the licensee, but shall
4 not exceed five thousand dollars. Fees for locations added
5 after submission of the renewal application shall be submitted
6 with the quarterly reports pursuant to section 533C.503,
7 subsection 2. If the licensee has no locations in this state
8 at which business is conducted through authorized delegates
9 or employees of the licensee, the license fee shall be set
10 by the superintendent, but shall not exceed five thousand
11 dollars. ~~Licenses issued under chapter 533B, Code 2003, will~~
12 ~~be initially renewed as provided in section 533C.904.~~
13 3. If a licensee does not file a renewal report or pay its
14 renewal fee by ~~September~~ December 1, or any extension of time
15 granted by the superintendent, the superintendent may assess a
16 late fee of one hundred dollars per day.
17 Sec. 10. Section 533C.302, subsection 2, Code 2013, is
18 amended to read as follows:
19 2. A nonrefundable application fee of one thousand dollars
20 and the license fee must accompany an application for a license
21 under this article. The license fee shall be the sum of ~~five~~
22 two hundred fifty dollars plus an additional ~~one hundred~~ fifty
23 dollars for each location at which business is conducted, but
24 not to exceed ~~two~~ one thousand dollars. Fees for locations
25 added after the initial application shall be submitted with the
26 quarterly reports pursuant to section 533C.503, subsection 2.
27 The license fee must be refunded if the application is denied.
28 A license under this article expires on the next ~~September 30~~
29 ~~of an odd-ending year~~ December 31 after its issuance. The
30 initial license fee is considered ~~a biennial~~ an annual fee and
31 the superintendent shall prorate the license fee, refunding any
32 amount due to a partial license period. However, no refund
33 of a license fee shall be made when a license is suspended,
34 revoked, or surrendered.
35 Sec. 11. Section 533C.302, Code 2013, is amended by adding

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1 the following new subsections:
2 NEW SUBSECTION. 3. The superintendent may authorize
3 applicants and licensees to be licensed through a nationwide
4 licensing system and to pay the corresponding system processing
5 fees. The superintendent may establish by rule or order
6 new requirements as necessary, including but not limited to
7 requirements that applicants, including officers and directors
8 and those who have control of the applicant, submit to
9 fingerprinting and criminal history checks.
10 NEW SUBSECTION. 4. For the purposes of this section and in
11 order to reduce the points of contact which the federal bureau
12 of investigation may be required to maintain for purposes
13 of subsection 3, the superintendent may use the nationwide
14 licensing system as a channeling agent for requesting
15 information from and distributing information to the United
16 States department of justice or other governmental agency, or
17 to or from any other source so directed by the superintendent.
18 Sec. 12. Section 533C.304, subsections 1 and 3, Code 2013,
19 are amended to read as follows:
20 1. A licensee under this article shall pay ~~a biennial~~ an
21 annual renewal fee no later than ~~September~~ December 1 ~~of an~~
22 ~~odd-ending year~~. The ~~biennial~~ annual renewal fee shall be
23 the sum of ~~five~~ two hundred fifty dollars plus an additional
24 ~~one hundred~~ fifty dollars for each location at which business
25 is conducted, but shall not exceed ~~two~~ one thousand dollars.
26 Fees for locations added after the initial application shall
27 be submitted with the quarterly reports pursuant to section
28 533C.503, subsection 2.
29 3. If a licensee does not file a renewal report and pay
30 its renewal fee by ~~September~~ December 1 ~~of an odd-ending year~~,
31 or any extension of time granted by the superintendent, the
32 superintendent may assess a late fee of one hundred dollars per
33 day.
34 Sec. 13. Section 533C.507, Code 2013, is amended by adding
35 the following new subsection:

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1 NEW SUBSECTION. 7. The superintendent may receive
2 documents, materials, or other information, including otherwise
3 confidential and privileged documents, materials, or other
4 information, through a nationwide licensing system and from
5 other local, state, federal, or international regulatory
6 agencies, the conference of state bank supervisors and
7 its affiliates and subsidiaries, the national association
8 of consumer credit administrators and its affiliates and
9 subsidiaries, the money transmitter regulators association,
10 and any other regulator associations, and shall maintain as
11 confidential and privileged any such document, material, or
12 other information received with notice or the understanding
13 that it is confidential or privileged under the laws of the
14 jurisdiction that is the source of the document, material, or
15 other information.
16 Sec. 14. Section 533C.904, Code 2013, is amended by striking
17 the section and inserting in lieu thereof the following:
18 **533C.904 Applicability.**
19 This chapter applies to the provision of money services on or
20 after October 1, 2003.
21 Sec. 15. Section 533D.3, subsection 3, unnumbered paragraph
22 1, Code 2013, is amended to read as follows:
23 The application required by this section shall be submitted
24 with ~~both of~~ the following:
25 Sec. 16. Section 533D.3, subsection 6, Code 2013, is amended
26 to read as follows:
27 6. *a.* A license issued pursuant to this chapter shall
28 be conspicuously posted at the licensee's place of business.
29 A license shall remain in effect until the next succeeding
30 ~~May~~ January 1, unless earlier suspended or revoked by the
31 superintendent.
32 *b.* A license shall be renewed annually by filing with the
33 superintendent on or before ~~April~~ December 1 an application
34 for renewal containing such information as the superintendent
35 may require to indicate any material change in the information

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1 contained in the original application or succeeding renewal
2 applications and a renewal fee of two hundred fifty dollars.
3 *c.* The superintendent may assess a late fee of ten dollars
4 per day for applications submitted and accepted for processing
5 after ~~April~~ December 1.
6 Sec. 17. Section 533D.3, Code 2013, is amended by adding the
7 following new subsections:
8 NEW SUBSECTION. 7. The superintendent may authorize
9 applicants and licensees to be licensed through a nationwide
10 licensing system and to pay the corresponding system processing
11 fees. The superintendent may establish by rule or order
12 new requirements as necessary, including but not limited to
13 requirements that applicants, including officers and directors
14 and those who have control of the applicant, submit to
15 fingerprinting and criminal history checks.
16 NEW SUBSECTION. 8. For the purposes of this section and in
17 order to reduce the points of contact which the federal bureau
18 of investigation may be required to maintain for purposes
19 of subsection 7, the superintendent may use the nationwide
20 licensing system as a channeling agent for requesting
21 information from and distributing information to the United
22 States department of justice or other governmental agency, or
23 to or from any other source so directed by the superintendent.
24 Sec. 18. Section 533D.11, Code 2013, is amended by adding
25 the following new subsection:
26 NEW SUBSECTION. 6. The superintendent may receive
27 documents, materials, or other information, including otherwise
28 confidential and privileged documents, materials, or other
29 information, through a nationwide licensing system and from
30 other local, state, federal, or international regulatory
31 agencies, the conference of state bank supervisors and
32 its affiliates and subsidiaries, the national association
33 of consumer credit administrators and its affiliates and
34 subsidiaries, and any other regulator association, and shall
35 maintain as confidential and privileged any such document,

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1 material, or other information received with notice or the
2 understanding that it is confidential or privileged under the
3 laws of the jurisdiction that is the source of the document,
4 material, or other information.
5 Sec. 19. Section 535D.15, subsection 1, Code 2013, is
6 amended to read as follows:
7 1. Except as otherwise provided by this chapter, all papers,
8 documents, examination reports, and other writings relating to
9 the supervision of licensees are not public records and are not
10 subject to disclosure under chapter 22. Except as otherwise
11 provided in section 1512 of the federal Housing and Economic
12 Recovery Act of 2008, Pub. L. No. 110-289, the requirements
13 under any federal law or chapter 22 or 692 regarding the
14 privacy or confidentiality of any information or material
15 provided to the nationwide mortgage licensing system and
16 registry, and any privilege arising under federal or state law,
17 including the rules of any federal or state court, with respect
18 to such information or material, shall continue to apply to
19 such information or material after the information or material
20 has been disclosed to the nationwide mortgage licensing system
21 and registry. Such information and material may be shared
22 with any state or federal regulatory official with mortgage
23 industry oversight authority without the loss of privilege or
24 the loss of confidentiality protections provided by federal law
25 or chapter 22 or 692.
26 Sec. 20. Section 542B.14, subsection 1, paragraph a,
27 subparagraphs (2) and (4), Code 2013, are amended to read as
28 follows:
29 (2) Successfully passing ~~a written, oral, or written and~~
30 ~~oral~~ an examination in fundamental engineering subjects which
31 is designed to show the knowledge of general engineering
32 principles. A person passing the examination in fundamental
33 engineering subjects is entitled to a certificate as an
34 engineer intern.
35 (4) Successfully passing ~~a written, oral, or written and~~

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1 ~~oral~~ an examination designed to determine the proficiency and
2 qualifications to engage in the practice of engineering. No
3 applicant shall be entitled to take this examination until
4 the applicant shows the necessary practical experience in
5 engineering work.
6 Sec. 21. Section 542B.14, subsection 1, paragraph b,
7 subparagraphs (2) and (4), Code 2013, are amended to read as
8 follows:
9 (2) Successfully passing ~~a written, oral, or written and~~
10 ~~oral~~ an examination in fundamental land surveying subjects
11 which is designed to show the knowledge of general land
12 surveying principles.
13 (4) Successfully passing ~~a written, oral, or written and~~
14 ~~oral~~ an examination designed to determine the proficiency and
15 qualifications to engage in the practice of land surveying.
16 No applicant shall be entitled to take this examination until
17 the applicant shows the necessary practical experience in land
18 surveying work.
19 Sec. 22. Section 542B.15, Code 2013, is amended to read as
20 follows:
21 **542B.15 Examinations — report required.**
22 Examinations for licensure shall be given as often as deemed
23 necessary by the board, but no less than one time per year. The
24 scope of the examinations and the methods of procedure shall be
25 prescribed by the board. Any ~~written~~ examination may be given
26 by representatives of the board. ~~All examinations in theory~~
27 ~~shall be in writing and the~~ The identity of the person taking
28 the examination shall be concealed until after the examination
29 ~~papers have~~ has been graded. ~~For examinations in practice,~~
30 ~~the identity of the person taking the examination shall also~~
31 ~~be concealed as far as possible.~~ As soon as practicable after
32 the close of each examination, a report shall be filed in the
33 office of the secretary of the board by the board. The report
34 shall show the action of the board upon each application and
35 the secretary of the board shall notify each applicant of the

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1 result of the applicant's examination. Applicants who fail the
2 examination once shall be allowed to take the examination at
3 the next scheduled time. Thereafter, the applicant shall be
4 allowed to take the examination at the discretion of the board.
5 An applicant who has failed the examination may request in
6 writing information from the board concerning the applicant's
7 examination grade and subject areas or questions which the
8 applicant failed to answer correctly, except that if the board
9 administers a uniform, standardized examination, the board
10 shall only be required to provide the examination grade and
11 such other information concerning the applicant's examination
12 results which are available to the board.
13 Sec. 23. Section 543B.20, Code 2013, is amended to read as
14 follows:
15 **543B.20 ~~Written examination~~ Examination.**
16 Examinations for registration shall be given as often as
17 deemed necessary by the real estate commission, but no less
18 than one time per year. Each applicant for a license must
19 pass ~~a written~~ an examination authorized by the commission and
20 administered by the commission or persons designated by the
21 commission. The examination shall be of scope and wording
22 sufficient in the judgment of the commission to establish the
23 competency of the applicant to act as a real estate broker
24 or salesperson in a manner to protect the interests of the
25 public. An examination for a real estate broker shall be of a
26 more exacting nature than that for a real estate salesperson
27 and require higher standards of knowledge of real estate. ~~All~~
28 ~~examinations in real estate theory shall be in writing and the~~
29 The identity of the persons taking the examinations shall be
30 concealed until after the examination ~~papers have~~ has been
31 graded. ~~For examinations in practice, the identity of the~~
32 ~~persons taking the examinations shall also be concealed as~~
33 ~~far as possible.~~ A person who fails to pass either ~~written~~
34 examination once may immediately apply to take the next
35 available examination. Thereafter, the applicant may take the

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examination at the discretion of the commission. An applicant who has failed either examination may request in writing information from the commission concerning the applicant's examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the commission administers a uniform, standardized examination, the commission is only required to provide the examination grade and other information concerning the applicant's examination results which is available to the commission.

Sec. 24. Section 543D.4, Code 2013, is amended to read as follows:

543D.4 Iowa real estate appraiser board.

A real estate appraiser examining board is established within the professional licensing and regulation bureau of the banking division of the department of commerce. The board consists of seven members, two of whom shall be public members and five of whom shall be certified real estate appraisers.

1. The governor shall appoint the members of the board who are subject to confirmation by the senate. The governor may remove a member for cause.

~~2. Appointees shall possess or maintain at least those standards of ethics, education, and experience required by federal regulations.~~

~~3.~~ 2. ~~Each real estate appraiser member of the board appointed after January 1, 1992, must be a certified real estate appraiser.~~ A certified real estate appraiser member of the board shall be actively engaged in practice as a certified real estate appraiser and shall have been so engaged for five years preceding appointment, the last two of which shall have been in this state. The governor shall attempt to represent each class of certified appraisers in making the appointments.

~~4.~~ 3. The term of each member is three years~~; except that, of the members first appointed, two shall be appointed for two years and two shall be appointed for one year~~. Vacancies occurring during a term shall be filled by appointment by the

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1 governor for the unexpired term.
2 ~~5.~~ 4. Upon expiration of their terms, members of the
3 board shall continue to hold office until the appointment and
4 qualification of their successors. A person shall not serve
5 as a member of the board for more than ~~two consecutive~~ three
6 terms, but appointment to fill an unexpired term shall not be
7 considered a complete term for this purpose.
8 ~~6.~~ 5. The public members of the board shall not engage in
9 the practice of real estate appraising.
10 ~~7.~~ 6. The board shall meet at least once each calendar
11 quarter to conduct its business.
12 ~~8.~~ 7. The members of the board shall elect a chairperson
13 from among the members to preside at board meetings.
14 ~~9.~~ 8. A quorum of the board is four members. ~~At least~~
15 ~~three of the four members shall be appraiser members.~~
16 9. Members of the board are entitled to receive a per diem
17 as specified in section 7E.6 for each day spent in performance
18 of duties as members and shall be reimbursed for all actual
19 and necessary expenses incurred in the performance of duties
20 as members.
21 Sec. 25. Section 543D.5, Code 2013, is amended to read as
22 follows:
23 **543D.5 Powers of the board.**
24 1. The board shall adopt rules establishing uniform
25 appraisal standards and appraiser certification requirements
26 and other rules necessary to administer and enforce this
27 chapter and its responsibilities under chapter 272C. The
28 board shall consider and may incorporate any standards
29 required or recommended by the appraisal foundation~~,~~ or by a
30 ~~professional appraisal organization, or by a public authority~~
31 ~~or organization responsible to review appraisals or for~~
32 ~~the oversight of appraisers~~ federal agency with regulatory
33 authority over appraisal standards or the certification of
34 appraisers for federally related transactions.
35 2. The uniform appraisal standards shall meet all of the

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1 following requirements:
2 *a.* Require compliance with federal law and appraisal
3 standards adopted by federal authorities as they apply to
4 federally ~~covered~~ related transactions. This paragraph does
5 not require that an appraiser invoke a jurisdictional exception
6 to the uniform standards of professional appraisal practice
7 in order to comply with federal law and appraisal standards
8 adopted by federal authorities as they apply to federally
9 ~~covered~~ related transactions, unless federal law requires that
10 the exception be invoked.
11 *b.* Develop standards for the scope of practice for certified
12 real estate appraisers.
13 *c.* Required compliance with the uniform standards of
14 professional appraisal practice in all appraisal assignments.
15 3. Appraiser certification requirements shall require a
16 demonstration that the applicant has a working knowledge of
17 current appraisal theories, practices, and techniques which
18 will provide a high degree of service and protection to members
19 of the public dealt with in a professional relationship under
20 authority of the certification. The board shall establish the
21 examination specifications for each category of certified real
22 estate appraiser, provide or procure appropriate examinations,
23 establish procedures for grading examinations, receive and
24 approve or disapprove applications for certification, and issue
25 certificates.
26 4. The board shall maintain a registry of the names and
27 ~~addresses~~ certificate numbers of appraisers certified under
28 this chapter ~~and retain records and application materials~~
29 ~~submitted to the board~~ and the names and registration numbers
30 of associate appraisers registered under this chapter.
31 Sec. 26. Section 543D.8, unnumbered paragraph 1, Code 2013,
32 is amended to read as follows:
33 An original certification as a certified real estate
34 appraiser shall not be issued to a person who has not
35 demonstrated through ~~a written~~ an examination that the person

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1 possesses the following knowledge and understanding:
2 Sec. 27. Section 543D.16, subsection 2, Code 2013, is
3 amended to read as follows:
4 2. The basic continuing education requirement for renewal
5 of certification shall be the completion, before June 30 of
6 the year in which the appraiser's certificate expires, of the
7 number of hours of instruction required by the board in courses
8 or seminars which have received the preapproval of the board.
9 ~~Instructional hours by correspondence and home study courses~~
10 ~~claimed by an appraiser shall not exceed fifty percent of the~~
11 ~~required hours of instruction necessary for renewal.~~
12 Sec. 28. NEW SECTION. **543D.22 Criminal background checks.**
13 1. The board may require a national criminal history check
14 through the federal bureau of investigation for applicants
15 for certification or registration, or for persons certified
16 or registered, under this chapter if needed to comply with
17 federal law or regulation, or the policies of the appraisal
18 qualification board of the appraisal foundation.
19 2. The board may require applicants, certificate holders,
20 or registrants to provide a full set of fingerprints, in a
21 form and manner prescribed by the board. Such fingerprints,
22 if required, shall be submitted to the federal bureau of
23 investigation through the state criminal history repository for
24 purposes of the national criminal history check.
25 3. The board may also request and obtain, notwithstanding
26 section 692.2, subsection 5, criminal history data for
27 applicants, certificate holders, and registrants. A request
28 for criminal history data shall be submitted to the department
29 of public safety, division of criminal investigation, pursuant
30 to section 692.2, subsection 1.
31 4. The board shall inform the applicant, certificate
32 holder, or registrant of the requirement of a national criminal
33 history check or request for criminal history data and obtain
34 a signed waiver from the applicant, certificate holder, or
35 registrant prior to requesting the check or data.

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1 5. The board may, in addition to any other fees, charge
2 and collect such amounts as may be incurred by the board, the
3 department of public safety, or federal bureau of investigation
4 in obtaining criminal history information. Amounts collected
5 shall be considered repayment receipts as defined in section
6 8.2, subsection 8.
7 6. Criminal history data and other criminal history
8 information relating to an applicant, certificate holder, or
9 registrant obtained by the board pursuant to this section is
10 confidential. Such information may, however, be used by the
11 board in a certificate or registration denial or disciplinary
12 proceeding.
13 Sec. 29. Section 544A.21, Code 2013, is amended by striking
14 the section and inserting in lieu thereof the following:
15 **544A.21 Practice by business entities.**
16 The board shall adopt rules to govern the practice of
17 architecture through business entities to protect the public
18 from misleading and deceptive advertising and to guard against
19 the unlicensed practice of architecture.
20 Sec. 30. LICENSE EXPIRATION DATES — TRANSITION
21 PROVISIONS. A license which would otherwise expire on or
22 before the effective date of this Act pursuant to Code sections
23 533A.4 and 533D.3 shall remain in full force and effect until
24 December 31, 2013, or January 1, 2014, as applicable.
25 EXPLANATION
26 This bill relates to matters under the purview of the banking
27 division of the department of commerce.
28 The bill amends provisions which currently prohibit a
29 depository, defined as a bank or credit union in which public
30 funds are deposited, from directly or indirectly paying
31 interest to a public officer on a demand deposit of public
32 funds, and prohibit a public officer from taking or receiving
33 interest. The bill provides that a depository may pay interest
34 to a public officer on deposits of public funds, and a public
35 officer may take or receive it. The bill deletes a provision

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1 that the previous prohibition did not apply to interest on time
2 certificates of deposit or savings accounts for public funds.
3 The bill deletes a provision characterizing a borrowing
4 group, for purposes of loans and extensions of credit by a
5 state bank, as including a person and any legal entity where
6 the interests of a group of more than one borrower, or any
7 combination of the members of the group, are so interrelated
8 that they should be considered a unit for the purpose of
9 applying lending limit limitations.
10 The bill makes several similar modifications throughout
11 Code chapters 533A (relating to engaging in the business of
12 debt management), 533C (relating to engaging in the business
13 of money transmission and engaging in the business of currency
14 exchange), and 533D (relating to engaging in a delayed deposit
15 service business). The bill provides that the superintendent
16 of banking may authorize applicants and licensees to be
17 licensed through a nationwide licensing system and to pay
18 the corresponding system processing fees, and that the
19 superintendent may establish by rule or order new requirements
20 including but not limited to requirements that applicants,
21 including officers and directors and those who have control of
22 the applicant, submit to fingerprinting and criminal history
23 checks. The bill states that in order to reduce the points of
24 contact which the federal bureau of investigation may have to
25 maintain the superintendent may use the nationwide licensing
26 system as a channeling agent for requesting information from
27 and distributing information to the United States department of
28 justice or other governmental agency, or to or from any other
29 source so directed by the superintendent.
30 Also, with reference to Code chapters 533A, 533C, and
31 533D, the bill provides that the superintendent may receive
32 documents, materials, or other information, including otherwise
33 confidential and privileged documents, materials, or other
34 information, through a nationwide licensing system and from
35 other local, state, federal, or international regulatory

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1 agencies, the conference of state bank supervisors and
2 its affiliates and subsidiaries, the national association
3 of consumer credit administrators and its affiliates and
4 subsidiaries, and any other regulator associations, and shall
5 maintain as confidential and privileged any such document,
6 material, or other information received with notice or the
7 understanding that it is confidential or privileged under the
8 laws of the jurisdiction that is the source of the document,
9 material, or other information.
10 Additionally, with reference to Code chapters 533A, 533C,
11 and 533D, the bill makes licensure expiration and renewal dates
12 consistent as December 1 for renewal and either December 31 or
13 January 1 (in the case of a delayed deposit services business)
14 for expiration.
15 The bill provides transition provisions specifying that
16 licenses which would otherwise have expired on or before the
17 bill's effective date of July 1, 2013, shall remain in full
18 force and effect until the expiration date as modified by the
19 bill.
20 The bill reduces per application and per location license
21 fees for a currency exchange license. The license fee is
22 reduced from $500 to $250, and the per location fee is reduced
23 from an additional $100 to an additional $50 per location,
24 with the cap reduced from $2,000 to $1,000. In addition,
25 the license is changed from a biennial license to an annual
26 license.
27 The bill deletes outdated references to licensure under Code
28 chapter 533B, Code 2003, and related transition provisions,
29 contained in Code section 533C.904.
30 The bill adds to confidentiality provisions relating to the
31 mortgage licensing Act contained in Code section 535D.15. The
32 bill states that, except as otherwise provided by the Code
33 chapter, all papers, documents, examination reports, and other
34 writings relating to the supervision of licensees are not
35 public records and are not subject to disclosure under Code

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1 chapter 22.
2 The bill changes the requirements for the five real estate
3 appraiser members of the Iowa real estate appraiser board
4 to require that they be actively engaged in practice as a
5 certified real estate appraiser and shall have been so engaged
6 for five years preceding their appointment, with at least
7 the last two years in this state. The bill makes conforming
8 changes consistent with this modification, and provides
9 that vacancies occurring during a term shall be filled by
10 appointment by the governor for the unexpired term. The
11 bill permits a member to serve for three consecutive terms,
12 an increase from the current limit of two such terms, and
13 states that appointment to fill an unexpired term shall not
14 be considered a complete term for this purpose. The bill
15 authorizes members to be eligible for per diem and actual and
16 necessary expenses. Further, the bill modifies provisions
17 which had previously stated that the board shall consider and
18 may incorporate any standards recommended by the appraisal
19 foundation, or by a professional appraisal organization, or
20 by a public authority or organization responsible to review
21 appraisals or for the oversight of appraisers. This provision
22 is modified to refer to consideration and incorporation of any
23 standards required or recommended by the appraisal foundation
24 or by a federal agency with regulatory authority over appraisal
25 standards or the certification of appraisers for federally
26 related transactions.
27 The bill provides that uniform appraisal standards shall,
28 in addition to the current requirements, require compliance
29 with the uniform standards of professional appraisal practice
30 in all appraisal assignments. The bill also provides that the
31 board shall maintain a registry of the names and certificate
32 numbers, instead of addresses, of certified appraisers and
33 the names and registration numbers of registered associate
34 appraisers. The bill deletes a provision, with reference
35 to continuing education requirements, that instructional

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1 hours by correspondence and home study courses claimed by an
2 appraiser shall not exceed 50 percent of the required hours of
3 instruction necessary for renewal.
4 Again with reference to real estate appraisers, the bill
5 adds provisions relating to criminal background checks.
6 The bill states that the board is authorized to require a
7 national criminal history check through the federal bureau
8 of investigation for applicants, certificate holders, or
9 registrants if needed to comply with federal law or regulation,
10 or the policies of the appraisal qualification board of the
11 appraisal foundation. The bill states that the board is also
12 authorized to request and obtain state criminal history data
13 for applicants, certificate holders, and registrants. The
14 bill specifies that a request for criminal history data shall
15 be submitted to the department of public safety, division
16 of criminal investigation, pursuant to Code section 692.2,
17 subsection 1. The bill authorizes the board, in addition to
18 any other fees, to charge and collect such amounts as may
19 be incurred by the board, the department of public safety,
20 or federal bureau of investigation, in obtaining criminal
21 history information. The board shall inform the applicant,
22 certificate holder, or registrant of the requirement of a
23 national criminal history check or request for criminal history
24 data and obtain a signed waiver from the applicant, certificate
25 holder, or registrant prior to requesting the check or data.
26 Additionally, the bill specifies that criminal history data and
27 other criminal history information relating to an applicant,
28 certificate holder, or registrant obtained by the board is
29 confidential but may be used by the board in a certificate or
30 registration denial or disciplinary proceeding.
31 The bill deletes references to a "written" or "oral"
32 examination in relation to engineering, land surveying, real
33 estate broker and salesperson, and real estate appraiser
34 licensing examinations in favor of the nonspecific reference
35 to "examinations".

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1 Finally, the bill deletes current detailed provisions
2 contained in Code section 544A.21 imposing requirements
3 relating to the practice of architecture through business
4 entities to protect the public from misleading and deceptive
5 advertising and to guard against the unlicensed practice of
6 architecture. The provisions are replaced with the statement
7 that the board shall adopt rules regarding the practice of
8 architecture through business entities.

Senate Study Bill 1081 - Introduced

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

A BILL FOR

1 An Act relating to drug control, including the criminal offense
2 of prohibited acts related to controlled substances and the
3 information program for drug prescribing and dispensing, and
4 providing a penalty.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1307DP (6) 85
jm/nh

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1 Section 1. Section 124.403, subsection 2, Code 2013, is
2 amended to read as follows:
3 2. Any person who violates this section, or who acts with,
4 enters into a common scheme or design with, or conspires with
5 one or more other persons to violate this section, is guilty of
6 a ~~serious misdemeanor~~ class "C" felony.
7 Sec. 2. Section 124.552, Code 2013, is amended by adding the
8 following new subsection:
9 NEW SUBSECTION. 5. The program shall include a warning on
10 all reports stating that "Medicaid fraud is a crime. If you
11 suspect Medicaid fraud, call the Iowa Medicaid fraud hotline."
12 The warning shall include the toll-free telephone number of the
13 Iowa Medicaid fraud hotline.
14 Sec. 3. NEW SECTION. **124.556A Medical assistance program**
15 **prescription drug lock-in program.**
16 The board shall collaborate with the department of human
17 services to develop a procedure for the department of human
18 services to provide patient information to the board regarding
19 medical assistance recipients who are participating in the
20 prescription drug lock-in program. The patient lock-in
21 information shall be incorporated into the information
22 reporting database and accessible as provided in section
23 124.533.
24 EXPLANATION
25 This bill relates to the criminal offense of prohibited
26 acts related to controlled substances and the information
27 program for drug prescribing and dispensing (Iowa prescription
28 monitoring program).
29 The bill increases the criminal penalty for a conviction
30 for prohibited acts relating to controlled substances in Code
31 section 124.403 from a serious misdemeanor to a class "C"
32 felony. A serious misdemeanor is punishable by confinement for
33 no more than one year and a fine of at least $315 but not more
34 than $1,875. A class "C" felony is punishable by confinement
35 for no more than 10 years and a fine of at least $1,000 but not

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1 more than $10,000.
2 The bill also requires the Iowa prescription monitoring
3 program to include a warning on all reports stating that
4 "Medicaid fraud is a crime. If you suspect Medicaid fraud,
5 call the Iowa Medicaid fraud hotline." The warning shall
6 include the toll-free telephone number of the hotline.
7 The bill directs the board of pharmacy to collaborate with
8 the department of human services to develop a procedure for the
9 department of human services to provide patient information to
10 the board regarding Medicaid recipients who are participating
11 in the prescription drug lock-in program. The information
12 is then to be incorporated into the information database and
13 accessible to pharmacists, prescribing practitioners, and
14 others as specified in the information access provisions for
15 the information program.

Senate Study Bill 1082 - Introduced

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

A BILL FOR

1 An Act relating to vaccine administration by licensed
2 pharmacists.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1918SC (4) 85
ad/nh

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1 Section 1. NEW SECTION. **155A.44 Vaccine administration.**
2 1. In accordance with rules adopted by the board, a licensed
3 pharmacist may administer vaccines pursuant to this section.
4 2. The board shall adopt rules requiring pharmacists to
5 complete training and establish protocols for the prescription
6 and administration of vaccines. The rules shall allow a
7 licensed pharmacist who has completed the required training
8 to administer vaccines in accordance with the rules of the
9 board. The board may adopt rules relating to the reporting of
10 the administration of vaccines to a patient's primary health
11 care provider, primary physician, or a statewide immunization
12 registry or health information exchange.
13 3. A licensed pharmacist shall only administer the
14 following vaccines to the following age categories:
15 *a.* Vaccination of patients ages six through ten shall
16 be limited to vaccines or immunizations for influenza, Tdap
17 (tetanus, diphtheria, acellular pertussis), and other emergency
18 immunizations or vaccines in response to a public health
19 emergency.
20 *b.* Vaccination of patients ages eleven through seventeen
21 shall be limited to vaccines or immunizations for influenza,
22 Tdap (tetanus, diptheria, acellular pertussis), human papilloma
23 virus, meningococcal disease, and other emergency immunizations
24 or vaccines in response to a public health emergency.
25 *c.* Patients ages eighteen and older may choose to receive a
26 vaccination administered by a licensed pharmacist for any of
27 the following:
28 (1) A vaccination described in paragraph *"b"*.
29 (2) An immunization recommended by the United States
30 centers for disease control and prevention advisory committee
31 on immunization practices in its approved vaccination schedule
32 for adults.
33 (3) A vaccine recommended by the United States centers for
34 disease control and prevention for international travel.
35 EXPLANATION

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1 This bill allows licensed pharmacists to administer
2 vaccines. The bill provides that the board of pharmacy must
3 adopt rules requiring pharmacists to complete training and
4 establish protocols for the prescription and administration of
5 vaccines. The rules shall allow a licensed pharmacist who has
6 completed required training to administer vaccines as provided
7 by rule. The bill also allows the board to adopt rules about
8 the reporting of vaccine administration to a patient's primary
9 health care provider, primary physician, or a statewide
10 immunization registry or health information exchange.
11 A licensed pharmacist allowed to administer vaccines
12 under the bill is limited to specific vaccines for certain
13 age groups. A licensed pharmacist may administer vaccines
14 or immunizations for influenza, Tdap (tetanus, diptheria,
15 acellular pertussis), and emergency immunizations or vaccines
16 in response to a public health emergency for patients aged 6
17 through 10. A licensed pharmacist may administer immunizations
18 or vaccines for influenza, Tdap, human papilloma virus (HPV),
19 meningococcal disease, and emergency immunizations or vaccines
20 in response to a public health emergency for patients aged
21 11 through 17. A patient aged 18 or older may choose to
22 receive an immunization or vaccine from a licensed pharmacist
23 for influenza, Tdap, HPV, meningococcal disease, a vaccine
24 or immunization in response to a public health emergency,
25 an immunization recommended by the United States centers
26 for disease control and prevention advisory committee on
27 immunization practices in its approved vaccination schedule for
28 adults, or vaccines recommended by the United States centers
29 for disease control and prevention for international travel.

Senate Study Bill 1083 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON SENG)

A BILL FOR

1 An Act relating to the corn promotion board by providing for
2 its governance, providing for an assessed checkoff on corn,
3 and including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1719SC (3) 85
da/sc

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1 Section 1. Section 185C.1, Code 2013, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 4A. *"Director"* means a district elected
4 director or a board elected director as provided in section
5 185C.6.
6 Sec. 2. Section 185C.1, subsection 5, Code 2013, is amended
7 to read as follows:
8 5. *"District"* means an official crop reporting district
9 formed by the United States department of agriculture for use
10 on January 1, 2013, and set out in the annual farm census
11 published in that year by the ~~Iowa~~ department of agriculture
12 and land stewardship.
13 Sec. 3. Section 185C.3, Code 2013, is amended to read as
14 follows:
15 **185C.3 Establishment of corn promotion board.**
16 If a majority of the producers voting in the referendum
17 election approve the passage of the promotional order, an Iowa
18 corn promotion board shall be established. ~~The board shall~~
19 ~~consist of one director elected from each district in the~~
20 ~~state, except that a district producing more than an average~~
21 ~~of one hundred million bushels of corn in the three previous~~
22 ~~marketing years is entitled to two directors.~~
23 Sec. 4. Section 185C.6, Code 2013, is amended by striking
24 the section and inserting in lieu thereof the following:
25 **185C.6 Number and election of directors.**
26 The Iowa corn promotion board established pursuant to
27 section 185C.3 shall be composed of directors elected as
28 provided in this chapter. The directors shall include all of
29 the following:
30 1. Nine district elected directors. Each such director
31 shall be elected from a district as provided in section 185C.5,
32 this section, and sections 185C.7 and 185C.8. A candidate
33 receiving the highest number of votes in each district shall be
34 elected to represent that district.
35 2. Three board elected directors. Each such director shall

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be elected by the board. The candidate receiving the highest number of votes by the board shall be elected to represent the state on at-large basis.

Sec. 5. Section 185C.7, Code 2013, is amended to read as follows:

185C.7 Terms of directors.

1. ~~Director terms~~ A director's term of office shall be for three years ~~and no~~. A district elected director ~~of the board~~ shall not serve for more than three complete consecutive terms. A board elected director shall not serve for more than one complete term of office. A district elected director who is elected as board elected director shall not serve more than a total of four terms of office, regardless of whether any of the terms of office are complete or consecutive.

2. If the board is reconstituted pursuant to section 185C.8, the terms of the directors shall be controlled by this section. However, the initial terms of the reconstituted board shall be staggered. To the extent practicable, one-third of the elected directors shall serve an initial term of one year, one-third of the elected directors shall serve an initial term of two years, and one-third of the elected directors shall serve an initial term of three years. The initial terms of board elected directors shall be determined by board ~~members~~ directors drawing lots. ~~The board elected under this paragraph shall not contain two directors from the same district serving the same term.~~

Sec. 6. Section 185C.8, Code 2013, is amended to read as follows:

185C.8 ~~Elections~~ Administration of elections for directors.

1. The Iowa corn promotion board shall administer elections for district elected directors of the board with the assistance of the secretary. Prior to the expiration of a director's term of office, the board shall appoint a nominating committee for the district represented by that director. The nominating committee shall consist of five producers who are residents

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1 of the district from which a director must be elected. The
2 nominating committee shall nominate two resident producers as
3 candidates for each director position for which an election
4 is to be held. Additional candidates may be nominated by
5 a written petition of twenty-five producers. Procedures
6 governing the time and place of filing shall be adopted and
7 publicized by the board.
8 Following recommencement of the promotional order,
9 or termination of the promotional order's suspension as
10 provided in section 185C.24, the secretary shall order the
11 reconstitution of the board. An election of district elected
12 directors shall be held within thirty days from the date of the
13 order. The secretary shall call for, provide for notice of,
14 conduct, and certify the results of the election in a manner
15 consistent with section 185C.5 through 185C.7. Directors shall
16 serve terms as provided in section 185C.7. Rules or procedures
17 adopted by the board and in effect at the date of suspension
18 shall continue in effect upon reconstitution of the board.
19 The Iowa corn growers association may nominate two resident
20 producers as candidates for each director position. Additional
21 candidates may be nominated by a written petition of at least
22 twenty-five producers.
23 2. The Iowa corn promotion board shall administer elections
24 for board elected directors. Prior to the expiration of a
25 board elected director's term of office, the board may appoint
26 a nominating committee. In order to be eligible for nomination
27 and election, a candidate must have previously served on the
28 board as an elected director. An officer of the board shall
29 certify the results of the election.
30 Sec. 7. Section 185C.10, subsection 3, Code 2013, is amended
31 by striking the subsection.
32 Sec. 8. Section 185C.14, subsection 3, Code 2013, is amended
33 to read as follows:
34 3. The board shall meet at least ~~once every~~ three ~~months~~
35 times each year, and at such other times as deemed necessary

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1 by the board.
2 Sec. 9. Section 185C.21, subsection 2, Code 2013, is amended
3 to read as follows:
4 2. Upon request of the board, the secretary shall call
5 a special referendum for producers to vote on whether to
6 authorize an increase in the state assessment above one-quarter
7 of one cent per bushel, notwithstanding subsection 1. The
8 special referendum shall be conducted as provided in this
9 chapter for referendum elections. However, the special
10 referendum shall not affect the existence or length of the
11 promotional order in effect. If a majority of the producers
12 voting in the special referendum approve the increase, the
13 board may increase the assessment to the amount approved in
14 the special referendum. ~~However, a state assessment shall not~~
15 ~~exceed one cent per bushel of corn marketed in this state.~~
16 Sec. 10. Section 185C.27, Code 2013, is amended to read as
17 follows:
18 **185C.27 Refund of assessment.**
19 A producer who has sold corn and had a state assessment
20 deducted from the sale price, by application in writing to
21 the board, may secure a refund in the amount deducted. The
22 refund shall be payable only when the application shall have
23 been made to the board within sixty days after the deduction.
24 Application forms shall be given by the board to each first
25 purchaser when requested and the first purchaser shall make the
26 applications available to any producer. Each application for
27 refund by a producer shall have attached to the application
28 proof of the assessment deducted. The proof of assessment
29 may be in the form of a duplicate or certified copy of the
30 purchase invoice by the first purchaser. The board shall have
31 thirty <u>business</u> days from the date the application for refund
32 is received to remit the refund to the producer. The board
33 may provide for refunds of a federal assessment as provided by
34 federal law. Unless inconsistent with federal law, refunds
35 shall be made under section 185C.26.

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1 Sec. 11. IMPLEMENTATION. The Iowa corn promotion board
2 established pursuant to section 185C.3 shall implement this
3 Act.
4 1. During the implementation period all of the following
5 shall apply:
6 a. The board shall provide for staggered terms of directors
7 in the same manner as required for the initial terms of office
8 of a reconstituted board pursuant to section 185C.7. However,
9 the board is not required to draw lots as otherwise provided in
10 that section.
11 b. The board is not required to fill a vacancy for an
12 unexpired term as required in section 185C.9.
13 c. The board may reduce the number of years of a director's
14 term in order to comply with this section.
15 2. The board shall complete implementation of this Act not
16 later than July 1, 2014.
17 Sec. 12. EFFECTIVE UPON ENACTMENT. This Act, being deemed
18 of immediate importance, takes effect upon enactment.
19 EXPLANATION
20 GENERAL. This bill amends Code chapter 185C which provides
21 for an assessment on the sale of each bushel of corn, a
22 self-imposed tax or "checkoff", imposed on producers and
23 collected by first purchasers for remission to the Iowa corn
24 promotion board (board) for purposes of promoting the marketing
25 of corn and corn products and to provide for related education
26 and research programs and a financial assistance program (Code
27 sections 185C.11, 185C.11A, and 185C.21). The maximum rate of
28 assessment is one cent per bushel (Code section 185C.21). A
29 producer may claim a refund, and the board has 30 calendar days
30 in order to satisfy that claim (Code section 185C.27).
31 The board of directors are each elected for staggered
32 three-year terms (Code section 185C.7). The districts are
33 based on the official crop reporting districts established
34 by the United States department of agriculture (Code section
35 185C.1). Currently, there are nine districts. Each district

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1 producing more than an average of 100,000,000 bushels of corn
2 in the prior marketing year is entitled to elect two directors
3 (Code section 185C.3). A director cannot serve for more than
4 three complete consecutive terms (Code section 185C.7). The
5 board must meet once every three months (Code section 185C.14).
6 Currently, 17 directors serve on the board. In addition,
7 there are four ex officio, nonvoting members, including
8 the secretary of agriculture, the dean of the college of
9 agriculture and life sciences of Iowa state university
10 of science and technology, the director of the economic
11 development authority, and two representatives of first
12 purchaser organizations (Code section 185C.10).
13 BILL — ORGANIZATION OF DISTRICTS. The bill provides that
14 the nine districts are to be organized based on the crop
15 reporting districts formed by the United States department of
16 agriculture for use on January 1, 2013.
17 BILL — CHANGE IN BOARD GOVERNANCE. The bill provides that
18 12 directors are to be elected to the board. Each of nine
19 districts are to be represented by one director. In addition
20 three directors are to be elected by the board to serve at
21 large. A board elected director must have served as a district
22 elected director. A board director so elected cannot serve
23 more than a total of four terms in office regardless of whether
24 any of the terms are complete or consecutive.
25 The bill removes the director of the economic development
26 authority as an ex officio member.
27 BILL — MEETING TIMES. The bill provides that the board
28 must meet at least three times a year rather than every three
29 months.
30 BILL — ASSESSMENTS. The bill eliminates the maximum one
31 cent per bushel assessment rate. Any increase in the current
32 assessment rate would have to still be accomplished by a
33 special referendum of producers. The bill provides that the
34 board now has 30 business days in order to satisfy a producer's
35 request for a refund.

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1 BILL — IMPLEMENTATION. The board is responsible for
2 implementing the provisions of the bill, including by providing
3 for staggered terms of its directors notwithstanding any
4 applicable procedures in the Code chapter to the contrary. The
5 board must complete its implementation by July 1, 2014.
6 BILL — EFFECTIVE DATE. The bill takes effect upon
7 enactment.

Senate Study Bill 1084 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT BILL BY CHAIRPERSON DEARDEN)

A BILL FOR

1 An Act relating to the definition of all-terrain vehicle and
2 off-road utility vehicle for purposes of the regulation
3 of recreational vehicles by the department of natural
4 resources.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1504XC (2) 85
dea/nh

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Section 1. Section 321I.1, subsection 1, paragraph a, Code 2013, is amended to read as follows:

a. "All-terrain vehicle" means a motorized vehicle with not less than three and not more than six nonhighway tires that is fifty inches or less in width and is limited in engine displacement to ~~less than~~ one thousand cubic centimeters or less and in total dry weight to less than one thousand two hundred pounds ~~and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control~~.

Sec. 2. Section 321I.1, subsection 17, paragraph a, Code 2013, is amended to read as follows:

a. "Off-road utility vehicle" means a motorized vehicle with not less than four and not more than eight nonhighway tires or rubberized tracks that is sixty-five inches or less in width and is limited in engine displacement to less than one thousand five hundred cubic centimeters and in total dry weight to not more than two thousand pounds ~~and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control~~.

EXPLANATION

This bill revises the definitions of "all-terrain vehicle" and "off-road utility vehicle" for purposes of Code chapter 321I, which provides for the registration and regulation of all-terrain vehicles and off-road utility vehicles by the department of natural resources.

The definition of "all-terrain vehicle" is amended by adding a width limitation of 50 inches or less, by limiting the engine displacement to 1,000 cubic centimeters or less, and by striking the requirement that the vehicle have a seat or saddle designed to be straddled by the operator and handlebars for steering control.

The definition of "off-road utility vehicle" is amended by adding a width limitation of 65 inches or less and by striking the requirement that the vehicle have a seat of bucket or bench design and a steering wheel or control levers.

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1 The bill does not affect the definitions of "all-terrain
2 vehicle" and "off-road utility vehicle" for purposes of Code
3 chapter 321, which governs the use of those vehicles on Iowa
4 roads.

Senate Study Bill 1085 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC HEALTH/BOARD OF
MEDICINE BILL)

A BILL FOR

1 An Act relating to disciplinary procedures before the board of
2 medicine and providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1283DP (8) 85
jr/nh

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1 Section 1. Section 148.2A, subsection 2, paragraph e,
2 subparagraphs (3) and (4), Code 2013, are amended to read as
3 follows:
4 (3) ~~The majority of a~~ At least half of the members of a
5 hearing panel containing alternate members shall be current
6 members of the board.
7 (4) ~~The majority of a~~ At least half of the members of a
8 hearing panel containing alternate members shall be licensed
9 to practice under this chapter.
10 Sec. 2. Section 148.6, subsection 1, Code 2013, is amended
11 to read as follows:
12 1. The board, after due notice and hearing in accordance
13 with chapter 17A, may issue an order to discipline a licensee
14 for any of the grounds set forth in section 147.55, chapter
15 272C, or this ~~subsection~~ section. Notwithstanding section
16 272C.3, licensee discipline may include a civil penalty not to
17 exceed ~~ten~~ twenty thousand dollars for each violation of the
18 laws and rules governing the practice of medicine.
19 Sec. 3. Section 148.7, Code 2013, is amended to read as
20 follows:
21 **148.7 Procedure for licensee discipline.**
22 A proceeding for the revocation or suspension of a license
23 to practice medicine and surgery or osteopathic medicine and
24 surgery, or acupuncture or to discipline a person licensed
25 to practice medicine and surgery or osteopathic medicine and
26 surgery, or acupuncture shall be substantially in accord with
27 the following procedure and with section 272C.6, subsection
28 4, to the extent the provisions in that subsection are not
29 inconsistent with this section:
30 1. The board may, upon its own motion or upon receipt of
31 a complaint ~~in writing~~, order an investigation. The board
32 may, upon its own motion, order a hearing. A written notice
33 of the time and place of the hearing together with a statement
34 of the charges shall be served upon the licensee at least ten
35 days before the hearing in the manner required for the service

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of notice of the commencement of an ordinary action or by restricted certified mail.

2. If the whereabouts of the licensee is unknown, service may be had by publication as provided in the rules of civil procedure upon filing the affidavit required by the rules. In case the licensee fails to appear, either in person or by counsel at the time and place designated in the notice, the board shall proceed with the hearing as provided in this section.

~~3. *a.* The hearing shall be before a member or members designated by the board or before an administrative law judge appointed by the board according to the requirements of section 17A.11, subsection 1. The presiding board member or administrative law judge may issue subpoenas, administer oaths, and take or cause depositions to be taken in connection with the hearing. The presiding board member or administrative law judge shall issue subpoenas at the request and on behalf of the licensee.~~

~~*b.* The administrative law judge shall be an attorney vested with full authority of the board to schedule and conduct hearings. The administrative law judge shall prepare and file with the board the administrative law judge's findings of fact and conclusions of law, together with a complete written transcript of all testimony and evidence introduced at the hearing and all exhibits, pleas, motions, objections, and rulings of the administrative law judge.~~

3. At the sole discretion of the board, a disciplinary hearing shall be held before one of the following:

a. A quorum of the board. A quorum of the board shall include not less than six members, at least half of whom are current board members, and the remaining alternate members appointed pursuant to section 148.2A, with no more than half of the quorum being public members.

b. A panel of not less than three board members, at least two of whom are licensed in the profession.

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1 *c.* A panel of not less than three specialists appointed
2 pursuant to section 272C.6, subsection 2.
3 *d.* An administrative law judge. The decision to assign
4 an administrative law judge shall be within the sole
5 discretion of the board. The board may only assign cases to
6 an administrative law judge to serve as the presiding officer
7 at hearing that involve allegations of one or more violations
8 of the laws or rules governing the practice of medicine which
9 do not involve a standard of medical care determination. The
10 board shall define by rule those cases which may be assigned
11 to an administrative law judge, and the process for using
12 an administrative law judge as the presiding officer. The
13 administrative law judge shall be assigned by the division of
14 administrative hearings pursuant to section 10A.801, and shall
15 be vested with full authority of the board to schedule and
16 conduct hearings.
17 4. ~~Disciplinary hearings held pursuant to section 272C.6,~~
18 ~~subsection 1, shall be heard by the board, or by a panel of~~
19 ~~not less than six members, at least three of whom are board~~
20 ~~members, and the remaining appointed pursuant to section~~
21 ~~148.2A, with no more than three of the six being public~~
22 ~~members.~~ Notwithstanding chapters 17A and 21, a disciplinary
23 hearing shall be open to the public at the discretion of the
24 licensee.
25 5. The presiding officer may issue subpoenas, administer
26 oaths, and take or cause depositions to be taken in connection
27 with the hearing. The presiding officer shall issue subpoenas
28 at the request and on behalf of the parties. If a person
29 refuses to obey a subpoena issued by the presiding officer or
30 to answer a proper question during the hearing, the presiding
31 officer may invoke the aid of the district court in requiring
32 the attendance and testimony of a person or the production
33 of papers. A failure to obey the order of the court may be
34 punished by the court as a civil contempt.
35 ~~5.~~ 6. A record of the proceedings shall be kept. The

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licensee shall have the opportunity to appear personally and by an attorney, with the right to produce evidence on the licensee's own behalf, to examine and cross-examine witnesses, and to examine documentary evidence produced against the licensee.

~~6. If a person refuses to obey a subpoena issued by the presiding member or administrative law judge or to answer a proper question during the hearing, the presiding member or administrative law judge may invoke the aid of a court of competent jurisdiction or judge of this court in requiring the attendance and testimony of the person and the production of papers. A failure to obey the order of the court may be punished by the court as a civil contempt may be punished.~~

7. Unless the hearing is held before a quorum of the ~~entire~~ board, the presiding officer shall prepare and file with the board the proposed findings of fact, conclusions of law, and decision and order, with a complete written transcript of the proceeding, together with all exhibits ~~presented~~, ~~shall be considered by the entire board at the earliest practicable time~~ pleadings, motions, objections, and rulings within sixty days of the date of the hearing absent compelling circumstances. ~~The licensee and the licensee's attorney shall have the opportunity to appear personally to present the licensee's position and arguments to the board. The board shall determine the charge or charges upon the merits on the basis of the evidence in the record before it.~~

8. The proposed findings of fact, conclusions of law, and decision and order may be appealed to the full board by either party by serving on the executive director, either in person or by certified mail, a notice of appeal within thirty days after service of the proposed findings of fact, conclusions of law, and decision and order on the appealing party.

~~8.~~ 9. If a majority of the members of the board vote in favor of finding the licensee guilty of an act or offense specified in section 147.55 or 148.6, the board shall prepare

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1 written findings of fact ~~and its decision~~, conclusions of law,
2 and a decision and order imposing one or more of the following
3 disciplinary measures:
4 *a.* Suspend the licensee's license to practice the profession
5 for a period to be determined by the board.
6 *b.* Revoke the licensee's license to practice the profession.
7 *c.* Suspend imposition of judgment and penalty or impose
8 the judgment and penalty, but suspend enforcement and place
9 the physician or acupuncturist on probation. The probation
10 ordered may be vacated upon noncompliance. The board may
11 restore and reissue a license to practice medicine and surgery
12 or osteopathic medicine and surgery, or acupuncture, but may
13 impose a disciplinary or corrective measure which the board
14 might originally have imposed. A copy of the board's ~~order,~~
15 findings of fact, conclusions of law, and decision and order,
16 shall be served on the licensee in the manner of service of an
17 original notice or by certified mail return receipt requested.
18 ~~9.~~ 10. Judicial review of the board's action may be
19 sought in accordance with the terms of the Iowa administrative
20 procedure Act, chapter 17A.
21 ~~10.~~ 11. The board's order revoking or suspending a license
22 to practice medicine and surgery or osteopathic medicine
23 and surgery, or acupuncture, or to discipline a licensee
24 shall remain in force and effect until the appeal is finally
25 determined and disposed of upon its merit.
26 EXPLANATION
27 This bill relates to disciplinary procedures before the
28 board of medicine.
29 The bill provides that at least half of the members of a
30 disciplinary hearing panel containing alternate members shall
31 be members of the board of medicine and at least half the
32 members shall be licensed to practice under Code chapter 148.
33 The bill increases the board's maximum civil penalty from
34 $10,000 to $20,000 and specifies that this penalty may be
35 assessed for each violation.

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1 Relating to disciplinary procedures, the bill rewrites
2 the existing provisions to provide additional detail. The
3 bill specifies that the procedures for licensee discipline
4 in Code section 148.7 apply to persons licensed to practice
5 acupuncture.
6 The bill specifies that a disciplinary hearing may be
7 presided over by any of the following, at the discretion
8 of the board: a quorum of the entire board; a panel of at
9 least three board members; a panel made up of specialists;
10 or an administrative law judge. The bill rewrites existing
11 provisions relating to the power of the presiding officer to
12 issue subpoenas and the enforcement of those subpoenas.
13 The bill allows an administrative law judge to hear certain
14 board-assigned contested cases without a hearing panel. The
15 bill codifies in Code chapter 148 provisions that are generally
16 set out in Code chapter 17A relating to the decision in a
17 contested case. If a quorum of the entire board hears the
18 case, the board decision is final agency action. If less than
19 a quorum or an administrative law judge hears the case, the
20 decision may be appealed to the entire board.

Senate Study Bill 1086 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON DANIELSON)

A BILL FOR

1 An Act relating to health care coverage of certain nonstate
2 public employees and officials and employees of nonprofit
3 employers under the state health insurance plan and
4 including effective date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1763SC (3) 85
av/rj

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1 PART 5
2 IOWA HEALTH CARE COVERAGE PARTNERSHIP PROGRAM
3 Section 1. NEW SECTION. **8A.471 Definitions.**
4 As used in this part, unless the context otherwise requires:
5 1. *"Nonprofit employer"* means a nonprofit corporation that
6 is either of the following and does not include a nonstate
7 public employer:
8 *a.* A corporation subject to chapter 504.
9 *b.* A corporation which qualifies under 26 U.S.C. §
10 501(c)(3).
11 2. *"Nonstate public employee"* means any employee or elected
12 official of a nonstate public employer.
13 3. *"Nonstate public employer"* means a political subdivision
14 of the state, including a quasi-public agency.
15 4. *"Political subdivision of the state"* means a political
16 subdivision of the state or its offices or units, including but
17 not limited to a county, city, community college, or school
18 district.
19 5. *"State health or medical group insurance plan"* or *"state*
20 *plan"* means a health or medical group insurance plan for
21 employees of the state.
22 Sec. 2. NEW SECTION. **8A.472 Nonstate public employees —**
23 **coverage.**
24 1. Nonstate public employees may obtain coverage under the
25 state plan in accordance with this section.
26 2. A nonstate public employer may submit an application
27 to the department for coverage under the state plan of all
28 of such employer's nonstate public employees. If a nonstate
29 public employer submits such an application for coverage, the
30 department shall provide such coverage no later than the first
31 day of the third calendar month following such application.
32 3. Notwithstanding any other provisions of state law,
33 initial participation in the state plan shall be a permissive
34 subject of collective bargaining and shall be subject to
35 binding arbitration only if the employee organization and

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1 the nonstate public employer mutually agree to bargain over
2 such initial participation. Such mutual agreement shall be
3 in writing and signed by the authorized representatives of
4 the employee organization and the nonstate public employer.
5 Continuation in the state plan, after initial participation,
6 shall be a mandatory subject of bargaining, and shall be
7 subject to binding arbitration in accordance with the same
8 procedures and standards that apply to any other mandatory
9 subject of bargaining pursuant to state law.
10 4. Premium rates for nonstate public employers shall be the
11 total premium rate paid by the state inclusive of any premiums
12 paid by state employees for the particular state health care
13 product offered by the state plan.
14 Sec. 3. NEW SECTION. **8A.473 Employees of nonprofit**
15 **employers — coverage.**
16 1. Employees of nonprofit employers may obtain coverage
17 under the state plan in accordance with this section.
18 2. A nonprofit employer may submit an application to the
19 department for coverage under the state plan of all of such
20 employer's employees. If a nonprofit employer submits such an
21 application for coverage, the department shall provide such
22 coverage no later than the first day of the third calendar
23 month following such application. However, the department
24 shall not approve an application for coverage under the
25 state plan if the department determines that approval of such
26 coverage would cause the state plan to be subject to the
27 requirements of the federal Employee Retirement Income Security
28 Act of 1974, as codified at 29 U.S.C. § 1001 et seq. If the
29 department determines that the state plan is compliant with
30 such federal requirements, the department shall resume approval
31 of applications for coverage under the state plan as provided
32 in this section.
33 3. Premium rates for nonprofit employers shall be the total
34 premium rate paid by the state inclusive of any premiums paid
35 by state employees for the particular state health care product

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1 offered by the state plan.
2 Sec. 4. NEW SECTION. **8A.474 Premium payments —**
3 **administrative fees.**
4 1. A nonstate public employer or nonprofit employer
5 participating in the state plan shall pay the monthly amount
6 determined by the department, for coverage of its employees
7 or elected officials as appropriate under the state plan. A
8 nonstate public employer or nonprofit employer may require each
9 covered employee or elected official to contribute a portion
10 of the cost of such coverage under the state plan, subject
11 to any collective bargaining obligation applicable to such
12 employer. If any payment due by a nonstate public employer or
13 nonprofit employer under this section is not timely paid, after
14 the due date interest shall be added to such payment at the
15 prevailing rate of interest, as determined by the department.
16 Such interest shall be paid by the nonstate public employer or
17 nonprofit employer.
18 2. The department shall charge a nonstate public employer
19 or nonprofit employer participating in the state plan an
20 administrative fee calculated on a per-month basis per covered
21 employee or elected official.
22 3. Payments made pursuant to this section shall be deposited
23 in the Iowa health care coverage partnership program trust fund
24 created in section 8A.475. Moneys deposited in the Iowa health
25 care coverage partnership program trust fund shall be expended
26 for payment of insurance premiums and administrative fees for
27 employees and elected officials covered under the state plan.
28 4. If a nonstate public employer fails to make premium
29 payments as required under this section, the department may
30 direct the treasurer of state, or any other office of the state
31 that is the custodian of any moneys made available by reason of
32 any grant, allocation, or appropriation by the state or state
33 agencies payable to the nonstate public employer at any time
34 subsequent to the failure of the nonstate public employer, to
35 pay such premiums and interest that are due and unpaid and

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1 to withhold payment of moneys payable to the nonstate public
2 employer until the amount of the premiums and interest then
3 due and unpaid by the nonstate public employer has been paid
4 to the state or until the treasurer of state determines that
5 arrangements, satisfactory to the treasurer of state, have been
6 made for the payment of such premiums and interest. However,
7 such moneys shall not be withheld from a nonstate public
8 employer if such withholding will adversely affect the receipt
9 of any federal grant or aid in connection with such moneys.
10 5. If a nonprofit employer fails to make premium payments,
11 the department may terminate the nonprofit employer's employee
12 participation in the state plan and request the attorney
13 general to recover any premiums and interest due and unpaid.
14 Sec. 5. NEW SECTION. **8A.475 Iowa health care coverage**
15 **partnership program trust fund.**
16 1. A separate, special Iowa health care coverage
17 partnership program trust fund is created in the state treasury
18 under the control of the department. The trust fund shall
19 consist of all moneys deposited in the fund and other assets
20 that must be held in trust and shall be used for the exclusive
21 benefit of employees and elected officials covered under the
22 state plan as provided in section 8A.474.
23 2. The director is the trustee of the fund and shall
24 administer the fund. Any loss to the fund shall be charged
25 against the trust and the director shall not be personally
26 liable for such loss.
27 3. Moneys in the fund are not subject to section 8.33.
28 Notwithstanding section 12C.7, subsection 2, interest or
29 earnings on moneys in the fund shall be credited to the fund.
30 Sec. 6. NEW SECTION. **8A.476 Rules.**
31 The department, by rule, shall develop procedures for the
32 implementation and administration of the provisions contained
33 in this part 5.
34 Sec. 7. EFFECTIVE DATE. This Act takes effect January 1,
35 2014.

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1 EXPLANATION
2 This bill allows employees and elected officials of a
3 nonstate public employer, and employees of a nonprofit employer
4 to apply for coverage and enroll in a state health or medical
5 group insurance plan provided to state employees by the
6 department of administrative services (DAS).
7 Premium payments for coverage received through a state plan
8 must be the same as for state employees, including any premiums
9 paid by state employees.
10 Each employer who participates in a state health or medical
11 group insurance plan must pay monthly premium amounts for
12 coverage to DAS, plus administrative fees calculated on a
13 per-month basis per employee or elected official. An employer
14 may require each covered employee or elected official to
15 contribute a portion of the cost of such coverage under the
16 state plan, subject to any collective bargaining obligations.
17 The payments are to be deposited in the Iowa health care
18 coverage partnership program trust fund created in Code section
19 8A.475 and expended for coverage being provided to the covered
20 employees or elected officials.
21 If monthly premium payments are not made, DAS may charge
22 interest on the unpaid balance. If a nonstate public employer
23 fails to make premium payments, DAS may direct the treasurer
24 of state to withhold grants, allocations, or appropriations
25 payable to the nonstate public employer, until the premium
26 payments are made. If a nonprofit employer fails to make
27 premium payments, DAS may terminate participation of that
28 employer's employees in the state plan and request the attorney
29 general to recover the unpaid premiums and interest.
30 For purposes of the program, a "nonstate public employer" is
31 a political subdivision of the state, including but not limited
32 to counties, cities, community colleges, quasi-public agencies,
33 and school districts. A "nonprofit employer" is a corporation
34 organized or recognized as a nonprofit corporation under state
35 or federal law.

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1 The department of administrative services shall, by rule,
2 adopt procedures to implement and administer the provisions of
3 the bill.
4 The bill takes effect January 1, 2014.

Senate Study Bill 1087 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON DANIELSON)

A BILL FOR

1 An Act modifying provisions applicable to the propane education
2 and research council and increasing an assessment.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1907XC (1) 85
rn/nh

S.F. _____

Section 1. Section 101C.3, subsection 3, Code 2013, is amended to read as follows:

3. The following persons shall be ex officio, nonvoting members of the council designated for three-year terms as follows:

~~*a.* A professional fire fighter designated by the Iowa association of professional fire chiefs.~~

~~*b.*~~ *a.* A volunteer fire fighter designated by the Iowa firefighters association.

~~*c.* An experienced plumber involved in plumbing training programs designated by the Iowa state building and construction trades council.~~

~~*d.* A heating, ventilation, and air conditioning professional involved in heating, ventilation, and air conditioning training programs designated by the Iowa state building and construction trades council.~~

~~*e.*~~ *b.* A community college instructor with experience in conducting fire safety programs designated by the Iowa association of community college presidents.

~~*f.*~~ *c.* A representative of a property and casualty insurance company with experience in insuring sellers of propane gas designated by the Iowa insurance institute.

Sec. 2. Section 101C.3, subsection 5, Code 2013, is amended to read as follows:

5. A council member shall serve a term of three years ~~and shall not serve more than two full consecutive terms. A council member filling an unexpired term may serve not more than a total of seven consecutive years. A former council member may be appointed to the council if the former member has not been a member of the council for a period of at least two years~~.

Sec. 3. Section 101C.4, subsection 1, Code 2013, is amended to read as follows:

1. The council and its activities shall be funded by an annual assessment. Upon establishment of the council and each

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1 year thereafter the annual assessment shall be made at a rate
2 of ~~one-tenth~~ two-tenths of one cent on each gallon of odorized
3 propane sold.
4 Sec. 4. REPEAL. Section 101C.14, Code 2013, is repealed.
5 EXPLANATION
6 This bill modifies provisions applicable to the propane
7 education and research council established in Code chapter
8 101C.
9 The bill eliminates three ex officio, nonvoting members from
10 the council. The eliminated members represent a professional
11 fire fighter designated by the Iowa association of professional
12 fire chiefs, an experienced plumber involved in plumbing
13 training programs designated by the Iowa state building and
14 construction trades council, and a heating, ventilation, and
15 air conditioning professional involved in heating, ventilation,
16 and air conditioning training programs designated by the Iowa
17 state building and construction trades council.
18 The bill eliminates provisions specifying term limits
19 and reappointment requirements. The bill additionally
20 increases the annual assessment which funds the council and
21 its activities from the current level of one-tenth of one cent
22 on each gallon of odorized propane sold, to two-tenths of one
23 cent.
24 Further, the bill repeals a provision which repealed the
25 chapter effective December 31, 2014.

Senate Study Bill 1088 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOGG)

A BILL FOR

1 An Act relating to conducting condemnation proceedings.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1322XC (1) 85
md/sc

S.F. _____

1 Section 1. Section 6B.2, subsection 1, paragraph b, Code
2 2013, is amended to read as follows:
3 *b.* By the county attorney, when the damages are payable from
4 funds disbursed by the county~~,~~ or by any township~~, or school~~
5 ~~corporation~~.
6 EXPLANATION
7 Code chapter 6B specifies the procedure for the condemnation
8 of private property. Code section 6B.2 specifies that such
9 condemnation proceedings shall be conducted by the county
10 attorney when the damages are payable from funds disbursed by
11 a county, or by any township, or school corporation. This
12 bill strikes school corporations from the provision under
13 which the county attorney is required to conduct condemnation
14 proceedings.

Senate Study Bill 1089 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOGG)

A BILL FOR

1 An Act relating to the sentencing of minors convicted of
2 murder in the first degree and including effective date and
3 applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1115XC (6) 85
jm/rj

S.F. _____

Section 1. Section 902.1, Code 2013, is amended to read as follows:

902.1 Class "A" felony.

1. Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a class "A" felony may be rendered, the court shall enter a judgment of conviction and shall commit the defendant into the custody of the director of the Iowa department of corrections for the rest of the defendant's life. Nothing in the Iowa corrections code pertaining to deferred judgment, deferred sentence, suspended sentence, or reconsideration of sentence applies to a class "A" felony, and a person convicted of a class "A" felony shall not be released on parole unless the governor commutes the sentence to a term of years.

2. *a.* Notwithstanding subsection 1, a person convicted of a class "A" felony, and who was under the age of eighteen at the time the offense was committed shall be eligible for parole after serving a minimum term of confinement of twenty-five years.

~~*b.* If a person is paroled pursuant to this subsection the person shall be subject to the same set of procedures set out in chapters 901B, 905, 906, and chapter 908, and rules adopted under those chapters for persons on parole.~~

~~*c.*~~ *b.* A person convicted of murder in the first degree in violation of section 707.2 shall not be eligible for parole pursuant to this subsection.

3. *a.* Notwithstanding subsections 1 and 2, a person convicted of murder in the first degree in violation of section 707.2 who was under the age of eighteen at the time the offense was committed shall be eligible for parole after serving a minimum term of confinement of forty-five years, unless at the time of sentencing the court finds substantial and compelling reasons to impose a life sentence without the possibility of parole.

b. If the court at the time of sentencing imposes a sentence

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1 of life without the possibility of parole, the judge shall
2 state on the record at the time of sentencing the substantial
3 and compelling reasons justifying a life sentence without the
4 possibility of parole. In determining whether to impose a
5 sentence of life without the possibility of parole, the court
6 shall consider all mitigating and aggravating factors including
7 but not limited to the following:
8 (1) The age of the person and the level of maturity at the
9 time of the offense.
10 (2) The degree of participation in the offense by the
11 person.
12 (3) The nature of the offense.
13 (4) The severity of the offense.
14 (5) The prior juvenile or criminal record of the person.
15 (6) The likelihood of the person to commit further juvenile
16 or criminal offenses.
17 (7) Any other information considered relevant by the court.
18 4. If a person is paroled pursuant to subsection 2 or 3, the
19 person shall be subject to the same set of procedures set out
20 in chapters 901B, 905, 906, and 908, and rules adopted under
21 those chapters for persons on parole.
22 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
23 immediate importance, takes effect upon enactment.
24 Sec. 3. APPLICABILITY. This Act applies to a person who
25 was under the age of eighteen at the time the murder in the
26 first degree was committed and who is convicted prior to, on,
27 or after the effective date of this Act.
28 EXPLANATION
29 This bill relates to the sentencing of class "A" felons
30 convicted of murder in the first degree.
31 Under current law, a class "A" felon who was under the age of
32 18 at the time the offense was committed shall be eligible for
33 parole after serving a minimum term of confinement of 25 years
34 if the person committed a class "A" felony other than murder in
35 the first degree in violation of Code section 707.2.

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1 Under the bill, a person convicted of murder in the first
2 degree in violation of Code section 707.2 who was under the age
3 of 18 at the time the offense was committed shall be eligible
4 for parole after serving a minimum term of confinement of
5 45 years, unless at the time of sentencing the court finds
6 "substantial and compelling reasons" to impose a life sentence
7 without the possibility of parole. The changes in the bill
8 are in response to the U.S. Supreme Court case of Miller v.
9 Alabama, 132 S.Ct. 2455 (2012).
10 Under the bill, the "substantial and compelling reasons"
11 to be considered by the court at the sentencing include the
12 following: the age of the person and the level of maturity at
13 the time of the offense; the degree of participation in the
14 offense by the person; the nature of the offense; the severity
15 of the offense; the prior juvenile or criminal record of the
16 person; the likelihood of the person to commit further juvenile
17 or criminal offenses; and any other information considered
18 relevant by the court.
19 The bill also takes effect upon enactment.
20 The bill applies to a person who commits murder in the first
21 degree while under the age of 18 and who is convicted prior to,
22 on, or after the effective date of the bill.

Senate Study Bill 1090 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOGG)

A BILL FOR

1 An Act relating to identity theft, and providing a penalty.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1820XC (2) 85
rn/nh

S.F. _____

1 Section 1. Section 715A.8, Code 2013, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 2A. Notwithstanding subsection 2, a
4 person of the applicable age indicated in this subsection who
5 knowingly takes, purchases, manufactures, records, possesses,
6 uses, or attempts to take, purchase, manufacture, record,
7 possess, or use identification information of another person
8 or entity for the following purposes may be considered to have
9 violated the applicable statute or ordinance governing such
10 purposes but shall not be considered to have committed any
11 offense of identity theft under this section:
12 *a.* Possession or purchase of alcohol by a person under the
13 age of twenty-one.
14 *b.* Entry by a person under the age of twenty-one onto the
15 premises of an establishment where one may purchase alcoholic
16 beverages as defined in section 123.3 for consumption on the
17 premises and in which the serving of food is only incidental to
18 the consumption of those beverages.
19 *c.* Entry by a person under the age of seventeen onto the
20 premises of a motion picture theater for the viewing of a
21 motion picture which is prohibited to be viewed by persons
22 under the age of seventeen.
23 *d.* Possession or purchase of cigarettes or tobacco products
24 by a person under the age of eighteen.
25 *e.* Entry by a person under the age of twenty-one onto the
26 premises of a racetrack, excursion boat, or gambling structure.
27 *f.* Entry by a person under the age of eighteen onto
28 the premises of a business establishment other than an
29 establishment identified in paragraph "*b*", "*c*", or "*e*" where
30 such entry is prohibited by persons under the age of eighteen.
31 *g.* Obtaining employment in violation of chapter 92.
32 Sec. 2. Section 715A.8, subsection 3, Code 2013, is amended
33 by striking the subsection and inserting in lieu thereof the
34 following:
35 3. A person who violates this section commits a class "D"

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1 felony.
2 EXPLANATION
3 This bill relates to the offense of identity theft.
4 The bill provides that persons of specified ages who
5 knowingly take, purchase, manufacture, record, possess, or use
6 identification information, or who attempt to do so, for a
7 designated list of offenses may be considered to have violated
8 the applicable statute or ordinance relating to that offense,
9 but shall not be considered to have committed identify theft
10 under Code section 715A.8. The offenses in general relate to
11 underage possession of alcohol, underage entry onto premises
12 where alcohol is served, underage entry onto the premises of
13 a motion picture, underage possession or purchase of tobacco,
14 underage entry onto the premises of a gambling establishment,
15 underage entry onto the premises of any other business
16 establishment with age restrictions attached, and obtaining
17 employment in violation of child labor laws specified in Code
18 chapter 92.
19 The bill additionally states that a violation of the
20 identity theft provisions in Code section 715A.8 constitutes
21 a class "D" felony. Currently, the Code section specifies
22 that if the value of credit, property, or services for which
23 identity theft was utilized exceeds $1,000, the violation
24 constitutes a class "D" felony, and if below that amount the
25 violation constitutes an aggravated misdemeanor. A class "D"
26 felony is punishable by confinement for no more than five years
27 and a fine of at least $750 but not more than $7,500.

Senate Study Bill 1091 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON DANIELSON)

A BILL FOR

1 An Act providing for the licensing of polysomnographic
2 technologists and providing for a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1671XC (2) 85
jr/nh

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1 Section 1. Section 147.1, subsections 3 and 6, Code 2013,
2 are amended to read as follows:
3 3. *"Licensed"* or *"certified"*, when applied to a physician
4 and surgeon, podiatric physician, osteopathic physician and
5 surgeon, physician assistant, psychologist, chiropractor,
6 nurse, dentist, dental hygienist, dental assistant,
7 optometrist, speech pathologist, audiologist, pharmacist,
8 physical therapist, physical therapist assistant, occupational
9 therapist, occupational therapy assistant, orthotist,
10 prosthetist, pedorthist, respiratory care practitioner,
11 practitioner of cosmetology arts and sciences, practitioner
12 of barbering, funeral director, dietitian, marital and
13 family therapist, mental health counselor, polysomnographic
14 technologist, social worker, massage therapist, athletic
15 trainer, acupuncturist, nursing home administrator, hearing aid
16 dispenser, or sign language interpreter or transliterator means
17 a person licensed under this subtitle.
18 6. *"Profession"* means medicine and surgery, podiatry,
19 osteopathic medicine and surgery, practice as a physician
20 assistant, psychology, chiropractic, nursing, dentistry,
21 dental hygiene, dental assisting, optometry, speech pathology,
22 audiology, pharmacy, physical therapy, physical therapist
23 assisting, occupational therapy, occupational therapy
24 assisting, respiratory care, cosmetology arts and sciences,
25 barbering, mortuary science, marital and family therapy, mental
26 health counseling, polysomnography, social work, dietetics,
27 massage therapy, athletic training, acupuncture, nursing
28 home administration, hearing aid dispensing, sign language
29 interpreting or transliterating, orthotics, prosthetics, or
30 pedorthics.
31 Sec. 2. Section 147.2, subsection 1, Code 2013, is amended
32 to read as follows:
33 1. A person shall not engage in the practice of medicine
34 and surgery, podiatry, osteopathic medicine and surgery,
35 psychology, chiropractic, physical therapy, physical

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1 therapist assisting, nursing, dentistry, dental hygiene,
2 dental assisting, optometry, speech pathology, audiology,
3 occupational therapy, occupational therapy assisting,
4 orthotics, prosthetics, pedorthics, respiratory care,
5 pharmacy, cosmetology arts and sciences, barbering, social
6 work, dietetics, marital and family therapy or mental health
7 counseling, massage therapy, mortuary science, polysomnography,
8 athletic training, acupuncture, nursing home administration,
9 hearing aid dispensing, or sign language interpreting
10 or transliterating, or shall not practice as a physician
11 assistant, unless the person has obtained a license for that
12 purpose from the board for the profession.
13 Sec. 3. Section 147.13, subsection 18, Code 2013, is amended
14 to read as follows:
15 18. For respiratory care and polysomnography, the board of
16 respiratory care.
17 Sec. 4. Section 147.14, subsection 1, paragraph o, Code
18 2013, is amended to read as follows:
19 *o.* For respiratory care, one licensed physician with
20 training in respiratory care, three respiratory care
21 practitioners who have practiced respiratory care for a
22 minimum of six years immediately preceding their appointment
23 to the board and who are recommended by the society for
24 respiratory care, three members who are licensed to practice
25 polysomnography, and ~~one member~~ two members not licensed to
26 practice medicine, osteopathic medicine, polysomnography, or
27 respiratory care who shall represent the general public.
28 Sec. 5. Section 147.74, Code 2013, is amended by adding the
29 following new subsection:
30 NEW SUBSECTION. 23A. A person who is licensed to engage
31 in the practice of polysomnography shall have the right to use
32 the title "polysomnographic technologist" or the abbreviation
33 "PSGT". No other person may use that title or abbreviation
34 or any other words or letters indicating that the person is a
35 polysomnographic technologist.

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1 Sec. 6. NEW SECTION. **148G.1 Definitions.**
2 As used in this chapter, unless the context otherwise
3 requires:
4 1. *"Board"* means the board of respiratory care established
5 in chapter 147.
6 2. *"Direct supervision"* means that the polysomnographic
7 technologist providing supervision must be present where the
8 polysomnographic procedure is being performed and immediately
9 available to furnish assistance and direction throughout the
10 performance of the procedure.
11 3. *"General supervision"* means that the polysomnographic
12 procedure is provided under a physician's overall direction and
13 control, but the physician's presence is not required during
14 the performance of the procedure.
15 4. *"Physician"* means a person who is currently licensed in
16 Iowa to practice medicine and surgery or osteopathic medicine
17 and surgery and who is board certified in sleep medicine and
18 who is actively involved in the sleep medicine center or
19 laboratory.
20 5. *"Polysomnographic student"* means a person who is enrolled
21 in a commission on accreditation of allied health education
22 program or an equivalent program accredited by a nationally
23 recognized accrediting agency and who may provide sleep-related
24 services under the direct supervision of a polysomnographic
25 technologist as a part of the person's educational program.
26 6. *"Polysomnographic technician"* means a person who has
27 graduated from a commission on accreditation of allied health
28 education program or equivalent program accredited by a
29 nationally recognized accrediting agency, but has not yet
30 passed an accepted national credentialing examination given by
31 a testing body that is accredited by a nationally recognized
32 accrediting agency, credentialed in one of the health-related
33 fields accepted by the board of registered polysomnographic
34 technologists, may provide sleep-related services under the
35 direct supervision of a licensed polysomnographic technologist

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1 for a period of up to thirty days postgraduation while awaiting
2 credentialing examination scheduling and results.
3 7. *"Polysomnographic technologist"* means a person who is
4 credentialed by a nationally recognized accrediting agency
5 and is licensed by the board to engage in the practice of
6 polysomnography under the general supervision of a physician.
7 8. *"Practice of polysomnography"* means as described in
8 section 148G.2.
9 9. *"Sleep-related services"* means acts performed by
10 polysomnographic technicians, polysomnographic students, and
11 other persons permitted to perform those services under this
12 chapter, in a setting described in this chapter that would be
13 considered the practice of polysomnography if performed by a
14 polysomnographic technologist.
15 Sec. 7. NEW SECTION. **148G.2 Practice of polysomnography.**
16 The practice of polysomnography consists of but is not
17 limited to the following tasks as performed for the purpose of
18 polysomnography, under the general supervision of a licensed
19 physician:
20 1. Monitoring, recording, and evaluating physiologic
21 data during polysomnographic testing and review during the
22 evaluation of sleep-related disorders, including sleep-related
23 respiratory disturbances, by applying any of the following
24 techniques, equipment, or procedures:
25 *a.* Noninvasive continuous, bilevel positive airway pressure,
26 or adaptive servo-ventilation titration on spontaneously
27 breathing patients using a mask or oral appliance; provided,
28 that the mask or oral appliance does not extend into the
29 trachea or attach to an artificial airway.
30 *b.* Supplemental low-flow oxygen therapy of less than six
31 liters per minute, utilizing a nasal cannula or incorporated
32 into a positive airway pressure device during a polysomnogram.
33 *c.* Capnography during a polysomnogram.
34 *d.* Cardiopulmonary resuscitation.
35 *e.* Pulse oximetry.

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1 *f.* Gastroesophageal pH monitoring.
2 *g.* Esophageal pressure monitoring.
3 *h.* Sleep stage recording using surface
4 electroencephalography, surface electrooculography, and surface
5 submental electromyography.
6 *i.* Surface electromyography.
7 *j.* Electrocardiography.
8 *k.* Respiratory effort monitoring, including thoracic and
9 abdominal movement.
10 *l.* Plethysmography blood flow monitoring.
11 *m.* Snore monitoring.
12 *n.* Audio and video monitoring.
13 *o.* Body movement monitoring.
14 *p.* Nocturnal penile tumescence monitoring.
15 *q.* Nasal and oral airflow monitoring.
16 *r.* Body temperature monitoring.
17 2. Monitoring the effects that a mask or oral appliance
18 used to treat sleep disorders has on sleep patterns; provided,
19 however, that the mask or oral appliance shall not extend into
20 the trachea or attach to an artificial airway.
21 3. Observing and monitoring physical signs and symptoms,
22 general behavior, and general physical response to
23 polysomnographic evaluation and determining whether initiation,
24 modification, or discontinuation of a treatment regimen is
25 warranted.
26 4. Analyzing and scoring data collected during the
27 monitoring described in this section for the purpose of
28 assisting a physician in the diagnosis and treatment of sleep
29 and wake disorders that result from developmental defects,
30 the aging process, physical injury, disease, or actual or
31 anticipated somatic dysfunction.
32 5. Implementation of a written or verbal order from a
33 licensed physician to perform polysomnography.
34 6. Education of a patient regarding the treatment regimen
35 that assists the patient in improving the patient's sleep.

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1 7. Use of any oral appliance used to treat sleep-disordered
2 breathing while under the care of a licensed polysomnographic
3 technologist during the performance of a sleep study, as
4 directed by a licensed dentist.
5 Sec. 8. NEW SECTION. **148G.3 Location of services.**
6 The practice of polysomnography shall take place only in a
7 facility that is accredited by a nationally recognized sleep
8 medicine laboratory or center accrediting agency; provided,
9 however, that the scoring of data and the education of patients
10 may take place in settings other than in a facility that is
11 accredited by a nationally recognized sleep medicine laboratory
12 or center accrediting agency.
13 Sec. 9. NEW SECTION. **148G.4 Scope of chapter.**
14 Nothing in this chapter shall be construed to limit or
15 restrict a health care practitioner licensed in this state from
16 engaging in the full scope of practice of the individual's
17 profession. Respiratory therapists licensed in Iowa and
18 working within the scope of practice of their license as
19 provided in chapter 152B are exempt from this chapter.
20 Sec. 10. NEW SECTION. **148G.5 Powers of the board.**
21 The board may do any of the following:
22 1. Promulgate rules necessary for the implementation and
23 administration of this chapter and the applicable provisions
24 of chapter 147.
25 2. Establish fees as provided in section 147.80.
26 3. Review and approve or reject the application of each
27 person who applies for licensure as a polysomnographic
28 technologist.
29 4. Issue all temporary permits and all approved licenses and
30 renewals of licenses.
31 5. Deny, suspend, revoke, restrict, or impose conditions
32 on a license, as the board deems necessary or appropriate at
33 the time a license is issued, renewed, or reinstated, or as a
34 sanction imposed at the conclusion of a disciplinary hearing.
35 6. Issue private advisory letter rulings to any person

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1 licensed under this chapter who makes a request for a ruling
2 regarding any matter within the board's jurisdiction; provided,
3 however, that the ruling shall affect only the licensee making
4 the inquiry and shall have no precedential value for any other
5 contested case or inquiry before the board or the committee.
6 7. Develop a code of ethics for the practice of
7 polysomnography.
8 8. Develop standards of care for the practice of
9 polysomnography.
10 9. Develop standards for the educational and clinical
11 training of polysomnographic technologists, including the
12 evaluation of the accreditation status of educational programs
13 in polysomnography.
14 10. Develop criteria for the evaluation of applications for
15 licensure submitted by polysomnographic technologists who are
16 licensed in other states.
17 11. Develop continuing education requirements for licensed
18 polysomnographic technologists.
19 Sec. 11. NEW SECTION. **148G.6 Licensing requirement.**
20 1. *a.* Commencing January 1, 2014, a person who is engaged
21 in the practice of polysomnography shall be licensed as
22 provided in this chapter and it shall be unlawful for any
23 person to engage in the practice of polysomnography without
24 such license.
25 *b.* (1) Prior to January 1, 2014, a person who is engaged in
26 the practice of polysomnography without being licensed under
27 this chapter shall not be deemed to be in violation of this
28 chapter.
29 (2) A person who is engaged in the practice of
30 polysomnography on January 1, 2014, shall be eligible for
31 licensure under this chapter without meeting the educational
32 requirements of this section provided that the person meets
33 the requirements set out in this chapter. This person shall
34 meet or exceed the passing point of a nationally accepted
35 credentialing exam in polysomnographic technology by January

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1 1, 2015.
2 2. A person seeking licensure as a polysomnographic
3 technologist shall be of good moral character, shall be at
4 least eighteen years of age, shall pay the fees established
5 by the board for licensure, and shall present proof that the
6 person meets one of the following educational requirements:
7 *a.* Graduation from a polysomnographic educational program
8 that is accredited by the committee on accreditation for
9 polysomnographic technologist education or by a committee
10 on accreditation for the commission on accreditation of
11 allied health education programs, or an equivalent program as
12 determined by the board.
13 *b.* Graduation from a respiratory care educational program
14 that is accredited by the commission on accreditation
15 for respiratory care or by a committee on accreditation
16 for the commission on accreditation of allied health
17 education programs, and completion of the curriculum for a
18 polysomnographic certificate established and accredited by the
19 commission on accreditation of allied health education programs
20 as an extension of the respiratory care program.
21 *c.* Graduation from an electroneurodiagnostic technologist
22 educational program that is accredited by the committee
23 on accreditation for education in electroneurodiagnostic
24 technology or by a committee on accreditation for the
25 commission on accreditation of allied health education
26 programs, and completion of the curriculum for a
27 polysomnography certificate established and accredited by the
28 commission on accreditation of allied health education programs
29 as an extension of the electroneurodiagnostic education
30 program.
31 3. To be eligible for renewal of a license to engage in the
32 practice of polysomnography, a polysomnographic technologist
33 shall maintain that person's credential in compliance with
34 rules set forth by a national accredited certifying agency, as
35 adopted by the board in rule.

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1 Sec. 12. NEW SECTION. **148G.7 Persons exempt from licensing**
2 **requirement — temporary permit.**
3 1. The following persons may provide sleep-related services
4 without being licensed as a polysomnographic technologist under
5 this chapter:
6 *a.* A polysomnographic technician may provide sleep-related
7 services under the general supervision of a physician for
8 a period of up to six months from the date of the person's
9 graduation from one of the accredited programs described in
10 section 148G.6. The board may in its sole discretion grant a
11 one-time extension of up to three months beyond this one-year
12 period.
13 *b.* A polysomnographic student may provide sleep-related
14 services under the direct supervision of a polysomnographic
15 technologist as a part of the person's educational program
16 while actively enrolled in a polysomnographic educational
17 program that is accredited by the commission on accreditation
18 of allied health education programs or an equivalent program as
19 determined by the board.
20 *c.* A person, other than a respiratory care practitioner
21 licensed under this chapter, credentialed in one of the
22 health-related fields accepted by the board of registered
23 polysomnographic technologists or another nationally
24 recognized accrediting agency, or a graduate of a commission on
25 accreditation of allied health educational program may provide
26 sleep-related services under direct supervision of a licensed
27 polysomnographic technologist for a period up to thirty
28 days postgraduation while awaiting credentialing examination
29 scheduling and results.
30 2. Before providing any sleep-related services, a
31 polysomnographic technician shall obtain a temporary permit
32 from the board. While providing sleep-related services, the
33 technician shall wear a badge that appropriately identifies the
34 person as a polysomnographic technician.
35 3. Before providing any sleep-related services, a person

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1 who is obtaining clinical experience shall give notice to the
2 board that the person is working under the direct supervision
3 of a polysomnographic technologist in order to gain the
4 experience to be eligible to sit for a national certification
5 examination. The person shall wear a badge that appropriately
6 identifies the person while providing such services.
7 4. Polysomnographic students shall not receive compensation
8 for the sleep-related services they provide and shall wear
9 badges that appropriately identify them as students.
10 Sec. 13. NEW SECTION. **148G.8 Issuance, retirement, and**
11 **renewal of licenses.**
12 1. The board shall issue and renew licenses under this
13 chapter as provided by the board in rule.
14 2. A person who has been issued a license to practice under
15 this chapter who wishes to retire that license shall file with
16 the board an affidavit on a form to be furnished by the board
17 stating the date on which the person retired from practice
18 and other facts that verify the retirement as the board deems
19 necessary. Any such person who thereafter wishes to reenter
20 practice shall request reinstatement of licensure.
21 3. A license issued by the board under this chapter
22 shall contain the name and address of the person to whom it
23 is issued, the date and number of the license, and other
24 information that the board deems necessary.
25 *a.* The address contained on the license shall be the address
26 where all correspondence and renewal forms from the board shall
27 be sent.
28 *b.* Any person whose address changes shall, within thirty
29 days after the change in address, notify the board of the
30 address change. The most recent address contained in the
31 board's records for each license holder shall be the address
32 deemed sufficient for purposes of service of process.
33 4. A license shall either be prominently displayed in the
34 office or place in which the person practices or be stored in a
35 place from which it can be immediately produced upon request of

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1 a patient or representative of the board.
2 5. A person whose license has been lost may make application
3 to the board for a replacement. The application shall be
4 accompanied by an affidavit setting out the facts concerning
5 the loss of the original license.
6 Sec. 14. NEW SECTION. **148G.9 Licensing sanctions.**
7 The board may impose sanctions for violations of this
8 chapter as provided in chapters 147 and 272C.
9 Sec. 15. INITIAL APPOINTMENTS.
10 1. Initial appointments of polysomnographic technologists
11 to the board of respiratory care pursuant to this Act shall be
12 made as follows: two members shall be appointed to a term of
13 three years and one member shall be appointed to a term of one
14 year. Each regular appointment thereafter shall be for a term
15 of three years.
16 2. The Iowa sleep society may submit a list of three
17 names to the governor for each position to be filled by a
18 polysomnographic technologist.
19 EXPLANATION
20 This bill requires the licensing of polysomnographic
21 technologists and makes the provisions of Code chapters 147
22 and 272C, including penalty and other regulatory provisions,
23 applicable to other health professions applicable to the
24 practice of polysomnography. Code section 147.86 provides
25 that it is a serious misdemeanor to violate a provision of
26 the licensing laws. A serious misdemeanor is punishable
27 by confinement for no more than one year and a fine of at
28 least $315 but not more than $1,875. The licensing program
29 is administered and regulated by the board of respiratory
30 care, with four new members added; three polysomnographic
31 technologists and one additional public member, for a total of
32 nine members.
33 A licensed polysomnographic technologist practices under
34 the general supervision of a licensed physician, providing
35 specifically enumerated services related to sleep disorders. A

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1 polysomnographic student enrolled in an approved educational
2 program provides services under the direct supervision of a
3 polysomnographic technologist.
4 The bill sets out educational standards and testing
5 requirements, and provides for disciplinary actions.

Senate Study Bill 1092 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON DANIELSON)

A BILL FOR

1 An Act authorizing a city to use city reserve funds as a loan
2 for certain projects.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1761SC (2) 85
aw/sc

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1 Section 1. Section 384.4, subsection 1, Code 2013, is
2 amended by adding the following new paragraph:
3 NEW PARAGRAPH. *f.* Payments of principal and interest on
4 loans entered into pursuant to section 384.24B and authorized
5 for repayment by the council from the fund.
6 Sec. 2. NEW SECTION. **384.24B General obligation loans**
7 **funded by the city.**
8 1. A city may authorize a loan, as defined in this section,
9 to borrow money for any public project in accordance with and
10 subject to the provisions of this section.
11 2. For purposes of this section, *"loan"* means the sum of
12 the transfers from one or more reserve accounts or funds of the
13 city which transfers are authorized for the purpose specified
14 in the loan authorization document. A transfer from a reserve
15 account or fund for the purposes of this section shall not
16 cause the balance of reserves in such account or fund at the
17 close of the fiscal year following the fiscal year in which the
18 transfer is made to fall below any minimum balance prescribed
19 by law for such account or fund.
20 3. A loan entered into by a city pursuant to this section
21 may contain provisions similar to those found in loan
22 agreements between private parties, including but not limited
23 to the issuance of notes to evidence its obligations.
24 4. A loan made pursuant to this section is payable from the
25 debt service fund of the city. The governing body shall follow
26 the same authorization procedures required for the issuance
27 of general obligation bonds issued for the same purpose to
28 authorize a loan made payable from the debt service fund.
29 5. A loan made pursuant to this section shall provide that a
30 portion of the payments be applied as interest at a rate set by
31 the council in the authorization for the loan. The council may
32 determine a rate of interest that shall not be below that set
33 for a certificate of deposit at a financial institution defined
34 in chapter 12C and that shall not exceed the lowest rate of
35 interest payable on a bond issuance, such rate being determined

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at the time the loan is authorized. Other laws relating to interest rates do not apply.

6. Repayments of principal and interest shall be applied to the reserve fund or account from which all or a portion of the funds were advanced for the loan in the proportion that the amount of the advance from the fund or account bears to the entire amount of the loan.

7. The limitation in section 346.24 does not apply to a transfer made pursuant to this section or to a loan authorized pursuant to this section.

Sec. 3. Section 384.25, Code 2013, is amended to read as follows:

384.25 General obligation bonds or loans for essential purposes.

1. A city which proposes to carry out any essential corporate purpose within or without its corporate limits, and to contract indebtedness and issue general obligation bonds or authorize a loan described in section 384.24B, to provide funds to pay all or any part of the cost of a project must do so in accordance with the provisions of this division.

2. Before the council may institute proceedings for the issuance of bonds or authorization of a loan for an essential corporate purpose, a notice of the proposed action, including a statement of the amount and purposes of the bonds or loan, and the time and place of the meeting at which the council proposes to take action for the issuance of the bonds or authorization of the loan, must be published as provided in section 362.3. At the meeting, the council shall receive oral or written objections from any resident or property owner of the city. After all objections have been received and considered, the council may, at that meeting or any adjournment thereof, take additional action for the issuance of the bonds or authorization of the loan or abandon the proposal to issue the bonds or authorize the loan. Any resident or property owner of the city may appeal the decision of the council to

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1 take additional action to the district court of the county in
2 which any part of the city is located, within fifteen days
3 after the additional action is taken, but the additional action
4 of the council is final and conclusive unless the court finds
5 that the council exceeded its authority. The provisions of
6 this subsection with respect to notice, hearing, and appeal,
7 are in lieu of the provisions contained in chapter 73A, or any
8 other law.
9 3. *a.* Notwithstanding subsection 2, a council may institute
10 proceedings for the issuance of bonds or the authorization of a
11 loan for an essential corporate purpose specified in section
12 384.24, subsection 3, paragraph *"w"* or *"x"*, in an amount equal
13 to or greater than three million dollars by causing a notice
14 of the proposal to issue the bonds or authorize the loan,
15 including a statement of the amount and purpose of the bonds
16 or loan, together with the maximum rate of interest which the
17 bonds are to bear or which will be charged to the principal
18 balance of the loan, and the right to petition for an election,
19 to be published at least once in a newspaper of general
20 circulation within the city at least ten days prior to the
21 meeting at which it is proposed to take action for the issuance
22 of the bonds or the authorization of the loan.
23 *b.* If at any time before the date fixed for taking action
24 for the issuance of the bonds or the authorization of the
25 loan, a petition is filed with the clerk of the city signed
26 by eligible electors of the city equal in number to twenty
27 percent of the persons in the city who voted for the office of
28 president of the United States at the last preceding general
29 election that had such office on the ballot, asking that the
30 question of issuing the bonds or authorizing the loan be
31 submitted to the registered voters of the city, the council
32 shall either by resolution declare the proposal to issue the
33 bonds or authorize the loan to have been abandoned or shall
34 direct the county commissioner of elections to call a special
35 election upon the question of issuing the bonds or authorizing

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1 the loan. Notice of the election and its conduct shall be in
2 the manner provided in section 384.26.
3 *c.* If a petition is not filed, or if a petition is filed and
4 the proposition of issuing the bonds or authorizing the loan
5 is approved at an election, the council may proceed with the
6 authorization and issuance of the bonds or authorization of the
7 loan.
8 Sec. 4. Section 384.26, subsections 1, 2, 4, and 5, Code
9 2013, are amended to read as follows:
10 1. A city which proposes to carry out any general corporate
11 purpose within or without its corporate limits, and to contract
12 indebtedness and issue general obligation bonds or authorize a
13 loan described in section 384.24B, to provide funds to pay all
14 or any part of the costs of a project, must do so in accordance
15 with the provisions of this division.
16 2. Before the council may institute proceedings for the
17 issuance of bonds or authorization of a loan for a general
18 corporate purpose, it shall call a special city election to
19 vote upon the question of issuing the bonds or authorizing the
20 loan. At the election the proposition must be submitted in one
21 of the following ~~form~~ forms, as applicable:
22 Shall the ..... (insert the name of the city) issue
23 its bonds in an amount not exceeding the amount of $.... for
24 the purpose of .....?
25 Shall the ..... (insert the name of the city) authorize
26 a loan from its reserve funds in an amount not exceeding the
27 amount of $.... for the purpose of .....?
28 4. The proposition of issuing general corporate purpose
29 bonds or authorizing a loan for a general corporate purpose
30 is not carried or adopted unless the vote in favor of the
31 proposition is equal to at least sixty percent of the total
32 vote cast for and against the proposition at the election.
33 If the proposition of issuing the general corporate purpose
34 bonds or authorizing a loan for a general corporate purpose is
35 approved by the voters, the city may proceed with the issuance

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1 of the bonds or authorization of the loan.
2 5. *a.* Notwithstanding the provisions of subsection 2,
3 a council may, in lieu of calling an election, institute
4 proceedings for the issuance of bonds or authorization of a
5 loan for a general corporate purpose by causing a notice of the
6 proposal to issue the bonds or authorize the loan, including
7 a statement of the amount and purpose of the bonds or loan,
8 together with the maximum rate of interest which the bonds are
9 to bear or which the loan is to bear, and the right to petition
10 for an election, to be published at least once in a newspaper
11 of general circulation within the city at least ten days prior
12 to the meeting at which it is proposed to take action for the
13 issuance of the bonds or authorization of the loan subject to
14 the following limitations:
15 (1) In cities having a population of five thousand or less,
16 in an amount of not more than four hundred thousand dollars.
17 (2) In cities having a population of more than five thousand
18 and not more than seventy-five thousand, in an amount of not
19 more than seven hundred thousand dollars.
20 (3) In cities having a population in excess of seventy-five
21 thousand, in an amount of not more than one million dollars.
22 *b.* If at any time before the date fixed for taking action
23 for the issuance of the bonds or the authorization of the
24 loan, a petition is filed with the clerk of the city in the
25 manner provided by section 362.4, asking that the question
26 of issuing the bonds or authorizing the loan be submitted to
27 the registered voters of the city, the council shall either by
28 resolution declare the proposal to issue the bonds or authorize
29 the loan to have been abandoned or shall direct the county
30 commissioner of elections to call a special election upon the
31 question of issuing the bonds or authorizing the loan. Notice
32 of the election and its conduct shall be in the manner provided
33 in the preceding subsections of this section.
34 *c.* If no petition is filed, or if a petition is filed and
35 the proposition of issuing the bonds or authorizing the loan

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1 is approved at an election, the council may proceed with the
2 authorization and issuance of the bonds or the authorization
3 of the loan.
4 EXPLANATION
5 This bill allows a city to borrow money from its reserve
6 accounts or funds to pay for certain public projects. The bill
7 requires that a city certify taxes to be levied for deposit in
8 the debt service fund in the amount necessary to pay principal
9 and interest on loans authorized under the bill.
10 The bill requires that such loans not cause the balances
11 of such reserve accounts or funds to fall below any minimum
12 balance prescribed by law. Such a loan shall be payable from
13 the city debt service fund, and shall provide for interest
14 payments at a rate set by the city council, as limited in the
15 bill.
16 The bill requires that such authorization by a city council
17 follow substantially the same procedures for the issuance of
18 general obligation bonds for essential corporate purposes,
19 pursuant to Code section 384.25, or for general corporate
20 purposes, pursuant to Code section 384.26.

Senate Study Bill 1093 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF ADMINISTRATIVE SERVICES BILL)

A BILL FOR

1 An Act relating to public employee human resources management
2 and making an appropriation.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1251XD (4) 85
ec/nh

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DIVISION I
SPAN OF CONTROL

Section 1. Section 8A.402, subsection 2, paragraph g, Code 2013, is amended by striking the paragraph.

DIVISION II
PHASED RETIREMENT PROGRAM

Sec. 2. Section 70A.30, Code 2013, is amended to read as follows:

70A.30 Establishment of phased retirement program.

1. ~~There is established~~ The department of administrative services may establish a voluntary employee phased retirement incentive program for full-time state employees ~~who are at least sixty years of age and have completed at least twenty years as full-time state employees~~.

2. ~~The~~ A phased retirement incentive program established by the department of administrative services is a retirement system for purposes of section 20.9, but is not retirement for purposes of chapter 97A, 97B, or 602 or for the employees who are members of the teachers insurance annuity association-college retirement equities fund (TIAA-CREF).

Sec. 3. REPEAL. Sections 70A.31, 70A.32, 70A.33, and 70A.34, Code 2013, are repealed.

Sec. 4. PHASED RETIREMENT PROGRAM — TRANSITION PROVISIONS — STANDING APPROPRIATION.

1. State employees who are participating in the phased retirement program established by sections 70A.30 through 70A.34, Code 2013, as of the effective date of this Act shall remain in the program and be eligible for the benefits of the program as provided prior to the effective date of this Act.

2. For state employees who became participants in the phased retirement program prior to the effective date of this Act, the department of administrative services shall, annually after June 30 of each fiscal year, determine the cost during the preceding fiscal year to the Iowa public employees' retirement fund of continued participation of such state employees in

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the phased retirement program as authorized by this section. Annually, there is appropriated from the fund from which the participating employees are paid to the Iowa public employees' retirement fund an amount sufficient to reimburse the retirement fund for the costs of the phased retirement program for those state employees who became participants in the program prior to the effective date of this Act.

DIVISION III

HEALTH CARE AND INSURANCE RELATED PROVISIONS

Sec. 5. Section 8A.437, subsection 1, Code 2013, is amended to read as follows:

1. The director shall establish for state employees a health flexible spending account plan which offers multiple benefits to state employees. The state's health flexible spending account plan shall be established to meet the conditions of section 125 of the Internal Revenue Code ~~of 1986~~, as defined in section 422.3.

Sec. 6. Section 509A.4, Code 2013, is amended to read as follows:

509A.4 Participation optional.

Participation in any such plan shall be optional, with all employees and their dependents eligible ~~to~~ for the benefits ~~thereof~~ of the plan as provided by the rules adopted by the governing body pursuant thereto. Election to participate ~~therein~~ in the plan shall be ~~in writing signed~~ submitted by the employee and filed with the governing body.

Sec. 7. REPEAL. Sections 70A.17 and 509A.13B, Code 2013, are repealed.

DIVISION IV

HUMAN RESOURCE MANAGEMENT

Sec. 8. Section 8A.402, subsection 1, Code 2013, is amended by adding the following new paragraph:

NEW PARAGRAPH. *i.* The development and implementation of a plan to centralize the human resource management functions for state executive branch agencies within the department,

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1 except for institutions under the control of the state board
2 of regents.
3 Sec. 9. DEPARTMENT OF ADMINISTRATIVE SERVICES —
4 CENTRALIZED HUMAN RESOURCE MANAGEMENT.
5 1. The director of the department of administrative
6 services shall develop and implement a plan to centralize
7 the human resource management functions for executive branch
8 agencies under the department of administrative services,
9 except for institutions under the control of the state board of
10 regents, by December 15, 2015.
11 2. The centralized human resource management plan shall do
12 all of the following:
13 a. Identify the human resource duties and processes being
14 utilized by each agency.
15 b. Identify the positions being utilized by the agencies to
16 perform the human resource duties.
17 c. Establish best practices for a consolidated human
18 resources model and identify the estimated cost savings that
19 will result from implementation of the plan.
20 d. Detail and implement an organizational structure to
21 support a fully consolidated human resources model.
22 e. Identify space, technology, and equipment needs, and
23 acquire and implement such tools and resources in support of
24 the consolidated human resources model. Such efforts shall be
25 done in collaboration with the state chief information officer
26 and the general services, state accounting, and information
27 technology enterprises of the department of administrative
28 services.
29 f. Establish a comprehensive budget to be used and establish
30 the utility rate to be charged each agency as a result of the
31 consolidation.
32 g. Establish detailed timelines for transition and
33 communicate the timelines to the agencies.
34 3. State executive branch agencies, except for institutions
35 under the control of the state board of regents, shall do all

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1 of the following:
2 a. Provide the department of administrative services with
3 all of the following information:
4 (1) Information regarding the human resource duties and
5 responsibilities being performed by agency staff.
6 (2) The direct and indirect costs associated with agency
7 staff performing human resource duties.
8 (3) Information about the human resource information and
9 records storage systems being used to perform human resource
10 work.
11 b. Adjust internal staffing as required in the centralized
12 human resource management plan developed by the department of
13 administrative services.
14 c. Agencies outside of the department of administrative
15 services shall not hire or replace any staff for the
16 purposes of conducting human resource work. The department
17 of administrative services shall partner with agencies
18 to transition and consolidate work in the human resource
19 enterprise of the department of administrative services.
20 d. Transition to the human resources and payroll systems
21 selected and operated by the department of administrative
22 services pursuant to timelines identified by the department of
23 administrative services.
24 e. Adhere to all objectives and timelines required in the
25 centralized human resource management plan developed by the
26 department of administrative services.
27 EXPLANATION
28 This bill concerns public employee human resource
29 management, generally administered by the department of
30 administrative services.
31 Division I of the bill strikes the requirements in Code
32 section 8A.402 relating to the span of control of supervisory
33 employees in the executive branch. The provision struck by the
34 bill prescribed certain employee ratios of nonsupervisors to
35 supervisors within executive branch agencies.

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1 Division II of the bill repeals the phased retirement
2 program for state employees. Code section 70A.30 is amended to
3 authorize, but not require, the department of administrative
4 services to establish a phased retirement program. A
5 transition provision allows those state employees currently
6 participating in the phased retirement program repealed by
7 the bill to continue participation in the program after the
8 effective date of the bill. The bill provides for continuation
9 of a standing appropriation to the Iowa public employees'
10 retirement fund for such continued participation.
11 Division III of the bill deals with various health care and
12 insurance related provisions involving state employees.
13 Code section 70A.17, providing for a payroll deduction for
14 additional insurance coverage by state employees, is repealed.
15 Code section 509A.13B, requiring certain public employers
16 to continue health care coverage for certain children of
17 employees, is repealed. The bill amends Code section 509A.4,
18 providing for optional participation in health care coverage
19 provided by public employers to employees, to extend such
20 coverage to dependents of those employees.
21 Division IV of the bill concerns human resource management
22 for state executive branch agencies. The bill requires the
23 department of administrative services to centralize the human
24 resource management functions for executive branch agencies
25 under the department of administrative services, except for
26 institutions under the control of the state board of regents,
27 by December 15, 2015. The bill amends Code section 8A.402(1)
28 by requiring that the department develop and implement the
29 plan. The bill provides the elements that must be included in
30 the centralized human resource management plan and describes
31 what applicable state executive branch agencies must do
32 relative to developing and implementing the centralized plan.