Iowa General Assembly
Daily Bills, Amendments and Study Bills
March 11, 2013

H1060 3
H1061 4
H1062 5
H1063 6
H1064 9
H1065 10
H1066 11
H1067 12
H1068 16
H1069 17
HF498 18
HF499 20
HF500 23
SF372 25
SF373 30
SF374 34
SF375 39
SF376 71
SF377 74
SF378 77
SF379 80
SF380 87
SF381 91
SF382 95
SF383 103
SF384 106
SF385 111
SF386 115
SF387 127
SF388 136
SF389 139
SF390 141
SF391 143
SF392 150
SF393 152
SF394 156

SF395 163
SF396 173
SF397 226
SF398 229
SF399 298
SF400 306
SF401 309
SF402 314
SF403 317
SF404 319
SF405 323
SF406 325
SF407 355
SF408 362
SF409 377
SF410 384
SF411 389
SF412 391
SF413 394
SF414 399
SF415 406
SF416 428
SSB1238 432
SSB1239 435
SSB1240 438
SSB1241 440

House File 307

H-1060

1 Amend House File 307 as follows:
2 1. Page 6, by striking lines 29 through 32 and
3 inserting <~~adjutant general~~ governor.>

_____
HAGENOW of Polk

House File 219

H-1061

1 Amend the amendment, H-1057, to House File 219 as
2 follows:
3 1. Page 1, after line 6 by inserting:
4 <___. Page 6, after line 32 by inserting:
5 <Sec. ___. SEVERABILITY. If the provisions of
6 this Act that provide for retroactive applicability or
7 the application thereof to any person or circumstance
8 are held invalid, the invalidity shall not affect
9 other provisions or applications of this Act which
10 can be given effect without the invalid provision or
11 application, and to this end the provisions of this Act
12 are severable as provided in section 4.12.>>
13 2. Page 1, line 13, by striking <The> and inserting
14 <Notwithstanding any provision of law to the contrary,
15 the>
16 3. By renumbering as necessary.

_____
KAUFMANN of Cedar

House File 219

H-1062

1 Amend the amendment, H-1057, to House File 219 as
2 follows:
3 1. Page 1, after line 6 by inserting:
4 <___. Page 6, after line 32 by inserting:
5 <Sec. ___. SEVERABILITY. If any provision of this
6 Act is held invalid, the invalidity shall not affect
7 other provisions or applications of this Act which can
8 be given effect without the invalid provision, and to
9 this end the provisions of this Act are severable as
10 provided in section 4.12.>>
11 2. Page 1, line 13, by striking <The> and inserting
12 <Notwithstanding any provision of law to the contrary,
13 the>
14 3. By renumbering as necessary.

KAUFMANN of Cedar

House File 311

H-1063

1 Amend the amendment, H-1058, to House File 311 as
2 follows:
3 1. Page 1, after line 5 by inserting:
4 <___. Page 3, after line 25 by inserting:
5 <Sec. ___. Section 466B.3, subsection 4, Code 2013,
6 is amended to read as follows:
7 4. *Membership.*
8 *a.* The voting members of the council shall consist
9 of the following members:
10 ~~*a.*~~ (1) The director of the department of natural
11 resources or the director's designee.
12 ~~*b.*~~ (2) The director of the soil conservation
13 division of the department of agriculture and land
14 stewardship or the director's designee.
15 ~~*c.*~~ (3) The director of the department of public
16 health or the director's designee.
17 ~~*d.*~~ (4) The administrator of the homeland security
18 and emergency management division of the department of
19 public defense or the administrator's designee.
20 ~~*e.*~~ (5) The dean of the college of agriculture and
21 life sciences at Iowa state university or the dean's
22 designee.
23 ~~*f.*~~ (6) The dean of the college of public health at
24 the university of Iowa or the dean's designee.
25 ~~*g.*~~ (7) The dean of the college of natural sciences
26 at the university of northern Iowa or the dean's
27 designee.
28 ~~*h.*~~ (8) The director of the department of
29 transportation or the director's designee.
30 ~~*i.*~~ (9) The director of the economic development
31 authority or the director's designee.
32 ~~*j.*~~ (10) The executive director of the Iowa finance
33 authority or the executive director's designee.
34 ~~*k.*~~ (11) The secretary of agriculture, who shall be
35 the chairperson, or the secretary's designee. As the
36 chairperson, and in order to further the coordination
37 efforts of the council, the secretary may invite
38 representatives from any other public agency, private
39 organization, business, citizen group, or nonprofit
40 entity to give public input at council meetings,
41 provided the entity has an interest in the coordinated
42 management of land resources, soil conservation, flood
43 mitigation, or water quality. The secretary shall also
44 invite and solicit advice from the following:
45 ~~(1)~~ (a) The director of the Iowa water science
46 center of the United States geological survey or the
47 director's designee.
48 ~~(2)~~ (b) The state conservationist from the Iowa
49 office of the United States department of agriculture's
50 natural resources conservation service or the state

conservationist's designee.
~~(3)~~ (c) The executive director for Iowa from the United States department of agriculture's farm services agency or the executive director's designee.
~~(4)~~ (d) The state director for Iowa from the United States department of agriculture's office of rural development or the state director's designee.
~~(5)~~ (e) The director of region seven of the United States environmental protection agency or the director's designee.
~~(6)~~ (f) The corps commander from the United States army corps of engineers' Rock Island district or the commander's designee.
(g) The director of the center for agricultural and rural development at Iowa state university or the director's designee.
~~*1.*~~ (12) The dean of the college of engineering at the university of Iowa or the dean's designee.
(13) The executive director of conservation districts of Iowa or the executive director's designee.
b. The nonvoting members of the council shall include all of the following:
(1) Two members of the senate. One senator shall be appointed by the majority leader of the senate and one senator shall be appointed by the minority leader of the senate.
(2) Two members of the house of representatives. One member shall be appointed by the speaker of the house of representatives and one member shall be appointed by the minority leader of the house of representatives.
Sec. ___. Section 466B.3, subsection 6, Code 2013, is amended by adding the following new paragraph:
NEW PARAGRAPH. *d.* In coordination with the department of natural resources and the department of agriculture and land stewardship, the council shall review, amend, and approve the state nutrient reduction strategy. In reviewing and approving the strategy, the council shall ensure that all concerns raised by the United States environmental protection agency regarding the strategy are addressed. The department of natural resources and the department of land stewardship shall include in the final strategy any changes recommended by the council. In coordination with the department of natural resources and the department of agriculture and land stewardship, the council shall provide oversight of the implementation of the strategy.
Sec. ___. Section 466B.31, subsection 1, Code 2013, is amended to read as follows:
1. A watershed planning advisory council is

1 established for purposes of assembling a diverse
2 group of stakeholders to review research and make
3 recommendations to and collaborate with various
4 state entities regarding methods to protect water
5 resources in the state, assure an adequate supply of
6 water, mitigate and prevent floods, and coordinate
7 the management of those resources in a sustainable,
8 fiscally responsible, and environmentally responsible
9 manner. The advisory council may seek input from
10 councils of governments or other organizations in the
11 development of its recommendations. The advisory
12 council shall meet once a year and at other times as
13 deemed necessary to meet the requirements of this
14 section. The advisory council may appoint a task
15 force to assist the advisory council in completing its
16 duties.
17 Sec. ___. Section 466B.31, subsection 2, paragraph
18 a, subparagraph (12), Code 2013, is amended by striking
19 the subparagraph.
20 Sec. ___. Section 466B.31, subsection 2, paragraph
21 a, Code 2013, is amended by adding the following new
22 subparagraphs:
23 NEW SUBPARAGRAPH. (20) One member selected by the
24 women, food, and agriculture network.
25 NEW SUBPARAGRAPH. (21) One member selected by the
26 midwest office of the environmental working group.
27 NEW SUBPARAGRAPH. (22) One member selected by
28 practical farmers of Iowa.
29 NEW SUBPARAGRAPH. (23) One member selected by the
30 Iowa farmers union.
31 NEW SUBPARAGRAPH. (24) One member selected by the
32 Iowa association of county conservation boards.
33 NEW SUBPARAGRAPH. (25) One member selected by the
34 Iowa association of water agencies.
35 NEW SUBPARAGRAPH. (26) One member selected by
36 watershed management authorities created pursuant to
37 section 466B.22.
38 Sec. ___. Section 466B.31, subsection 2, paragraph
39 b, Code 2013, is amended by striking the paragraph.>
40 ___. By renumbering as necessary.>

_____
ISENHART of Dubuque

House File 381

H-1064

1 Amend House File 381 as follows:
2 1. Page 1, by striking lines 6 and 7 and inserting
3 <of blood. In races recognized as graded stakes
4 thoroughbred races, the>

STANERSON of Linn

House File 167

H-1065

1 Amend House File 167 as follows:
2 1. Page 1, before line 1 by inserting:
3 Sec. ___. Section 135B.7, Code 2013, is amended by
4 adding the following new subsection:
5 <NEW SUBSECTION. 5. The rules shall require a
6 hospital to test each newborn child for the presence of
7 an illegal drug in the child's body. The test shall
8 be conducted prior to discharge of the newborn child
9 from the hospital or by the time the child is three
10 days old, whichever is sooner. The requirements for
11 the test shall ensure that the test, test procedure,
12 and test analysis processes meet evidentiary standards
13 for prosecution of child endangerment offenses under
14 section 726.6, subsection 1, paragraph "i", and shall
15 address reporting of positive test results to the
16 department of human services and the county attorney.>
17 2. By renumbering as necessary.

WOLFE of Clinton

House File 355

H-1066

1 Amend House File 355 as follows:
2 1. Page 1, by striking lines 20 through 28.
3 2. By renumbering as necessary.

KAUFMANN of Cedar

House File 478

H-1067

1 Amend House File 478 as follows:
2 1. Page 3, after line 1 by inserting:
3 <DIVISION ___
4 TAXPAYERS TRUST FUND
5 Sec. ___. Section 8.54, subsection 5, Code 2013, is
6 amended by striking the subsection.
7 Sec. ___. Section 8.55, subsection 2, Code 2013, is
8 amended to read as follows:
9 2. The maximum balance of the fund is the amount
10 equal to two and one-half percent of the adjusted
11 revenue estimate for the fiscal year. If the amount of
12 moneys in the Iowa economic emergency fund is equal to
13 the maximum balance, moneys in excess of this amount
14 shall be ~~distributed as follows:~~
15 ~~*a.* The first sixty million dollars of the~~
16 ~~difference between the actual net revenue for the~~
17 ~~general fund of the state for the fiscal year and the~~
18 ~~adjusted revenue estimate for the fiscal year shall be~~
19 transferred to the taxpayers trust fund.
20 ~~*b.* The remainder of the excess, if any, shall be~~
21 ~~transferred to the general fund of the state.~~
22 Sec. ___. Section 8.57E, subsection 2, Code 2013,
23 is amended to read as follows:
24 2. Moneys in the taxpayers trust fund shall only be
25 used pursuant to appropriations or transfers made by
26 the general assembly for tax relief.
27 Sec. ___. Section 8.58, Code 2013, is amended to
28 read as follows:
29 **8.58 Exemption from automatic application.**
30 1. ~~To the extent that moneys appropriated under~~
31 ~~section 8.57 do not result in moneys being credited~~
32 ~~to the general fund under section 8.55, subsection 2,~~
33 ~~moneys~~ Moneys appropriated ~~under~~ in section 8.57 and
34 moneys contained in the cash reserve fund, rebuild
35 Iowa infrastructure fund, environment first fund, Iowa
36 economic emergency fund, and taxpayers trust fund shall
37 not be considered in the application of any formula,
38 index, or other statutory triggering mechanism which
39 would affect appropriations, payments, or taxation
40 rates, contrary provisions of the Code notwithstanding.
41 2. ~~To the extent that moneys appropriated under~~
42 ~~section 8.57 do not result in moneys being credited~~
43 ~~to the general fund under section 8.55, subsection 2,~~
44 ~~moneys~~ Moneys appropriated ~~under~~ in section 8.57 and
45 moneys contained in the cash reserve fund, rebuild
46 Iowa infrastructure fund, environment first fund, Iowa
47 economic emergency fund, and taxpayers trust fund shall
48 not be considered by an arbitrator or in negotiations
49 under chapter 20.
50 DIVISION ___

1 IOWA TAXPAYERS TRUST FUND TAX CREDIT
2 Sec. ___. TAXPAYERS TRUST FUND — IOWA TAXPAYERS
3 TRUST FUND TAX CREDIT TRANSFER. During the fiscal
4 year beginning July 1, 2013, there is transferred from
5 the taxpayers trust fund created in section 8.57E to
6 the Iowa taxpayers trust fund tax credit fund created
7 in section 422.11E, an amount equal to the sum of
8 the balance of the taxpayers trust fund as determined
9 after the close of the fiscal year beginning July 1,
10 2012, and ending June 30, 2013, including the amount
11 transferred for that fiscal year to the taxpayers trust
12 fund from the Iowa economic emergency fund created
13 in section 8.55 in the fiscal year beginning July 1,
14 2013, and ending June 30, 2014, to be used for the Iowa
15 taxpayers trust fund tax credit in accordance with
16 section 422.11E, subsection 5.
17 Sec. ___. NEW SECTION. **422.11E Iowa taxpayers**
18 **trust fund tax credit.**
19 1. For purposes of this section, unless the context
20 otherwise requires:
21 *a. "Eligible individual"* means, with respect to
22 a tax year, an individual who makes and files an
23 individual income tax return pursuant to section
24 422.13. *"Eligible individual"* does not include
25 an estate or trust, or an individual for whom an
26 individual income tax return was not timely filed,
27 including extensions.
28 *b. "Unclaimed tax credit"* means, with respect to
29 a tax year, the aggregate amount by which the Iowa
30 taxpayers trust fund tax credits that were eligible to
31 be claimed by eligible individuals, if any, exceeds the
32 Iowa taxpayers trust fund tax credits actually claimed
33 by eligible individuals, if any.
34 2. The taxes imposed under this division, less the
35 credits allowed under this division except the credits
36 for withheld tax and estimated tax paid in section
37 422.16, shall be reduced by an Iowa taxpayers trust
38 fund tax credit to an eligible individual for the tax
39 year beginning January 1 immediately preceding July 1
40 of any fiscal year during which a transfer, if any, is
41 made from the taxpayers trust fund in section 8.57E to
42 the Iowa taxpayers trust fund tax credit fund created
43 in this section.
44 3. The credit shall be equal to the quotient of
45 the amount transferred to the Iowa taxpayers trust
46 fund tax credit fund in the applicable fiscal year,
47 divided by the number of eligible individuals for the
48 tax year immediately preceding the tax year for which
49 the credit in this section is allowed, as determined
50 by the director of revenue in accordance with this

1 section, rounded down to the nearest whole dollar. The
2 department of revenue shall draft the income tax form
3 for any tax year in which a credit will be allowed
4 under this section to provide the information and space
5 necessary for eligible individuals to claim the credit.
6 4. Any credit in excess of the taxpayer's liability
7 for the tax year is not refundable and shall not be
8 credited to the tax liability for any following year
9 or carried back to a tax year prior to the tax year in
10 which the taxpayer claims the credit.
11 5. *a.* There is established within the state
12 treasury under the control of the department an Iowa
13 taxpayers trust fund tax credit fund consisting of any
14 moneys transferred by the general assembly by law from
15 the taxpayers trust fund created in section 8.57E for
16 purposes of the credit provided in this section. For
17 the fiscal year beginning July 1, 2013, and for each
18 fiscal year thereafter, the department shall transfer
19 from the Iowa taxpayers trust fund tax credit fund
20 to the general fund of the state, the lesser of the
21 balance of the Iowa taxpayers trust fund tax credit
22 fund or an amount of money equal to the Iowa taxpayers
23 trust fund tax credits claimed in that fiscal year, if
24 any. Any moneys in the Iowa taxpayers trust fund tax
25 credit fund which represent unclaimed tax credits shall
26 immediately revert to the taxpayers trust fund created
27 in section 8.57E. Interest or earnings on moneys in
28 the Iowa taxpayers trust fund tax credit fund shall be
29 credited to the taxpayers trust fund created in section
30 8.57E.
31 *b.* The moneys transferred to the general fund of
32 the state in accordance with this subsection shall not
33 be considered new revenues for purposes of the state
34 general fund expenditure limitation under section 8.54
35 but instead as replacement of a like amount included in
36 the expenditure limitation for the fiscal year in which
37 the transfer is made.>
38 2. Page 3, line 24, before <or> by inserting
39 <except for the Iowa taxpayers trust fund tax credit
40 allowed under section 422.11E,>
41 3. Page 5, line 15, before <or> by inserting
42 <except for the Iowa taxpayers trust fund tax credit
43 allowed under section 422.11E,>
44 4. Page 5, line 21, by striking <This> and
45 inserting:
46 <1. Except as provided in subsection 2, this>
47 5. Page 5, after line 23 by inserting:
48 <2. The following provisions of this Act apply
49 retroactively to July 1, 2012, to moneys attributed to
50 fiscal years beginning on or after July 1, 2012:

1 a. The section of this Act amending section 8.54.
2 b. The section of this Act amending section 8.55.
3 c. The section of this Act amending section 8.57E.
4 d. The section of this Act amending section 8.58.>
5 6. Title page, line 1, by striking <the individual
6 income tax by> and inserting <revenue and taxation by
7 modifying the transfer of moneys from the Iowa economic
8 emergency fund to the taxpayers trust fund, creating
9 an Iowa taxpayers trust fund tax credit and fund and
10 providing for the transfer of moneys for purposes of
11 the credit,>
12 7. By renumbering as necessary.

_____
COWNIE of Polk

House File 454

H-1068

1 Amend House File 454 as follows:
2 1. Page 5, line 20, after <literacy,> by inserting
3 <financial literacy,>

PETTENGILL of Benton

House File 312

H-1069

1 Amend House File 312 as follows:
2 1. By striking page 2, line 18, through page 3,
3 line 2, and inserting:
4 <Sec. ___. IMPLEMENTATION.
5 1. The department of natural resources shall fully
6 implement section 459.315, subsection 3, paragraph "d",
7 as enacted by this Act, after completing a development
8 project. The department shall complete the development
9 project within twelve months after the effective date
10 of this Act.
11 2. The department shall fully implement section
12 459.315, subsection 3, paragraph "d", as enacted by
13 this Act, within twelve months after the development
14 project is completed as provided in subsection 1.>
15 2. Title page, line 3, by striking <contingent>
16 3. By renumbering, redesignating, and correcting
17 internal references as necessary.

KLEIN of Washington

House File 498 - Introduced

HOUSE FILE 498
BY T. OLSON

A BILL FOR

1 An Act requiring new electrical installations on farms to be
2 subject to inspection.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2315YH (1) 85
rn/rj

H.F. 498

1 Section 1. Section 103.23, subsection 1, Code 2013, is
2 amended to read as follows:
3 1. All new electrical installations for commercial, farm,
4 or industrial applications, including installations both inside
5 and outside of buildings, and for public use buildings and
6 facilities and any installation at the request of the property
7 owner.
8 EXPLANATION
9 This bill makes new electrical installations on farms
10 subject to the inspection and enforcement provisions of Code
11 chapter 103. Such provisions include requiring the submission
12 of a request for inspection, payment of inspection fees,
13 performance of an inspection by the state or a political
14 subdivision of the state, and condemnation and disconnection
15 orders and appeal procedures.

House File 499 - Introduced

HOUSE FILE 499
BY COMMITTEE ON NATURAL
RESOURCES

(SUCCESSOR TO HF 162)

A BILL FOR

1 An Act permitting the use of crossbows to hunt deer and
2 providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2083HV (2) 85
av/nh

H.F. 499

1 Section 1. Section 483A.8, Code 2013, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 8. *a.* The commission shall adopt a
4 rule permitting a resident to use a crossbow for taking deer
5 during the late season that is designated for taking deer by
6 muzzleloading rifle or muzzleloading pistol. The commission
7 shall prepare an application to be used by a resident
8 requesting a license to hunt deer using a crossbow pursuant to
9 this paragraph. A person issued a license pursuant to this
10 paragraph shall be otherwise qualified to hunt deer in this
11 state and shall purchase a hunting license that includes the
12 wildlife habitat fee and pay the one dollar fee that shall
13 be used and is appropriated for the purpose of deer herd
14 population management, including assisting with the cost of
15 processing deer donated to the help us stop hunger program
16 administered by the commission.
17 *b.* A resident may obtain a license under this paragraph
18 in addition to a statewide antlered or any sex deer hunting
19 bow season license. With the exception of season dates,
20 the shooting hours, limits, license quotas, and any other
21 regulations for the license shall be the same as those set
22 forth by the commission by rule for bow season deer hunts.
23 EXPLANATION
24 This bill directs the natural resource commission to adopt
25 a rule permitting a resident to use a crossbow to hunt deer
26 during the late season that is designated for taking deer by
27 muzzleloading rifle or pistol. The commission shall prepare
28 an application for a crossbow deer hunting license. A person
29 issued such a license must be otherwise qualified to hunt deer
30 in this state and purchase a hunting license that includes the
31 wildlife habitat fee and pay the one dollar fee that is used
32 for deer herd population management.
33 A resident may obtain a crossbow license in addition to
34 licenses that are available for hunting deer during regular
35 bow season. With the exception of season dates for crossbow

H.F. 499

1 hunting, all other regulations pertaining to bow season deer
2 hunting are applicable to hunting deer with a crossbow.
3 Persons with disabilities (Code section 481A.38(1)(b)) and
4 residents who are 70 years of age and older (Code section
5 483A.8B) are currently allowed to use a crossbow to hunt deer
6 during bow season.
7 A violation of the provisions of the bill is punishable by a
8 scheduled fine of $25.

House File 500 - Introduced

HOUSE FILE 500
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HF 253)

A BILL FOR

1 An Act relating to early childhood Iowa initiative requirements
2 for area boards.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2017HV (2) 85
jp/nh

H.F. 500

1 Section 1. Section 256I.5, subsection 1, paragraph b, Code
2 2013, is amended to read as follows:
3 *b.* Regular audits every three years and other requirements
4 of fiscal agents for area boards.
5 Sec. 2. Section 256I.7, subsection 1, paragraph a, Code
6 2013, is amended to read as follows:
7 *a.* The early childhood Iowa functions for an area shall be
8 performed under the authority of an early childhood Iowa area
9 board. The members of an area board shall be elected officials
10 or members of the public who are not employed by a provider of
11 services to or for the area board. In addition, the membership
12 of an area board shall include representation from early
13 care, education, health, human services, business, and faith
14 interests, and at least one parent, grandparent, or guardian of
15 a child from zero through age five. The bylaws of an area board
16 may provide for a board member to be represented by a designee
17 or alternate.
18 EXPLANATION
19 This bill relates to early childhood Iowa initiative
20 requirements for area boards.
21 Code section 256I.5 requires the department of management
22 to adopt rules in consultation with the early childhood Iowa
23 state board for measures to provide fiscal oversight of the
24 initiative. One of the measures relates to regular audits and
25 other requirements of fiscal agents for area boards. The bill
26 requires the regular audit to be every three years.
27 Code section 256I.7, creating early childhood Iowa
28 area boards, is amended to revise area board membership
29 requirements. The bill authorizes an area board's bylaws to
30 provide that a member of the board may be represented by a
31 designee or alternate.

Senate File 372 - Introduced

SENATE FILE 372
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 1234)

A BILL FOR

1 An Act establishing an incentive program applicable to
2 specified wind energy production facilities.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1923SV (1) 85
rn/rj

S.F. 372

1 Section 1. NEW SECTION. **476.43A Wind energy incentive**
2 **program.**
3 1. A wind energy production facility with a nameplate
4 generating capacity of less than or equal to twenty megawatts
5 which seeks to enter into an interconnection and power sales
6 agreement with an electric utility may submit an application
7 for approval to the board. The board shall develop an
8 application form and establish approval criteria by rule.
9 2. *a.* Eligibility for the program shall be contingent upon
10 the following:
11 (1) Constructing the facility on agricultural land in this
12 state as defined in section 9H.1.
13 (2) Having applied for or obtained the necessary financing
14 to cover facility construction and operation costs.
15 (3) Completing a standard interconnection request form
16 established by the board by rule.
17 *b.* Notwithstanding the ownership or maximum purchase
18 requirements of section 476.44, an electric utility shall
19 interconnect with a facility which is approved by the board
20 for participation in the program and shall purchase energy
21 from that facility at the rates approved in the standard
22 offer contract filed pursuant to subsection 3 with the board.
23 However, an electric utility shall not be required to purchase
24 an amount of energy from new program participants in a given
25 year which exceeds fifty percent of the electric utility's
26 retail sales growth during the previous year.
27 3. *a.* The board shall develop a standard offer contract
28 form to facilitate interconnection between an electric utility
29 and a program participant. The form shall be subject to
30 biannual review and periodic adjustment by the board with
31 respect to new program participants. The board shall require
32 all electric utilities to file with the board standard offer
33 contracts consistent with the form, subject to modification
34 and approval by the board. Electric utilities shall make
35 the contracts available to any approved program participant.

S.F. 372

1 Standard offer contracts shall continue in effect for a
2 ten-year period or until construction and financing costs of
3 the facility have been recovered, whichever is earlier, may be
4 renewed, and shall be subject to termination provisions for
5 failure to perform, to be established by the board by rule.
6 *b.* The standard offer contracts shall be calculated on
7 a kilowatt-hour basis, and shall be based on each utility's
8 cost, inclusive of its required rate of return, for the new
9 development of wind technology.
10 *c.* Until the owner of the facility has recovered all
11 construction and financing costs incurred in construction
12 of the facility through electricity sales to the utility,
13 electricity generated by the facility shall be fully
14 transmitted to the utility and not available to the owner of
15 the facility for utilization on-site.
16 4. Standard offer contracts shall be in lieu of rates
17 otherwise determined by the board pursuant to section 476.43.
18 An unsuccessful applicant, or a wind energy production facility
19 with larger than twenty megawatts of nameplate generating
20 capacity, shall be governed by the rates established in section
21 476.43.
22 5. The board shall submit a report to the general assembly
23 by January 1 annually regarding program participation levels
24 and program results.
25 EXPLANATION
26 This bill establishes a wind energy incentive program
27 applicable to wind energy production facilities approved for
28 participation in the program.
29 The bill provides that a wind energy production facility
30 with a nameplate generating capacity of less than or equal
31 to 20 megawatts which seeks to enter into an interconnection
32 and power sales agreement with an electric utility may submit
33 an application for approval to the Iowa utilities board. To
34 be eligible to apply for the program, a facility must be
35 constructed on land suitable for use in farming, have applied

S.F. 372

1 for or obtained the necessary financing to cover facility
2 construction and operation costs, and complete a standard
3 interconnection request form established by the board by rule.
4 The bill provides that notwithstanding the ownership or
5 maximum purchase requirements of Code section 476.44, an
6 electric utility shall be required to interconnect with a
7 facility approved by the board for the program, but shall not
8 be required to purchase an amount of energy from new program
9 participants in a given year which exceeds 50 percent of its
10 retail sales growth during the previous year.
11 The bill directs the board to develop a standard offer
12 contract form to facilitate interconnection between an electric
13 utility and a program participant, which shall be subject to
14 biannual review and periodic adjustment by the board with
15 respect to new program participants. All electric utilities
16 shall file with the board standard offer contracts consistent
17 with this form, subject to modification and board approval, and
18 shall make these contracts available to any approved program
19 participant. The bill provides that standard offer contracts
20 shall continue in effect for the earlier of 10 years, or the
21 date by which the facility owner has recovered construction and
22 financing costs, are renewable, and are subject to termination
23 provisions for failure to perform to be established by the
24 board by rule.
25 The bill provides that purchases of electricity under the
26 standard offer contracts shall be calculated on a kilowatt-hour
27 basis, and shall be based on each utility's cost, inclusive of
28 its required rate of return, for the new development of wind
29 technology. Until the owner of the facility has recovered all
30 construction and financing costs incurred in construction of
31 the facility, the bill provides that all electricity generated
32 by the facility shall be fully transmitted to the utility and
33 not available to the owner of the facility for utilization
34 on-site.
35 The bill states that standard offer contracts shall be

S.F. 372

in lieu of alternate and renewable energy rates otherwise determined by the board pursuant to Code section 476.43, and that an unsuccessful applicant, or a wind energy production facility with larger than 20 megawatts of nameplate generating capacity, shall be governed by the Code section 476.43 rates.

The bill requires the board to submit a report to the general assembly by January 1 annually regarding program participation levels and results.

Senate File 373 - Introduced

SENATE FILE 373
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO SSB 1132)

A BILL FOR

1 An Act relating to licensure identification and display
2 requirements and professional title and abbreviation
3 restrictions for certain health-related professions and
4 making penalties applicable.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2137SV (3) 85
jr/sc

S.F. 373

1 Section 1. Section 147.72, Code 2013, is amended to read as
2 follows:
3 **147.72 Professional titles and abbreviations.**
4 1. *a.* Any person licensed to practice a profession under
5 this subtitle may append to the person's name any recognized
6 title or abbreviation, which the person is entitled to use,
7 to designate the person's particular profession, but no other
8 person shall assume or use such title or abbreviation, and no
9 licensee shall advertise in such a manner as to lead the public
10 to believe that the licensee is engaged in the practice of any
11 other profession than the one which the licensee is licensed
12 to practice.
13 *b.* Any advertisement for services provided by a person
14 licensed to practice a profession under this subtitle shall
15 clearly identify the license held by the person advertising or
16 providing services, consistent with this subtitle.
17 2. A board shall require any person licensed to practice a
18 profession identified under section 147.74 to do the following
19 when directly engaging a member of the public in a clinical
20 setting in the practice of the person's profession:
21 *a.* Wear a form of identification consistent with rules
22 promulgated by each applicable board, except if wearing
23 identification creates a safety or health risk, or in
24 situations when voluntarily and gratuitously responding to a
25 need for health care created by an emergency or a state or
26 local disaster. The rules shall establish uniform minimum
27 standards for identification. Minimum standards shall include
28 prominent display of the professional title and abbreviation of
29 the licensee as set forth in section 147.74.
30 *b.* If wearing identification creates a safety or health
31 risk, or in situations when voluntarily and gratuitously
32 responding to a need for health care created by an emergency or
33 a state or local disaster, the licensee shall verbally disclose
34 the license the licensee holds.
35 3. Persons licensed pursuant to section 148.5 shall also

S.F. 373

1 comply with the requirements of subsection 2 of this section
2 consistent with rules adopted by the board of medicine.
3 4. Failure of a licensee to comply with the requirements
4 set forth in subsection 2 and the rules adopted thereunder may
5 constitute a basis for board action against the licensee.
6 Sec. 2. Section 147.74, subsection 21, Code 2013, is amended
7 to read as follows:
8 21. An advanced registered nurse practitioner practicing
9 pursuant to rules adopted by the board and licensed as a
10 registered nurse under chapter 152 may use the words "advanced
11 registered nurse practitioner" or the letters "A.R.N.P." after
12 the person's name. A registered nurse licensed under chapter
13 152 may use the words "registered nurse" or the letters "R. N."
14 after the person's name. A licensed practical nurse licensed
15 under chapter 152 may use the words "licensed practical nurse"
16 or the letters "L. P. N." after the person's name.
17 EXPLANATION
18 This bill makes changes relating to licensure identification
19 and display and to professional title and abbreviation
20 restrictions for certain health-related professions.
21 The bill requires that any advertisement for services
22 provided by a person licensed in a health-related profession
23 clearly identify the license held by the person advertising or
24 providing services.
25 The bill requires persons licensed in health-related
26 professions whose professional title and abbreviation
27 is designated by Code section 147.74 to wear a form of
28 identification based on standards promulgated by rule by each
29 applicable licensing board unless wearing the identification
30 creates a safety or health risk or if the person is responding
31 gratuitously to an emergency or disaster. The bill also
32 provides that this requirement applies to resident physicians
33 licensed under Code section 148.5.
34 The bill also authorizes an advanced registered nurse
35 practitioner to use the words "advanced registered nurse

S.F. 373

1 practitioner" or the acronym "A.R.N.P.". Current law provides
2 that a person who fails to properly use the designations
3 specified in statute is guilty of a simple misdemeanor. A
4 simple misdemeanor is punishable by confinement for no more
5 than 30 days or a fine of at least $65 but not more than $625
6 or both.

Senate File 374 - Introduced

SENATE FILE 374
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO SSB 1183)

A BILL FOR

1 An Act relating to drug product selection.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2093SV (1) 85
pf/nh

S.F. 374

1 Section 1. Section 155A.13A, Code 2013, is amended to read
2 as follows:
3 **155A.13A Nonresident pharmacy license — required, renewal,**
4 **drug product selection, discipline.**
5 1. *License required.* A pharmacy located outside of this
6 state which delivers, dispenses, or distributes by any method,
7 prescription drugs or devices to an ultimate user in this state
8 shall obtain a nonresident pharmacy license from the board.
9 The board shall make available an application form for a
10 nonresident pharmacy license and shall require such information
11 it deems necessary to fulfill the purposes of this section. A
12 nonresident pharmacy shall do all of the following in order to
13 obtain a nonresident pharmacy license from the board:
14 *a.* Submit a completed application form and an application
15 fee as determined by the board.
16 *b.* Submit evidence of possession of a valid license, permit,
17 or registration as a pharmacy in compliance with the laws of
18 the state in which it is located, a copy of the most recent
19 inspection report resulting from an inspection conducted by
20 the regulatory or licensing agency of the state in which it is
21 located, and evidence of compliance with all legal directions
22 and requests for information issued by the regulatory or
23 licensing agency of the state in which it is located.
24 *c.* Submit a list of the names, titles, and locations of
25 all principal owners, partners, or officers of the nonresident
26 pharmacy, all pharmacists employed by the nonresident pharmacy
27 who deliver, dispense, or distribute by any method prescription
28 drugs to an ultimate user in this state, and of the pharmacist
29 in charge of the nonresident pharmacy. A nonresident pharmacy
30 shall update the list within thirty days of any addition,
31 deletion, or other change to the list.
32 *d.* Submit evidence that the nonresident pharmacy maintains
33 records of the controlled substances delivered, dispensed, or
34 distributed to ultimate users in this state.
35 *e.* Submit evidence that the nonresident pharmacy provides,

S.F. 374

during its regular hours of operation for at least six days and for at least forty hours per week, toll-free telephone service to facilitate communication between ultimate users in this state and a pharmacist who has access to the ultimate user's records in the nonresident pharmacy, and that the toll-free number is printed on the label affixed to each container of prescription drugs delivered, dispensed, or distributed in this state.

2. *License renewal.* A nonresident pharmacy shall renew its license on or before January 1 annually. In order to renew a nonresident pharmacy license, a nonresident pharmacy shall submit a renewal fee as determined by the board, and shall fulfill all of the requirements of subsection 1, paragraphs *"b"* through *"e"*. A nonresident pharmacy shall pay an additional fee for late renewal as determined by the board.

3. *Drug product selection.* A nonresident pharmacy is subject to the drug product selection requirements specified in section 155A.32.

~~3.~~ 4. *Discipline.* The board may deny, suspend, or revoke a nonresident pharmacy license for any violation of this section, section 155A.15, subsection 2, paragraph *"a"*, *"b"*, *"d"*, *"e"*, *"f"*, *"g"*, *"h"*, or *"i"*, chapter 124, 124A, 124B, 126, or 205, or a rule of the board.

Sec. 2. Section 155A.32, subsection 2, Code 2013, is amended to read as follows:

2. The pharmacist shall not exercise the drug product selection described in this section if ~~either~~ any of the following is true:

a. The prescriber specifically indicates that no drug product selection shall be made.

b. The person presenting the prescription indicates that only the specific drug product prescribed should be dispensed. However, this paragraph does not apply if the cost of the prescription or any part of it will be paid by expenditure of public funds authorized under chapter 249A.

S.F. 374

1 *c.* The prescriber indicates that a specific drug product
2 should be dispensed and a diagnosis of epilepsy is written on
3 the prescription. For the purposes of this paragraph, *"drug*
4 *product selection"* includes dispensing a drug product of another
5 manufacturer instead of the specific drug product the patient
6 is currently prescribed, and substituting a generic version
7 for a brand version, a brand version for a generic version,
8 or a generic version for a generic version of a different
9 manufacturer. For the purposes of this paragraph, a *"specific*
10 *drug product"* means a specific drug, strength, dosage form, or
11 dosing regimen from a specific manufacturer.
12 Sec. 3. Section 155A.32, Code 2013, is amended by adding the
13 following new subsections:
14 NEW SUBSECTION. 4. If drug product selection is prohibited
15 pursuant to subsection 2, paragraph *"c"*, but the specific
16 drug indicated is not available, the pharmacist may dispense
17 a seventy-two-hour emergency supply of a bioequivalent of
18 a specific generic manufacturer's product. If a pharmacist
19 dispenses a bioequivalent drug product under this subsection,
20 the pharmacist shall notify the patient and the prescriber
21 of the substitution and shall resolve the shortage within
22 seventy-two hours of dispensing the substitute drug product.
23 The board shall adopt rules regarding notification of the
24 patient and prescriber under this subsection.
25 NEW SUBSECTION. 5. If drug product selection is prohibited
26 under subsection 2, paragraph *"c"*, any differential in cost to
27 the pharmacy or patient resulting from the prohibition shall be
28 covered by the patient's health carrier as defined in section
29 514J.102.
30 EXPLANATION
31 This bill relates to drug product selection.
32 The bill amends provisions relating to nonresident
33 pharmacies to provide that a nonresident pharmacy is subject
34 to the drug product selection requirements that are currently
35 applicable to resident pharmacies.

S.F. 374

1 The bill also amends the list of exceptions to a pharmacist
2 exercising drug product selection to provide that a pharmacist
3 shall not exercise drug product selection if the prescriber
4 indicates that a specific drug product should be dispensed and
5 a diagnosis of epilepsy is written on the prescription. The
6 bill also specifies that for the purposes of the exception,
7 drug product selection includes dispensing a drug product of
8 another manufacturer instead of the specific drug product the
9 patient is currently prescribed, and substituting a generic
10 version for a brand version, a brand version for a generic
11 version, or a generic version for a generic version of a
12 different manufacturer. Additionally, for the purposes of
13 the exception, a specific drug product means a specific drug,
14 strength, dosage form, or dosing regimen from a specific
15 manufacturer.
16 The bill also addresses substitutions made when a pharmacy
17 does not have a specific drug product available when drug
18 product selection is prohibited. In those instances, the bill
19 provides that the pharmacist may dispense a 72-hour emergency
20 supply of a bioequivalent of a specific generic manufacturer's
21 product. If a substitute is dispensed, the pharmacist is
22 required to notify the patient and the prescriber of the
23 substitution and to resolve the shortage within 72 hours of
24 dispensing the substitute drug product. The bill directs the
25 board of pharmacy to adopt rules regarding notification of the
26 patient and prescriber.
27 The bill also provides that if drug product selection
28 is prohibited relating to a diagnosis of epilepsy, any
29 differential in cost to the pharmacy or patient resulting
30 from the prohibition shall be covered by the patient's health
31 carrier.

Senate File 375 - Introduced

SENATE FILE 375
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SF 72)

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 1060SV (1) 85
av/rj

S.F. 375

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.

S.F. 375

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

S.F. 375

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.

S.F. 375

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

S.F. 375

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

S.F. 375

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.

S.F. 375

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

S.F. 375

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.

S.F. 375

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

S.F. 375

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

S.F. 375

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

S.F. 375

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

S.F. 375

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

S.F. 375

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.**

S.F. 375

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

S.F. 375

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

S.F. 375

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:

S.F. 375

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

S.F. 375

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

S.F. 375

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.

S.F. 375

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.

S.F. 375

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

S.F. 375

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.

S.F. 375

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.

S.F. 375

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

S.F. 375

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

S.F. 375

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.

S.F. 375

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

S.F. 375

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

S.F. 375

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

S.F. 375

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

Senate File 376 - Introduced

SENATE FILE 376
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1140)

A BILL FOR

1 An Act providing for immunity from civil liability for
2 registered architects and professional engineers providing
3 disaster emergency assistance under specified circumstances.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1344SV (1) 85
rn/rj

S.F. 376

1 Section 1. NEW SECTION. **29C.20C Immunity — registered**
2 **architects and professional engineers.**
3 An architect registered pursuant to chapter 544A or a
4 professional engineer licensed pursuant to chapter 542B who,
5 during a disaster emergency as proclaimed by the governor or
6 a major disaster as declared by the president of the United
7 States, in good faith and at the request of or with the
8 approval of a national, state, or local public official, law
9 enforcement official, public safety official, or building
10 inspection official believed by the registered architect or
11 professional engineer to be acting in an official capacity,
12 voluntarily and without compensation provides architectural,
13 engineering, structural, electrical, mechanical, or other
14 design professional services related to the disaster emergency
15 shall not be liable for civil damages for any acts or omissions
16 resulting from the services provided, unless such acts or
17 omissions constitute recklessness or willful and wanton
18 misconduct. A registered architect or professional engineer
19 who receives expense reimbursement for the performance of
20 services described in this section shall not be considered to
21 have received compensation for such services.
22 EXPLANATION
23 This bill confers immunity from civil liability for
24 registered architects and professional engineers providing
25 assistance pursuant to a disaster emergency declared by the
26 governor or a major disaster declared by the president of the
27 United States pursuant to Code chapter 29C. The bill provides
28 that when architectural, engineering, structural, electrical,
29 mechanical, or other design professional services are rendered
30 in good faith at the request of or with the approval of a
31 national, state, or local public official, law enforcement
32 official, public safety official, or building inspection
33 official believed by the registered architect or professional
34 engineer to be acting in an official capacity, and are rendered
35 voluntarily and without compensation, a registered architect

S.F. 376

1 or professional engineer shall not be liable for civil damages
2 for any acts or omissions resulting from the services provided,
3 unless such acts or omissions constitute recklessness or
4 willful and wanton misconduct. The bill provides that receipt
5 of expense reimbursement for services performed shall not be
6 regarded as compensation for such services.

Senate File 377 - Introduced

SENATE FILE 377
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO SF 12)

A BILL FOR

1 An Act relating to area health education centers, creating
2 an area health education centers fund, and providing an
3 appropriation.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1446SV (1) 85
pf/nh

S.F. 377

1 Section 1. NEW SECTION. **135.179 Area health education**
2 **centers fund.**
3 An area health education centers fund is created in the
4 state treasury as a separate fund under the control of the
5 department. The department may receive appropriations,
6 contributions, grants, and in-kind contributions to support
7 the purposes of the fund. The fund shall be separate from the
8 general fund of the state and shall not be considered part of
9 the general fund of the state. The moneys in the fund shall
10 not be considered revenue of the state, but rather shall be
11 moneys of the fund. The moneys in the fund are appropriated
12 to the department to be distributed to a publicly owned acute
13 care teaching hospital located in a county with a population
14 over three hundred fifty thousand that shall subcontract
15 with health care entities that host regional area health
16 education centers to recruit and retain a skilled health care
17 workforce in rural and underserved areas of the state. The
18 funds distributed shall be used to provide the nonfederal
19 funding match requirement for receipt of federal grants for
20 area health education centers from the federal health resources
21 and services administration of the United States department of
22 health and human services and to assist with continuation of
23 existing educational health care programs and activities. The
24 moneys in the fund are not subject to section 8.33 and shall
25 not be transferred, used, obligated, appropriated, or otherwise
26 encumbered, except to provide for the purposes of this section.
27 Notwithstanding section 12C.7, subsection 2, interest or
28 earnings on moneys deposited in the fund shall be credited to
29 the fund.
30 Sec. 2. AREA HEALTH EDUCATION CENTERS —
31 APPROPRIATION. There is appropriated from the general
32 fund of the state for deposit in the area health education
33 centers fund created in section 135.179 pursuant to this Act,
34 for the fiscal year beginning July 1, 2013, and ending June 30,
35 2014, the following amount, or so much thereof as is necessary,

S.F. 377

1 for the purposes specified for the fund:
2 ..... $ 500,000
3 Sec. 3. CODE EDITOR DIRECTIVE. The Code editor shall create
4 a new division in chapter 135 codifying section 135.179, as
5 enacted in this Act, as the area health education centers fund.
6 EXPLANATION
7 This bill relates to area health education centers (AHECs).
8 The bill creates an area health education centers fund in
9 the state treasury as a separate fund under the control of
10 the department of public health. The moneys in the fund
11 are appropriated to the department to be distributed to a
12 publicly owned acute care teaching hospital located in a county
13 with a population over 350,000 that shall subcontract with
14 health care entities that host AHECs to recruit and retain
15 health care providers in rural and underserved areas of the
16 state. The funds distributed are to be used to provide the
17 nonfederal funding match requirement for receipt of federal
18 grants for AHECs from the federal health resources and services
19 administration of the United States department of health and
20 human services and to provide for continuation of existing
21 educational health care programs and activities.
22 The bill also makes an appropriation of $500,000 from the
23 general fund of the state for deposit in the area health
24 education centers fund to be used for the purposes of the fund.

Senate File 378 - Introduced

SENATE FILE 378
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1121)

A BILL FOR

1 An Act providing for appropriations to the statewide fire
2 and police retirement system and including effective date
3 provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1906SV (1) 85
ec/sc

S.F. 378

1 Section 1. NEW SECTION. **411.19 State appropriation.**
2 1. There is appropriated from the general fund of the state
3 for each fiscal year an amount equal to three and seventy-nine
4 hundredths percent of the covered earnable compensation to be
5 distributed to the statewide fire and police retirement system,
6 or to the cities participating in the system, to finance the
7 cost of benefits provided in this chapter by amendments of the
8 Acts of the Sixty-sixth General Assembly, chapter 1089. The
9 method of distribution shall be determined by the board of
10 trustees based on information provided by the actuary of the
11 statewide retirement system.
12 2. Moneys appropriated by the state shall not be used
13 to reduce the normal rate of contribution of any city below
14 seventeen percent.
15 Sec. 2. STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM FUND —
16 APPROPRIATION.
17 1. There is appropriated from the general fund of the state
18 for deposit in the statewide fire and police retirement fund
19 created in section 411.8, for the fiscal year beginning July 1,
20 2012, and ending June 30, 2013, the following amount:
21 ..... $ 9,800,000
22 2. Moneys appropriated by the state pursuant to this section
23 shall not be used to reduce the normal rate of contribution of
24 any city below 17 percent.
25 Sec. 3. EFFECTIVE UPON ENACTMENT. The following provision
26 or provisions of this Act, being deemed of immediate
27 importance, take effect upon enactment:
28 1. The section of this Act providing for an appropriation to
29 the statewide fire and police retirement fund for the fiscal
30 year beginning July 1, 2012.
31 EXPLANATION
32 This bill provides for a state appropriation to the
33 statewide fire and police retirement system established in
34 Code chapter 411 equal to 3.79 percent of the covered earnable
35 compensation of the members. The percentage represents the

S.F. 378

1 cost of benefits provided by Acts of the 66th General Assembly.
2 The bill restores the standing state appropriation to the
3 retirement system that was repealed by 2010 Acts, chapter 1167.
4 The repealed language had set the state appropriation based
5 upon the cost of benefits provided by the Acts of the 66th
6 General Assembly but did not specify a percentage.
7 The bill also provides for an appropriation from the general
8 fund of the state to the statewide fire and police retirement
9 system fund for the fiscal year beginning July 1, 2012, for
10 $9.8 million. This provision of the bill takes effect upon
11 enactment.

Senate File 379 - Introduced

SENATE FILE 379
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1085)

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 1283SV (2) 85
jr/nh

S.F. 379

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
17 to exceed ten thousand dollars for each separate and distinct
18 violation of the laws and rules governing the practice of
19 medicine up to a maximum of fifty thousand dollars per case.
20 Sec. 3. Section 148.7, Code 2013, is amended to read as
21 follows:
22 **148.7 Procedure for licensee discipline.**
23 A proceeding for the revocation or suspension of a license
24 to practice medicine and surgery or osteopathic medicine and
25 surgery, or acupuncture or to discipline a person licensed
26 to practice medicine and surgery or osteopathic medicine and
27 surgery, or acupuncture shall be substantially in accord with
28 the following procedure and with section 272C.6, subsection
29 4, to the extent the provisions in that subsection are not
30 inconsistent with this section:
31 1. The board may, upon its own motion or upon receipt of
32 a complaint ~~in writing~~, order an investigation. The board
33 may, upon its own motion, order a hearing. A written notice
34 of the time and place of the hearing together with a statement
35 of the charges shall be served upon the licensee at least ten

S.F. 379

days before the hearing in the manner required for the service 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

S.F. 379

1 two of whom are licensed in the profession.
2 *c.* A panel of not less than three specialists appointed
3 pursuant to section 272C.6, subsection 2.
4 *d.* An administrative law judge. The decision to assign
5 an administrative law judge shall be within the sole
6 discretion of the board. The board may only assign cases to
7 an administrative law judge to serve as the presiding officer
8 at hearing that involve allegations of one or more violations
9 of the laws or rules governing the practice of medicine which
10 do not involve a standard of medical care determination,
11 professional practice, medical ethics, sexual misconduct, or
12 impairment. The board may assign cases involving issues of
13 law and administrative violations including but not limited
14 to violations of a board order, violations of an initial
15 agreement or contract entered into with the Iowa physician
16 health committee, disciplinary action by another licensing
17 board or regulatory authority, and criminal convictions. The
18 board shall define by rule those cases which may be assigned
19 to an administrative law judge, and the process for using
20 an administrative law judge as the presiding officer. The
21 administrative law judge shall be assigned by the division of
22 administrative hearings pursuant to section 10A.801, and shall
23 be vested with full authority of the board to schedule and
24 conduct hearings.
25 4. ~~Disciplinary hearings held pursuant to section 272C.6,~~
26 ~~subsection 1, shall be heard by the board, or by a panel of~~
27 ~~not less than six members, at least three of whom are board~~
28 ~~members, and the remaining appointed pursuant to section~~
29 ~~148.2A, with no more than three of the six being public~~
30 ~~members.~~ Notwithstanding chapters 17A and 21, a disciplinary
31 hearing shall be open to the public at the discretion of the
32 licensee.
33 5. The presiding officer may issue subpoenas, administer
34 oaths, and take or cause depositions to be taken in connection
35 with the hearing. The presiding officer shall issue subpoenas

S.F. 379

at the request and on behalf of the parties. If a person refuses to obey a subpoena issued by the presiding officer or to answer a proper question during the hearing, the presiding officer may invoke the aid of the district court in requiring the attendance and testimony of a person or the production of papers. A failure to obey the order of the court may be punished by the court as a civil contempt.

~~5.~~ 6. A record of the proceedings shall be kept. The 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

S.F. 379

1 decision and order may be appealed to the full board by either
2 party by serving on the executive director, either in person or
3 by certified mail, a notice of appeal within thirty days after
4 service of the proposed findings of fact, conclusions of law,
5 and decision and order on the appealing party.
6 ~~8.~~ 9. If a majority of the members of the board vote in
7 favor of finding the licensee guilty of an act or offense
8 specified in section 147.55 or 148.6, the board shall prepare
9 written findings of fact ~~and its decision~~, conclusions of law,
10 and a decision and order imposing one or more of the following
11 disciplinary measures:
12 *a.* Suspend the licensee's license to practice the profession
13 for a period to be determined by the board.
14 *b.* Revoke the licensee's license to practice the profession.
15 *c.* Suspend imposition of judgment and penalty or impose
16 the judgment and penalty, but suspend enforcement and place
17 the physician or acupuncturist on probation. The probation
18 ordered may be vacated upon noncompliance. The board may
19 restore and reissue a license to practice medicine and surgery
20 or osteopathic medicine and surgery, or acupuncture, but may
21 impose a disciplinary or corrective measure which the board
22 might originally have imposed. A copy of the board's ~~order,~~
23 findings of fact, conclusions of law, and decision and order,
24 shall be served on the licensee in the manner of service of an
25 original notice or by certified mail return receipt requested.
26 ~~9.~~ 10. Judicial review of the board's action may be
27 sought in accordance with the terms of the Iowa administrative
28 procedure Act, chapter 17A.
29 ~~10.~~ 11. The board's order revoking or suspending a license
30 to practice medicine and surgery or osteopathic medicine
31 and surgery, or acupuncture, or to discipline a licensee
32 shall remain in force and effect until the appeal is finally
33 determined and disposed of upon its merit.
34 EXPLANATION
35 This bill relates to disciplinary procedures before the

S.F. 379

1 board of medicine.
2 The bill provides that at least half of the members of a
3 disciplinary hearing panel containing alternate members shall
4 be members of the board of medicine and at least half the
5 members shall be licensed to practice under Code chapter 148.
6 The bill increases the board's maximum civil penalty from a
7 total of $10,000 to $10,000 for each violation, up to a maximum
8 of $50,000 per case.
9 Relating to disciplinary procedures, the bill rewrites
10 the existing provisions to provide additional detail. The
11 bill specifies that the procedures for licensee discipline
12 in Code section 148.7 apply to persons licensed to practice
13 acupuncture.
14 The bill specifies that a disciplinary hearing may be
15 presided over by any of the following, at the discretion
16 of the board: a quorum of the entire board; a panel of at
17 least three board members; a panel made up of specialists;
18 or an administrative law judge. The bill rewrites existing
19 provisions relating to the power of the presiding officer to
20 issue subpoenas and the enforcement of those subpoenas.
21 The bill allows an administrative law judge to preside
22 at certain contested cases, when those cases do not require
23 medical expertise or involve sexual misconduct or impairment.
24 The bill codifies in Code chapter 148 provisions that are
25 generally set out in Code chapter 17A relating to the decision
26 in a contested case. If a quorum of the entire board hears the
27 case, the board decision is final agency action. If less than
28 a quorum or an administrative law judge hears the case, the
29 decision may be appealed to the entire board.

Senate File 380 - Introduced

SENATE FILE 380
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1067)

A BILL FOR

1 An Act authorizing charitable auctions for alcoholic spirits.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1667SV (1) 85
ec/nh

S.F. 380

1 Section 1. Section 123.173A, Code 2013, is amended to read
2 as follows:
3 **123.173A Charity beer, spirits, and wine auction permit.**
4 1. For purposes of this section, *"authorized nonprofit*
5 *entity"* includes a nonprofit entity which has a principal office
6 in the state, a nonprofit corporation organized under chapter
7 504, or a foreign corporation as defined in section 504.141,
8 whose income is exempt from federal taxation under section
9 501(c) of the Internal Revenue Code.
10 2. An authorized nonprofit entity may, upon application to
11 the division and receipt of a charity beer, spirits, and wine
12 auction permit from the division, conduct a charity auction
13 which includes beer, spirits, and wine. The application shall
14 specify the date and time when the charity beer, spirits, and
15 wine auction is to be conducted and the premises in this state
16 where the charity beer, spirits, and wine auction is to be
17 physically conducted. The applicant shall certify that the
18 objective of the charity beer, spirits, and wine auction is
19 to raise funds solely to be used for educational, religious,
20 or charitable purposes and that the entire proceeds from the
21 charity beer, spirits, and wine auction are to be expended for
22 any of the purposes described in section 423.3, subsection 78.
23 3. An authorized nonprofit entity shall be eligible to
24 receive only two charity beer, spirits, and wine auction
25 permits during a calendar year and each charity beer, spirits,
26 and wine auction permit shall be valid for a period not to
27 exceed thirty-six consecutive hours.
28 4. The authorized nonprofit entity conducting the charity
29 beer, spirits, and wine auction shall obtain the beer, spirits,
30 and wine to be auctioned at the charity beer, spirits, and
31 wine auction from an Iowa retail beer permittee, an Iowa
32 retail alcoholic liquor permittee, an Iowa micro-distilled
33 spirits permittee, or an Iowa retail wine permittee, or may
34 receive donations of beer, spirits, or wine to be auctioned
35 at the charity beer, spirits, and wine auction from persons

S.F. 380

1 who purchased the donated beer, spirits, or wine from an
2 Iowa retail beer permittee, an Iowa retail alcoholic liquor
3 permittee, an Iowa micro-distilled spirits permittee, or
4 an Iowa retail wine permittee and who present a receipt
5 documenting the purchase at the time the beer, spirits, or wine
6 is donated. The authorized nonprofit entity conducting the
7 charity beer, spirits, and wine auction shall retain a copy
8 of the receipt for a period of one year from the date of the
9 charity beer, spirits, and wine auction.
10 5. Persons shall be physically present at the charity
11 beer, spirits, and wine auction to be eligible to bid on beer,
12 spirits, and wine sold at the charity auction.
13 6. The beer, spirits, and wine sold at the charity beer,
14 spirits, and wine auction shall be in original containers
15 for consumption off of the premises where the charity beer,
16 spirits, and wine auction is conducted. No other alcoholic
17 beverage may be sold by the charity beer, spirits, and wine
18 auction permittee at the charity beer, spirits, and wine
19 auction. A purchaser of beer, spirits, or wine at a charity
20 beer, spirits, and wine auction shall not take possession of
21 the beer, spirits, or wine until the person is leaving the
22 event. A purchaser of beer, spirits, or wine at a charity
23 beer, spirits, and wine auction shall not open the container
24 or consume or permit the consumption of the beer, spirits, or
25 wine purchased on the premises where the charity beer, spirits,
26 and wine auction is conducted. A purchaser of beer, spirits,
27 or wine at a charity beer, spirits, and wine auction shall not
28 resell the beer, spirits, or wine.
29 7. A liquor control licensee, beer permittee,
30 micro-distilled spirits permittee, or wine permittee shall not
31 purchase beer, spirits, or wine at a charity beer, spirits, and
32 wine auction. The charity beer, spirits, and wine auction may
33 be conducted on a premises for which a class "B" liquor control
34 license or class "C" liquor control license has been issued,
35 provided that the liquor control licensee does not participate

S.F. 380

in the charity beer, spirits, and wine auction, supply beer, spirits, or wine to be auctioned at the charity beer, spirits, and wine auction, or receive any of the proceeds of the charity beer, spirits, and wine auction.

Sec. 2. Section 123.179, subsection 5, Code 2013, is amended to read as follows:

5. The fee for a charity beer, spirits, and wine auction permit is one hundred dollars.

EXPLANATION

Code section 123.173A, providing for a charity beer and wine auction permit, is amended to allow the auction of alcoholic spirits.

Senate File 381 - Introduced

SENATE FILE 381
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SF 281)

A BILL FOR

1 An Act requiring the state building code commissioner to
2 adopt standards and requirements for window fall prevention
3 devices for windows installed in certain multifamily
4 dwellings, hotels, and motels, making penalties applicable,
5 and including effective date provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2055SV (1) 85
aw/sc

S.F. 381

1 Section 1. NEW SECTION. **103A.8D Window safety standards.**
2 1. *a.* The commissioner, after consulting with and receiving
3 recommendations from the state fire marshal, shall adopt as
4 part of the state building code standards and requirements for
5 window fall prevention devices for windows installed in newly
6 constructed multifamily dwellings, hotels, and motels and for
7 windows installed as a part of any additions, renovations, or
8 repairs to existing multifamily dwellings, hotels, and motels
9 for which a permit, license, certificate, or similar document
10 is required.
11 *b.* The provisions of this section relating to multifamily
12 dwellings shall only apply to construction, additions,
13 renovations, or repairs of multifamily dwellings that are
14 paid for in whole or in part with moneys from the state or a
15 governmental subdivision of the state.
16 2. *a.* The provisions of the state building code adopted
17 pursuant to this section shall require the installation of
18 window fall prevention devices on all windows described in
19 subsection 1 that are one story in height or more above grade,
20 are less than thirty-six inches above floor level, and can be
21 opened wider than four inches.
22 *b.* (1) The provisions of the state building code shall
23 require that the standards adopted for windows located
24 seventy-five feet or less above grade be consistent with the
25 requirements for window fall prevention devices as provided in
26 the American society for testing and materials' most recent
27 specification for window fall prevention devices with emergency
28 escape release mechanisms.
29 (2) The provisions of the state building code shall
30 require that the standards adopted for windows located more
31 than seventy-five feet above grade be consistent with the
32 requirements for window fall prevention devices as provided
33 in the American society for testing and materials' most
34 recent specification for window fall prevention devices for
35 nonemergency escape and rescue windows.

S.F. 381

1 3. The provisions of the state building code adopted
2 pursuant to this section shall apply to new construction
3 or additions, renovations, or repairs, that are permitted,
4 licensed, certified, or otherwise approved on or after July 1,
5 2013.
6 Sec. 2. Section 103A.10, Code 2013, is amended by adding the
7 following new subsection:
8 NEW SUBSECTION. 6. Notwithstanding any other provision
9 of this chapter to the contrary, the requirements for window
10 fall prevention device standards adopted by the commissioner
11 pursuant to section 103A.8D shall apply to construction,
12 additions, renovations, and repairs permitted, licensed,
13 certified, or otherwise approved on or after July 1, 2013,
14 and shall supersede and replace any minimum requirements
15 or standards for window fall prevention devices adopted or
16 enacted by the governmental subdivision prior to that date
17 for applicable new construction, additions, renovations, or
18 repairs.
19 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
20 immediate importance, takes effect upon enactment.
21 EXPLANATION
22 This bill requires the state building code commissioner to
23 adopt as part of the state building code window fall prevention
24 device standards and requirements for windows installed in
25 certain multifamily dwellings, hotels, and motels.
26 The state building code commissioner is required to consult
27 with the state fire marshal in the adoption of window fall
28 prevention device standards and requirements. The standards
29 and requirements shall apply to windows installed in all newly
30 constructed multifamily dwellings that are paid for in whole
31 or in part with state or local government funds, hotels, and
32 motels and to windows installed as a part of any additions,
33 renovations, or repairs to such an existing building for
34 which a permit, license, certificate, or similar document is
35 required.

S.F. 381

1 The standards and requirements shall apply to all such
2 windows that are one story in height or more above grade, are
3 less than 36 inches above floor level, and can be opened wider
4 than four inches. The standards and requirements adopted for
5 windows located 75 feet or less above grade must be consistent
6 with the requirements for window fall prevention devices with
7 emergency escape release mechanisms as provided in the American
8 society for testing and materials' most recent specification
9 (currently, ASTM F2090-10). The standards and requirements
10 adopted for windows located more than 75 feet above grade must
11 be consistent with the requirements for window fall prevention
12 devices for nonemergency escape and rescue windows as provided
13 in the American society for testing and materials' most recent
14 specification (currently, ASTM F2006-10).
15 The standards and requirements shall apply to new
16 construction or additions, renovations, and repairs permitted,
17 licensed, certified, or otherwise approved on or after July 1,
18 2013, and shall supersede and replace any minimum requirements
19 for window fall prevention devices for multifamily dwellings,
20 hotels, and motels adopted or enacted by a governmental
21 subdivision prior to that date.
22 Pursuant to Code section 103A.21, any person served with
23 an order to remedy any condition in violation of the state
24 building code, who fails to comply with the order within a
25 certain time shall be guilty of a simple misdemeanor. Also
26 pursuant to Code section 103A.21, certain individuals who
27 knowingly violate any of the applicable provisions of the state
28 building code shall also be guilty of a simple misdemeanor. A
29 simple misdemeanor is punishable by confinement for no more
30 than 30 days or a fine of at least $65 but not more than $625
31 or by both.
32 The bill takes effect upon enactment.

Senate File 382 - Introduced

SENATE FILE 382
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1147)

A BILL FOR

1 An Act relating to the issuance of and violations of civil
2 protective orders and criminal no-contact orders and
3 modifying penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1329SV (3) 85
rh/nh

S.F. 382

1 Section 1. Section 664A.1, subsection 2, Code 2013, is
2 amended to read as follows:
3 2. *"Protective order"* means a protective order issued
4 pursuant to chapter 232, a court order or court-approved
5 consent agreement entered pursuant to chapter 236, including a
6 valid foreign protective order under section 236.19, subsection
7 3, a temporary or permanent protective order or order to vacate
8 the homestead under chapter 598, ~~or an order that establishes~~
9 ~~conditions of release or is a protective order or sentencing~~
10 ~~order in a criminal prosecution arising from a domestic abuse~~
11 ~~assault under section 708.2A,~~ or a civil injunction issued
12 pursuant to section 915.22.
13 Sec. 2. Section 664A.3, Code 2013, is amended to read as
14 follows:
15 **664A.3 Entry of ~~temporary~~ no-contact order.**
16 1. When a person is ~~taken into custody for contempt~~
17 ~~proceedings pursuant to section 236.11 or~~ arrested for any
18 public offense ~~referred to in section 664A.2, subsection 1,~~
19 and the person is brought before a magistrate for initial
20 appearance, the magistrate shall enter a no-contact order if
21 the magistrate finds both of the following:
22 *a.* Probable cause exists to believe that any public offense
23 ~~referred to in section 664A.2, subsection 1, or a violation of~~
24 ~~a no-contact order, protective order, or consent agreement~~ has
25 occurred.
26 *b.* The presence of or contact with the defendant poses a
27 threat to the safety of the alleged victim, persons residing
28 with the alleged victim, or members of the alleged victim's
29 family.
30 ~~2. Notwithstanding chapters 804 and 805, a person taken~~
31 ~~into custody pursuant to section 236.11 or arrested pursuant to~~
32 ~~section 236.12 may be released on bail or otherwise only after~~
33 ~~initial appearance before a magistrate as provided in chapter~~
34 ~~804 and the rules of criminal procedure or section 236.11,~~
35 ~~whichever is applicable.~~

S.F. 382

~~3.~~ 2. A no-contact order issued pursuant to this section shall be issued in addition to any other conditions of release imposed by a magistrate pursuant to section 811.2. The no-contact order has force and effect until it is modified or terminated by subsequent court action ~~in a contempt proceeding or criminal or juvenile court action~~ and is reviewable in the manner prescribed in section 811.2. ~~Upon final disposition of the criminal or juvenile court action, the court shall terminate or modify the no-contact order pursuant to section 664A.5.~~

~~4.~~ 3. A no-contact order requiring the defendant to have no contact with ~~the alleged victim's~~ a child or children shall prevail over any ~~existing~~ custodial, visitation, or other conflicting order ~~which may be in conflict with the no-contact order~~.

~~5.~~ 4. A no-contact order ~~issued pursuant to this section~~ shall restrict the defendant from having contact with the victim, persons residing with the victim, ~~or~~ and the victim's immediate family.

~~6.~~ 5. A no-contact order ~~issued pursuant to this section~~ shall specifically include notice that the person may be required to relinquish all firearms, offensive weapons, and ammunition ~~upon the issuance of a permanent no-contact order pursuant to section 664A.5~~.

Sec. 3. Section 664A.5, Code 2013, is amended to read as follows:

664A.5 Modification ~~— entry~~ of ~~permanent~~ no-contact order or protective order.

If a defendant is convicted of, receives a deferred judgment for, or pleads guilty to a public offense ~~referred to in section 664A.2, subsection 1,~~ or is held in contempt for a violation of a no-contact order ~~issued under section 664A.3~~ or ~~for a violation of~~ a protective order ~~issued pursuant to chapter 232, 236, 598, or 915~~, the court shall ~~either~~ continue, terminate, or modify the ~~temporary~~ no-contact order or

S.F. 382

1 protective order issued by the magistrate. The ~~court may enter~~
2 ~~a~~ no-contact order or protective order ~~continue the no-contact~~
3 ~~order already in effect~~ may be issued for a period of five
4 years from the date the judgment or contempt finding is entered
5 or the deferred judgment is granted, regardless of whether the
6 defendant is placed on probation.
7 Sec. 4. Section 664A.6, Code 2013, is amended to read as
8 follows:
9 **664A.6 Mandatory arrest for violation of no-contact order or**
10 **protective order — immunity for actions.**
11 1. If a peace officer has probable cause to believe that
12 a person has violated a no-contact order ~~issued under this~~
13 ~~chapter~~ or a protective order, the peace officer shall take
14 the person into custody and shall take the person without
15 unnecessary delay before the nearest or most accessible
16 magistrate in the judicial district in which the person was
17 taken into custody. Notwithstanding chapters 804 and 805, a
18 person taken into custody pursuant to this subsection may be
19 released on bail or otherwise only after initial appearance
20 before a magistrate as provided in chapter 804 and the rules of
21 criminal procedure, or section 236.11, whichever is applicable.
22 2. If the peace officer is investigating a domestic abuse
23 assault pursuant to section 708.2A, the officer shall also
24 comply with sections 236.11 and 236.12.
25 3. A peace officer shall not be held civilly or criminally
26 liable for acting pursuant to this section provided the peace
27 officer acts in good faith and on reasonable grounds and the
28 peace officer's acts do not constitute a willful or wanton
29 disregard for the rights or safety of another.
30 Sec. 5. Section 664A.7, Code 2013, is amended to read as
31 follows:
32 **664A.7 Violation of no-contact order or protective order —**
33 **contempt ~~or simple misdemeanor penalties~~.**
34 1. Violation of a no-contact order ~~issued under this chapter~~
35 or a protective order ~~issued pursuant to chapter 232, 236, or~~

S.F. 382

~~598, including a modified no-contact order,~~ is punishable by ~~summary~~ contempt proceedings.

2. A hearing in a contempt proceeding brought pursuant to this section shall be held not less than five and not more than ~~fifteen~~ twenty days after ~~the issuance of a rule to show cause, as determined by the court~~ the initial appearance.

3. If ~~convicted of or~~ held in contempt for a violation of a no-contact order or a ~~modified no-contact order for a public offense referred to in section 664A.2, subsection 1, or held in contempt of a no-contact order issued during a contempt proceeding brought pursuant to section 236.11~~ protective order, the person shall be confined in the county jail for a minimum of seven days and a maximum of one hundred eighty days per violation. A jail sentence imposed pursuant to this subsection shall be served on consecutive days. No portion of the mandatory minimum term of confinement imposed by this subsection shall be deferred or suspended. A deferred judgment, deferred sentence, or suspended sentence shall not be entered for a violation of a no-contact order~~, modified no-contact order,~~ or protective order and the court shall not impose a fine in lieu of the minimum sentence, although a fine may be imposed in addition to the minimum sentence.

4. If ~~convicted or~~ held in contempt for a violation of a ~~civil~~ protective order referred to in section 664A.2, the person shall serve a jail sentence. A jail sentence imposed pursuant to this subsection shall be served on consecutive days. A person who is convicted of or held in contempt for a violation of a protective order referred to in section 664A.2 may be ordered by the court to pay the plaintiff's attorney's fees and court costs.

~~5. Violation of a no-contact order entered for the offense or alleged offense of domestic abuse assault in violation of section 708.2A or a violation of a protective order issued pursuant to chapter 232, 236, 598, or 915 constitutes a public offense and is punishable as a simple misdemeanor.~~

S.F. 382

1 ~~Alternatively, the court may hold a person in contempt of court~~
2 ~~for such a violation, as provided in subsection 3.~~
3 ~~6.~~ 5. A person shall not be held in contempt ~~or convicted~~
4 ~~of violations~~ under multiple no-contact orders, protective
5 orders, or consent agreements, for the same set of facts and
6 circumstances that constitute a single violation.
7 Sec. 6. Section 664A.8, Code 2013, is amended to read as
8 follows:
9 **664A.8 Extension of no-contact order.**
10 Upon the filing of an application by the state or by ~~the~~
11 ~~victim of any public offense referred to in section 664A.2,~~
12 ~~subsection 1~~ a protected party which is filed within ninety
13 days prior to the expiration of a modified no-contact order,
14 the court shall modify and extend the no-contact order for an
15 additional period of five years, unless the court finds that
16 the defendant no longer poses a threat to the safety of the
17 victim, persons residing with the victim, or members of the
18 victim's family. The number of modifications extending the
19 no-contact order permitted by this section is not limited.
20 Sec. 7. NEW SECTION. **664A.9 Termination of no-contact**
21 **order.**
22 Upon the filing of an application by the state or a protected
23 party, the court may terminate a no-contact order if the court
24 finds that the defendant no longer poses a threat to the safety
25 of the victim, persons residing with the victim, or members of
26 the victim's family.
27 Sec. 8. Section 907.3, subsection 1, paragraph i, Code 2013,
28 is amended to read as follows:
29 *i.* The offense is a ~~conviction for or plea of guilty to a~~
30 ~~violation of section 664A.7 or a~~ finding of contempt pursuant
31 to section 664A.7.
32 Sec. 9. Section 907.3, subsection 2, paragraph b, Code 2013,
33 is amended to read as follows:
34 *b.* ~~Section 664A.7 or for~~ For contempt pursuant to section
35 664A.7.

S.F. 382

1 EXPLANATION
2 This bill relates to the issuance of and violations of civil
3 protective orders and criminal no-contact orders, and modifies
4 penalties.
5 Current law defines a no-contact order as a court order
6 issued in a criminal proceeding requiring a defendant to have
7 no contact with the alleged victim, persons residing with the
8 alleged victim, or members of the alleged victim's immediate
9 family, and to refrain from harassing the alleged victim,
10 persons residing with the alleged victim, or members of the
11 alleged victim's family. A protective order is defined as a
12 protective order issued pursuant to Code chapter 232 (juvenile
13 justice), a court order or court-approved consent agreement
14 entered pursuant to Code chapter 236 (civil domestic abuse),
15 including a valid foreign protective order, a temporary or
16 permanent protective order or order to vacate the homestead
17 under Code chapter 598 (dissolution of marriage and domestic
18 relations), an order that establishes conditions of release
19 or is a protective order or sentencing order in a criminal
20 prosecution arising from a domestic abuse assault (criminal
21 domestic abuse), or a civil injunction issued to restrain
22 harassment or intimidation of victims or witnesses in a
23 criminal case. The bill amends the definition of protective
24 order to eliminate language allowing for the issuance of a
25 protective order in criminal proceedings. The bill amends a
26 related provision allowing the court to issue a no-contact
27 order as a result of a violation of a protective order.
28 Current law allows a court to issue a temporary no-contact
29 order and a permanent no-contact order. The bill eliminates
30 the distinction between temporary and permanent no-contact
31 orders.
32 Current law provides for a mandatory arrest procedure for
33 violations of no-contact orders but not for violations of
34 protective orders. The bill amends this provision to provide
35 that a person who violates a protective order is also subject

S.F. 382

1 to mandatory arrest.
2 Under current law, if a person violates a no-contact order or
3 a protective order, the person may be charged with a criminal
4 offense (simple misdemeanor) or may be held to be in contempt
5 of court. The bill eliminates the criminal offense option
6 for violations of no-contact orders or protective orders. A
7 person held in contempt for a violation of a no-contact order
8 or a protective order is subject to confinement in the county
9 jail for a minimum of seven days and a maximum of 180 days per
10 violation. A $500 fine may also be imposed. A hearing in a
11 contempt proceeding is required to be held not less than five
12 days but not more than 20 days after the initial appearance.
13 The bill allows the court to terminate a no-contact order
14 if the court finds that the defendant no longer poses a threat
15 to the safety of the victim, persons residing with the victim,
16 or members of the victim's family upon the filing of an
17 application by the state or a protected party.
18 The bill makes conforming changes.

Senate File 383 - Introduced

SENATE FILE 383
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1215)

A BILL FOR

1 An Act relating to the sealing of juvenile delinquency records.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2466SV (3) 85
jm/rj

S.F. 383

1 Section 1. Section 232.150, subsection 1, paragraph a,
2 unnumbered paragraph 1, Code 2013, is amended to read as
3 follows:
4 ~~Upon~~ In the case of an adjudication of delinquency, the
5 court, upon its own motion, shall schedule a hearing to be
6 held two years after the date of the last official action, or
7 the date the child becomes eighteen years of age, whichever
8 is later, or upon application of a person who was taken into
9 custody for a delinquent act or was the subject of a complaint
10 alleging delinquency or was the subject of a delinquency
11 petition, or upon the court's own motion, the court, after
12 hearing, shall order the official juvenile court records in the
13 case including those specified in sections 232.147 and 232.149
14 sealed if the court finds all of the following:
15 Sec. 2. Section 692.16, Code 2013, is amended to read as
16 follows:
17 **692.16 Review and removal.**
18 At least every year the division shall review and determine
19 the current status of all Iowa arrests or takings into custody
20 reported, which are at least four years old with no disposition
21 data.
22 1. Any Iowa arrest ~~or taking of a juvenile into custody~~
23 of a person eighteen years of age or older recorded within
24 a computer data storage system which has no disposition
25 data after four years shall be removed unless there is an
26 outstanding arrest warrant or detainer on such charge.
27 2. Any arrest or taking of a juvenile into custody recorded
28 within a computer data storage system which has no disposition
29 data after two years shall be removed unless there is an
30 outstanding arrest warrant or detainer on such charge.
31 EXPLANATION
32 This bill relates to the sealing of juvenile delinquency
33 records.
34 The bill provides that the court, on its own motion, shall
35 schedule a hearing two years after the date of the last

S.F. 383

1 official action in a juvenile delinquency case, or on the
2 date the child becomes 18 years of age, whichever is later,
3 to determine whether the delinquency records should be sealed
4 pursuant to Code section 232.150(1)(a).
5 In order for juvenile records to be sealed, current
6 provisions and the bill require that the juvenile has not
7 committed any subsequent criminal violations greater than a
8 simple misdemeanor and that the juvenile has successfully
9 completed any youthful offender placement.
10 The bill also accelerates the removal of juvenile records
11 stored within the computer data storage system of the
12 department of public safety. The bill requires the department
13 of public safety to remove the records from the computer
14 data storage system of the department that relate to a
15 juvenile arrest or the taking of a juvenile into custody if
16 no disposition data has been recorded within two years of the
17 arrest or taking into custody, unless there is an outstanding
18 arrest warrant or detainer for the juvenile. Current law
19 requires the arrest or taking into custody information for a
20 juvenile information be removed from the computer data storage
21 system of the department of public safety if no disposition
22 data has been recorded within four years of the arrest or
23 taking into custody.
24 Code section 692.1 defines "disposition data" to mean
25 information pertaining to a recorded court proceeding
26 subsequent and incidental to a public offense arrest and
27 includes dismissal of the charge, suspension or deferral of
28 sentence.

Senate File 384 - Introduced

SENATE FILE 384
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 151)

A BILL FOR

1 An Act relating to removing or attempting to remove a
2 communication or control device from the possession of a
3 peace officer or correctional officer, interference with
4 official acts, and providing penalties.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1927SV (3) 85
jm/nh

S.F. 384

1 Section 1. NEW SECTION. **708.12 Removal of an officer's**
2 **communication or control device.**
3 1. As used in this section, *"officer"* means peace officer as
4 defined in section 724.2A or a correctional officer.
5 2. A person who knowingly or intentionally removes or
6 attempts to remove a communication device or any device used
7 for control from the possession of an officer, when the officer
8 is in the performance of any act which is within the scope of
9 the lawful duty or authority of that officer and the person
10 knew or should have known the individual to be an officer,
11 commits the offense of removal of an officer's communication
12 or control device.
13 3. *a.* A person who removes or attempts to remove an
14 officer's communication or control device is guilty of a simple
15 misdemeanor.
16 *b.* A person who knowingly or intentionally removes or
17 attempts to remove a communication or control device from the
18 possession of an officer with the intent to interfere with the
19 communications or duties of the officer, is guilty of a serious
20 misdemeanor.
21 *c.* If a violation of paragraph *"b"* results in bodily
22 injury to the officer the person is guilty of an aggravated
23 misdemeanor.
24 *d.* If a violation of paragraph *"b"* results in serious injury
25 to the officer the person is guilty of a class "D" felony.
26 Sec. 2. Section 719.1, subsections 1 and 2, Code 2013, are
27 amended to read as follows:
28 1. A person who knowingly resists or obstructs anyone known
29 by the person to be a peace officer, emergency medical care
30 provider under chapter 147A, or fire fighter, whether paid
31 or volunteer, in the performance of any act which is within
32 the scope of the lawful duty or authority of that officer,
33 emergency medical care provider under chapter 147A, or fire
34 fighter, whether paid or volunteer, or who knowingly resists or
35 obstructs the service or execution by any authorized person of

S.F. 384

any civil or criminal process or order of any court, commits a simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars. However, if a person commits an interference with official acts, as defined in this subsection, ~~and in so doing inflicts~~ which results in bodily injury ~~other than serious injury~~, that person commits an aggravated misdemeanor. If a person commits an interference with official acts, as defined in this subsection, ~~and in so doing inflicts or attempts to inflict~~ which results in serious injury, or displays a dangerous weapon, as defined in section 702.7, or is armed with a firearm, that person commits a class "D" felony.

2. A person under the custody, control, or supervision of the department of corrections who knowingly resists, obstructs, or interferes with a correctional officer, agent, employee, or contractor, whether paid or volunteer, in the performance of the person's official duties, commits a serious misdemeanor. If a person violates this subsection and in so doing commits an assault, as defined in section 708.1, the person commits an aggravated misdemeanor. If a person violates this subsection and ~~in so doing inflicts or attempts to inflict~~ the violation results in bodily injury ~~other than serious injury~~ to another, displays a dangerous weapon, as defined in section 702.7, or is armed with a firearm, the person commits a class "D" felony. If a person violates this subsection and uses or attempts to use a dangerous weapon, as defined in section 702.7, or ~~inflicts~~ the violation results in serious injury to another, the person commits a class "C" felony.

EXPLANATION

This bill relates to removing or attempting to remove a communication or control device from the possession of an officer and interference with official acts.

Under the bill, a person commits removal of an officer's communication or control device when the person knowingly or

S.F. 384

1 intentionally removes or attempts to remove a communication
2 device or any device used for control from the possession of an
3 officer, when the officer is in the performance of the official
4 duties of the officer and the person knew or should have known
5 the individual to be an officer. The bill defines "officer"
6 as a peace officer as defined in Code section 724.2A or a
7 correctional officer.
8 Under the bill, a person who removes or attempts to remove
9 an officer's communication or control device commits a simple
10 misdemeanor. If a person knowingly or intentionally removes
11 or attempts to remove a communication or control device from
12 the possession of an officer with the intent to interfere with
13 the communications or duties of the officer, the person is
14 guilty of a serious misdemeanor. If bodily injury results from
15 such removal or attempted removal, the person is guilty of an
16 aggravated misdemeanor, and if serious injury results from such
17 removal or attempted removal the person is guilty of a class
18 "D" felony.
19 A felony violation involving removal of an officer's
20 communication or control device may meet the definition of a
21 forcible felony under Code section 702.11. A person convicted
22 of a forcible felony is not eligible to receive a suspended
23 sentence or deferred judgment pursuant to Code section 907.3.
24 The bill also provides that a person commits the offense of
25 interference with official acts if the violation results in
26 bodily or serious injury to a peace officer, emergency medical
27 care provider, correctional officer, or other member of a
28 protected class under Code section 719.1.
29 Current law provides that a person commits the offense
30 of interference with official acts if the person inflicts or
31 attempts to inflict bodily or serious injury.
32 Under the bill, if a person commits interference with
33 official acts that results in bodily injury to a member
34 of a protected class, the person commits an aggravated
35 misdemeanor if the injury is to a peace officer or emergency

S.F. 384

1 medical officer, or a class "D" felony if the injury is to a
2 correctional officer.
3 If a person commits interference with official acts that
4 results in serious injury, the person commits a class "D"
5 felony if the injury is to a peace officer or emergency
6 medical officer, or a class "C" felony if the injury is to a
7 correctional officer.
8 A simple misdemeanor is punishable by confinement for no
9 more than 30 days or a fine of at least $65 but not more than
10 $625 or by both. A serious misdemeanor is punishable by
11 confinement for no more than one year and a fine of at least
12 $315 but not more than $1,875. An aggravated misdemeanor is
13 punishable by confinement for no more than two years and a fine
14 of at least $625 but not more than $6,250. A class "D" felony
15 is punishable by confinement for no more than five years and a
16 fine of at least $750 but not more than $7,500.

Senate File 385 - Introduced

SENATE FILE 385
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1230)

A BILL FOR

1 An Act establishing the criminal offense of sexual abuse in the
2 fourth degree, making related changes to sexual abuse in
3 the third degree and the sex offender registry, providing
4 penalties, and including retroactive and other applicability
5 provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2255SV (3) 85
jm/rj

S.F. 385

1 Section 1. Section 692A.102, subsection 1, paragraph a,
2 Code 2013, is amended by adding the following new subparagraph:
3 NEW SUBPARAGRAPH. (05) Sexual abuse in the fourth degree
4 in violation of section 709.4A.
5 Sec. 2. Section 709.4, subsection 2, paragraph c,
6 subparagraph (4), Code 2013, is amended to read as follows:
7 (4) ~~The~~ Except as provided in section 709.4A, the person is
8 four or more years older than the other person.
9 Sec. 3. NEW SECTION. **709.4A Sexual abuse in the fourth**
10 **degree.**
11 1. A person commits sexual abuse in the fourth degree when
12 the person performs a sex act with another person and the other
13 person is fourteen years of age and the person is eighteen
14 years of age.
15 2. Notwithstanding section 903B.2, a person convicted under
16 this section is not subject to the special sentence.
17 3. A person who violates this section commits a class "D"
18 felony.
19 Sec. 4. SPECIAL SENTENCE — JUDGMENT VOID.
20 1. Notwithstanding section 903B.2, a person convicted of
21 a violation of section 709.4, subsection 2, paragraph "c",
22 subparagraph (4), prior to, on, or after the effective date of
23 this Act shall not be subject to the special sentence if the
24 victim was fourteen years of age and the person is eighteen
25 years of age.
26 2. The department of corrections in consultation with the
27 department of public safety shall identify persons whose sole
28 reason for being on probation, parole, or committed to the
29 custody of the director of the department of corrections is for
30 a conviction of sexual abuse in the third degree under section
31 709.4, subsection 2, paragraph "c", subparagraph (4), that
32 occurred prior to, on, or after the effective date of this Act,
33 and who meet the criteria established in subsection 1.
34 3. If the department of corrections and the department of
35 public safety identify such a person pursuant to subsection

S.F. 385

1 2, the department of corrections shall notify the board of
2 parole that the portion of the judgment requiring the service
3 of a special sentence is void and the person shall not be
4 subject to the special sentence under section 903B.2. If the
5 person identified pursuant to subsection 2 has begun serving
6 the special sentence, the term of the special sentence shall
7 terminate immediately after being notified by the department of
8 corrections that the portion of the judgment requiring service
9 of a special sentence is void.
10 EXPLANATION
11 This bill establishes the criminal offense of sexual abuse
12 in the fourth degree, makes related changes to sexual abuse in
13 the third degree, provides penalties, and includes retroactive
14 and other applicability provisions.
15 SEX ABUSE IN THE FOURTH DEGREE. Under the bill, a person 18
16 years of age commits sexual abuse in the fourth degree if the
17 person commits a sex act with another person who is 14 years of
18 age.
19 The bill specifies that a person who commits sexual abuse in
20 the fourth degree is guilty of a class "D" felony and is not
21 subject to a special sentence under Code section 903B.2.
22 Under current law, a person who commits sexual abuse in the
23 third degree, including those acts now classified as sexual
24 abuse in the fourth degree in the bill, commits a class "C"
25 felony and is subject to a special sentence under Code section
26 903B.2.
27 The bill also specifies that a person who commits sexual
28 abuse in the fourth degree shall register as a tier I sex
29 offender who is required to verify the person's relevant
30 information to the county sheriff of residence on an annual
31 basis for 10 years.
32 Under current law, a person who commits sexual abuse in the
33 third degree, including those acts now classified as sexual
34 abuse in the fourth degree in the bill, is classified as a tier
35 I sex offender.

S.F. 385

1 SEX ABUSE IN THE THIRD DEGREE. The bill specifies that
2 a person convicted of sexual abuse in the third degree in
3 violation of Code section 709.4(2)(c)(4) (statutory rape due to
4 age differences of the offending person and the victim) prior
5 to, on, or after the effective date of the bill shall not be
6 subject to the special sentence under Code section 903B.2 if
7 the victim was 14 years of age and the person was 18 years of
8 age at the time the offense was committed.
9 Under the bill, the department of corrections in
10 consultation with the department of public safety shall
11 identify persons whose sole reason for being on probation,
12 parole, or committed to the custody of the director of the
13 department of corrections is for a conviction of sexual abuse
14 in the third degree under Code section 709.4(2)(c)(4), and who
15 meet the age differential criteria with the victim under newly
16 established sex abuse in the fourth degree. If the department
17 of corrections and the department of public safety identify
18 such a person under the bill, the department of corrections
19 shall notify the board of parole that the portion of the
20 judgment requiring the service of a special sentence is void
21 and the person shall not be subject to the special sentence
22 under Code section 903B.2. If such a person has begun serving
23 the special sentence, the bill requires the term of the special
24 sentence to terminate immediately after being notified by the
25 department of corrections that the portion of the judgment
26 requiring service of a special sentence is void.

Senate File 386 - Introduced

SENATE FILE 386
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO SSB 1224)

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, the form of motor vehicle financial
5 liability coverage cards, motor truck registration
6 periods, grounds for disqualification of commercial
7 vehicle operators, provisions for the issuance of temporary
8 restricted licenses for persons convicted of operating while
9 intoxicated, county issuance of driver's licenses, and the
10 administration of highway contracts.
11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2154SV (3) 85
dea/nh

S.F. 386

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 321.1, subsection 60, Code 2013, is amended
11 to read as follows:
12 60. *"Registration year"* means the period of twelve
13 consecutive months beginning on the first day of the month
14 following the month of the birth of the owner of the vehicle
15 for vehicles registered by the county treasurer, except that
16 *"registration year"* means the calendar year for motor trucks
17 and truck tractors ~~with a combined gross weight exceeding~~
18 ~~five tons~~ which are registered by the county treasurer in two
19 equal semiannual installments pursuant to sections 321.120,
20 321.121, and 321.122, and *"registration year"* means the period
21 of twelve consecutive months, as determined by the owner,
22 for motor trucks and truck tractors that are registered by
23 the county treasurer on an annual basis pursuant to sections
24 321.120, 321.121, and 321.122. For leased vehicles registered
25 by the county treasurer, except for motor trucks and truck
26 tractors ~~with a combined gross weight exceeding five tons~~
27 registered pursuant to sections 321.120, 321.121, and 321.122,
28 *"registration year"* means the period of twelve consecutive
29 months beginning on the first day of the month following the
30 month in which the lease expires. For vehicles registered
31 under chapter 326, *"registration year"* means the twelve-month
32 period determined by the department pursuant to section 326.14.
33 Sec. 3. Section 321.20B, subsection 1, paragraph a, Code
34 2013, is amended to read as follows:
35 *a.* Notwithstanding chapter 321A, which requires certain

S.F. 386

1 persons to maintain proof of financial responsibility, a
2 person shall not drive a motor vehicle on the highways of
3 this state unless financial liability coverage, as defined
4 in section 321.1, subsection 24B, is in effect for the motor
5 vehicle and unless the driver has in the motor vehicle the
6 proof of financial liability coverage card issued for the motor
7 vehicle, or if the vehicle is registered in another state,
8 other evidence that financial liability coverage is in effect
9 for the motor vehicle. A proof of financial liability coverage
10 card may be produced in paper or electronic format. Acceptable
11 electronic formats include electronic images displayed on a
12 cellular telephone or any other portable electronic device that
13 has a display screen with touch input or a miniature keyboard.
14 Sec. 4. Section 321.20B, subsection 2, paragraph a, Code
15 2013, is amended to read as follows:
16 *a.* An insurance company transacting business in this
17 state shall issue to its insured owners of motor vehicles
18 registered in this state a financial liability coverage card
19 for each motor vehicle insured. Each financial liability
20 coverage card shall identify the registration number or vehicle
21 identification number of the motor vehicle insured and shall
22 indicate the expiration date of the applicable insurance
23 coverage. The financial liability coverage card shall also
24 contain the name and address of the insurer or the name of the
25 insurer and the name and address of the insurance agency, the
26 name of the insured, and an emergency telephone number of the
27 insurer or emergency telephone number of the insurance agency.
28 An insurance company may issue a financial liability coverage
29 card in either paper format or, if requested by the insured,
30 electronic format.
31 Sec. 5. Section 321.26, subsection 3, Code 2013, is amended
32 to read as follows:
33 3. ~~Vehicles~~ Except for motor trucks or truck tractors
34 registered by the county treasurer pursuant to sections
35 321.120, 321.121, and 321.122, vehicles subject to registration

S.F. 386

which are owned by a person other than a natural person shall be registered for a registration year as determined by the county treasurer.

Sec. 6. Section 321.106, subsection 1, Code 2013, is amended to read as follows:

1. When a motor truck, truck tractor, or road tractor is registered by the county treasurer ~~for a combined gross weight exceeding five tons~~ pursuant to section 321.120, 321.121, or 321.122 and there is no delinquency and the registration is made in February or succeeding months through November, the annual registration fee shall be prorated for the remaining unexpired months of the registration year. A fee shall not be required for the month of December for a vehicle registered on a calendar year basis on which there is no delinquency. However, when such a vehicle is registered in November, the vehicle may be registered for the remaining unexpired months of the registration year or for the remaining unexpired months of the registration year and for the next registration year, upon payment of the applicable registration fees.

Sec. 7. Section 321.134, subsections 2 and 3, Code 2013, are amended to read as follows:

2. The annual registration fee for trucks, truck tractors, and road tractors registered by the county treasurer, as provided in sections 321.120, 321.121, and 321.122, may be payable in two equal semiannual installments if the annual registration fee exceeds the annual registration fee for a vehicle with a gross weight exceeding five tons. The penalties provided in subsection 1 shall be computed on the amount of the first installment only and on the first day of the seventh month of the registration period the same rate of penalty shall apply to the second installment, until the fee is paid.

3. If a penalty applies to an annual vehicle registration fee provided for in sections 321.120, 321.121, and 321.122, the same penalty shall be assessed on the fees collected to increase the registered gross weight of the vehicle, if the

S.F. 386

1 increased gross weight is requested within forty-five days from
2 the date the delinquent vehicle is registered for the current
3 registration period.
4 Sec. 8. Section 321.208, subsection 6, unnumbered paragraph
5 1, Code 2013, is amended to read as follows:
6 A person is disqualified from operating a commercial motor
7 vehicle if the person receives convictions for committing
8 within any three-year period two or more of the following
9 offenses while operating a commercial motor vehicle, or
10 while operating a noncommercial motor vehicle and holding
11 a commercial driver's license if the convictions result in
12 the revocation, cancellation, or suspension of the person's
13 commercial driver's license or noncommercial motor vehicle
14 driving privileges:
15 Sec. 9. Section 321.208, subsection 6, Code 2013, is amended
16 by adding the following new paragraphs:
17 NEW PARAGRAPH. *i.* Violating a state or local law or
18 ordinance on motor vehicle traffic control prohibiting texting
19 while driving a commercial motor vehicle.
20 NEW PARAGRAPH. *j.* Violating a state or local law or
21 ordinance on motor vehicle traffic control restricting or
22 prohibiting the use of a hand-held mobile telephone while
23 driving a commercial motor vehicle.
24 Sec. 10. Section 321.466, subsection 1, Code 2013, is
25 amended by striking the subsection.
26 Sec. 11. Section 321.466, subsection 2, Code 2013, is
27 amended to read as follows:
28 2. ~~During or after the seventh month of a current~~
29 ~~registration year, the~~ The owner of a motor truck, truck
30 tractor, or road tractor, if the owner's operation has not
31 resulted in a conviction or action pending under this section,
32 may increase the gross weight registration of the vehicle to
33 a higher gross weight registration by payment of one-twelfth
34 of the difference between the annual fee for the higher gross
35 weight and the amount of the fee for the gross weight at

S.F. 386

which the vehicle is registered, multiplied by the number of unexpired months of the registration year. If the owner's operation has resulted in a conviction or action pending under this section, any increase in the gross weight registration shall be obtained by payment of the difference between the annual fee for the higher gross weight and the amount of the fee for the gross weight at which the vehicle is registered.

Sec. 12. Section 321J.17, subsections 1 and 3, Code 2013, are amended to read as follows:

1. If the department revokes a person's driver's license or nonresident operating privilege under this chapter, the department shall assess the person a civil penalty of two hundred dollars. The money collected by the department under 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,

S.F. 386

1 or 321J.12~~, unless such a person has previously received a~~
2 ~~temporary restricted license during the term of the revocation~~
3 ~~as authorized by this chapter~~. The requirement for the
4 installation of an approved ignition interlock device shall be
5 for one year from the date of reinstatement unless a ~~different~~
6 longer time period is required by statute. The one-year
7 period a person is required to maintain an ignition interlock
8 device under this subsection shall be reduced by any period
9 of time the person held a valid temporary restricted license
10 during the revocation for the occurrence from which the arrest
11 arose. The person shall not operate any motor vehicle which
12 is not equipped with an approved ignition interlock device
13 during the period in which an ignition interlock device must be
14 maintained, and the department shall not grant reinstatement
15 unless the person certifies installation of an ignition
16 interlock device as required in this subsection.
17 Sec. 13. Section 321J.20, subsection 1, paragraph d, Code
18 2013, is amended to read as follows:
19 *d.* Following the applicable minimum period of ineligibility,
20 a temporary restricted license under this subsection shall
21 not be issued until the applicant installs an ignition
22 interlock device of a type approved by the commissioner of
23 public safety on all motor vehicles owned or operated by the
24 applicant in accordance with section 321J.2, 321J.4, 321J.9,
25 or 321J.12. Installation of an ignition interlock device
26 under this subsection shall be required for the period of time
27 for which the temporary restricted license is issued and for
28 such additional period of time following reinstatement as is
29 required under section 321J.17, subsection 3.
30 Sec. 14. Section 321J.20, subsection 2, Code 2013, is
31 amended to read as follows:
32 2. *a.* Notwithstanding section 321.560, the department may,
33 on application, and upon the expiration of the minimum period
34 of ineligibility for a temporary restricted license provided
35 for under section 321.560, 321J.4, 321J.9, or 321J.12, issue a

S.F. 386

1 temporary restricted license to a person whose noncommercial
2 driver's license has either been revoked under this chapter, or
3 revoked or suspended under chapter 321 solely for violations
4 of this chapter, or who has been determined to be a habitual
5 offender under chapter 321 based solely on violations of this
6 chapter or on violations listed in section 321.560, subsection
7 1, paragraph "*b*", and who is not eligible for a temporary
8 restricted license under subsection 1. However, the department
9 may not issue a temporary restricted license under this
10 subsection for a violation of section 321J.2A or to a person
11 under the age of twenty-one whose license is revoked under
12 section 321J.4, 321J.9, or 321J.12. A temporary restricted
13 license issued under this subsection may allow the person to
14 drive to and from the person's home and specified places at
15 specified times which can be verified by the department and
16 which are required by the person's full-time or part-time
17 employment~~,~~; continuing education while enrolled in an
18 educational institution on a part-time or full-time basis and
19 while pursuing a course of study leading to a diploma, degree,
20 or other certification of successful educational completion~~,~~;
21 or substance abuse treatment.
22 ~~*b.* Notwithstanding paragraph "*a*", a temporary restricted~~
23 ~~license issued to a person whose noncommercial driver's license~~
24 ~~has been revoked under section 321J.4, subsection 2, section~~
25 ~~321J.9, subsection 1, paragraph "*b*", or section 321J.12,~~
26 ~~subsection 1, paragraph "*b*", shall provide for but not exceed~~
27 ~~the uses permitted by 23 U.S.C. § 164. This restriction~~
28 ~~applies only during the first three hundred sixty-five days of~~
29 ~~the person's revocation.~~
30 ~~*c.*~~ *b.* A temporary restricted license issued under this
31 subsection shall ~~be conditioned upon the installation of~~ not
32 be issued until the applicant installs an approved ignition
33 interlock device on all motor vehicles owned or operated by
34 the ~~person~~ applicant. Installation of an ignition interlock
35 device under this subsection shall be required for the period

S.F. 386

1 of time for which the temporary restricted license is issued,
2 and for such additional period of time following reinstatement
3 as is required under section 321J.17, subsection 3. However,
4 a person whose driver's license or nonresident operating
5 privilege has been revoked under section 321J.21 may apply to
6 the department for a temporary restricted license without the
7 requirement of an ignition interlock device if at least twelve
8 years have elapsed since the end of the underlying revocation
9 period for a violation of section 321J.2.
10 Sec. 15. Section 321M.9, subsection 4, Code 2013, is amended
11 by striking the subsection.
12 Sec. 16. REPEAL. 1984 Iowa Acts, chapter 1229, section 2,
13 is repealed.
14 EXPLANATION
15 This bill contains provisions relating to a variety of
16 matters administered by the department of transportation.
17 The bill amends Code section 22.7 to provide that personal
18 information contained on electronic driver's license or
19 nonoperator's identification card records that is provided by
20 the licensee or card holder for use by certain law enforcement
21 and medical personnel responding to or assisting with an
22 emergency constitutes a confidential record.
23 The bill provides that a proof of financial liability
24 coverage card required to be carried in a motor vehicle may
25 be produced in paper or electronic format. An electronic
26 image displayed on the screen of a cellular telephone or other
27 portable electronic device with a touch screen or miniature
28 keyboard is an acceptable electronic format. The bill allows
29 insurance companies to issue a financial liability coverage
30 card in paper format or, at the request of the insured, in
31 electronic format.
32 Under current law, commercial vehicles operated in
33 interstate commerce are registered by the department on a
34 staggered schedule for registration years determined by the
35 department. The bill amends the definition of "registration

S.F. 386

1 year" in Code section 321.1 and related provisions in Code
2 sections 321.26 and 321.106 to permit staggered registration,
3 at the option of the owner, for any motor truck registered for
4 six tons or more. Code section 321.134 is amended to include
5 business-trade trucks in provisions allowing for semiannual
6 payment of registration fees.
7 Under current law, a person is disqualified from operating
8 a commercial motor vehicle if the person has two or more
9 convictions within a three-year period for certain specified
10 offenses committed while operating a commercial motor vehicle,
11 or committed while operating a noncommercial motor vehicle and
12 holding a commercial driver's license if the convictions result
13 in a sanction of the person's driving privileges. Code section
14 321.208 is amended to add texting and using a hand-held mobile
15 telephone in violation of a state or local law while operating
16 a commercial motor vehicle to that list of specified offenses.
17 Currently, the owner of a vehicle may increase the gross
18 weight registration of a vehicle by paying the difference
19 between the fee for the higher gross weight and the fee for the
20 gross weight for which the vehicle is registered. Beginning
21 in the seventh month of a registration year, the gross weight
22 registration fee is determined by prorating the difference in
23 the fee for the remaining months. Under the bill, proration
24 of the fee applies at any time in the registration year
25 that the owner applies for an increased weight registration.
26 However, if the owner has a conviction or action pending for
27 a weight registration violation, the fee for increased weight
28 registration is the difference between the annual fee for the
29 higher gross weight and the fee for the gross weight at which
30 the vehicle is registered.
31 Under current law, a person whose driver's license is
32 revoked upon conviction of a second offense of operating while
33 intoxicated may apply for a temporary restricted license 45
34 days after the effective date of revocation if the person
35 submitted to chemical testing, and 90 days after revocation

S.F. 386

if the person refused testing. The issuance of a temporary restricted license is conditioned upon the installation of an ignition interlock device on all motor vehicles owned or operated by the person. At the end of the period of revocation, an ignition interlock device is required for a period of one year, unless a different period is required by statute; however, an ignition interlock device is not required for reinstatement if the person had a temporary restricted license during the revocation period. The bill amends Code sections 321J.17 and 321J.20 to provide that a person is required to maintain an ignition interlock device for one year or longer following reinstatement. The one-year period is 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. A person is prohibited from operating any motor vehicle not equipped with an ignition interlock device during the period in which a device is required to be maintained, and a person must certify installation of an ignition interlock device before the department can grant reinstatement. The bill also strikes a provision in current law that ties the permissible use of certain temporary restricted licenses to uses permitted under federal law. Finally, the bill strikes the current requirement that a person who was issued a temporary restricted license must submit proof of deinstallation of an ignition interlock device as a condition for reinstatement of a full driver's license.

The bill strikes a provision in Code section 321M.9 requiring the auditor of state to conduct periodic studies of the county driver's license issuance program.

The bill repeals a provision in 1984 Acts, chapter 1229, that linked the contingent repeal of Code section 314.14, as it existed at that time, to the repeal or expiration of a federal statute relating to set-aside contracts for disadvantaged business enterprises. Due to subsequent substantive amendments

S.F. 386

1 to the Code section, the contingent repeal provision is no
2 longer relevant.

Senate File 387 - Introduced

SENATE FILE 387
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1092)

A BILL FOR

1 An Act relating to a city's authority to issue debt, including
2 authorization to use city reserve funds as a loan payable
3 from the debt service fund for certain general obligation
4 bond projects.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1761SV (2) 85
aw/sc

S.F. 387

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 debt service 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 purpose in accordance with and
10 subject to the provisions of this section.
11 2. *a.* For purposes of this section, *"loan"* means the
12 sum of the transfers from the surplus of one or more reserve
13 accounts or funds of the city which transfers are authorized
14 for the purpose specified in the loan authorization document.
15 A transfer from a reserve account or fund for the purposes of
16 this section shall not cause the balance of reserves in such
17 account or fund at the close of the fiscal year following the
18 fiscal year in which the transfer is made to fall below any
19 minimum balance prescribed by law for such account or fund.
20 *b.* A loan to finance a general obligation bond project
21 under this section shall not result in a user fee, rate, or
22 property tax increase to support the annual operations of the
23 account or fund from which the loan is made, as a result of
24 the unavailability of the surplus funds. For the purposes
25 of this section, *"surplus"* means the cash balance available
26 in any account or fund from which a loan will be made under
27 this section, calculated in accordance with generally accepted
28 accounting principles, which exceeds the amount of expenses or
29 disbursements made from the account or fund in the previous
30 three months, plus the amount of transfers, payments, or
31 disbursements required in the following three months.
32 3. *a.* A loan entered into by a city pursuant to this
33 section may contain provisions similar to those found in loan
34 agreements between private parties, including but not limited
35 to the issuance of notes to evidence its obligations. The

S.F. 387

terms of each loan shall require repayment of the loan within ninety days to the extent necessary to prevent a user fee, rate, or property tax increase which raises the user fees, rates, or property taxes payable into the account or fund from which the loan is made above the level in effect at the time a loan under this section is authorized.

b. A loan authorized pursuant to this section shall constitute an indebtedness within the meaning of any statutory debt limitation. The full or partial refunding of any loan under this section shall be authorized as an essential corporate purpose pursuant to section 384.24, subsection 3, paragraph *"f"*.

4. A loan made pursuant to this section is payable from the debt service fund of the city. The governing body shall follow the same authorization procedures required for the issuance of general obligation bonds issued for the same purpose to authorize a loan made payable from the debt service fund. Upon approval of a loan, the loan shall be accounted for and disclosed annually on the city's annual financial report filed with the auditor of state pursuant to section 384.22.

5. A loan made pursuant to this section shall include provisions establishing an interest rate on the loan that shall be set between fifty percent and one hundred percent of the average interest rate reported by a municipal bond sale reporting service on the day that the loan is authorized.

6. Repayments of principal and interest shall be paid 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.

8. A loan made pursuant to this section shall not include any transfers or obligations from the reserve fund or account

S.F. 387

of a city utility or of a combined city utility.

9. The powers granted under this section shall not be construed as a limitation of the existing powers of a city.

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 take additional action to the district court of the county in which any part of the city is located, within fifteen days after the additional action is taken, but the additional action of the council is final and conclusive unless the court finds that the council exceeded its authority. The provisions of this subsection with respect to notice, hearing, and appeal, are in lieu of the provisions contained in chapter 73A, or any

S.F. 387

other law.

3. *a.* Notwithstanding subsection 2, a council may institute proceedings for the issuance of bonds or the authorization of a loan for an essential corporate purpose specified in section 384.24, subsection 3, paragraph *"w"* or *"x"*, in an amount equal to or greater than three million dollars by causing a notice of the proposal to issue the bonds or authorize the loan, including a statement of the amount and purpose of the bonds or loan, together with the maximum rate of interest which the bonds are to bear or which will be charged to the principal balance of the loan, and the right to petition for an election, to be published at least once in a newspaper of general circulation within the city at least ten days prior to the meeting at which it is proposed to take action for the issuance of the bonds or the authorization of the loan.

b. If at any time before the date fixed for taking action for the issuance of the bonds or the authorization of the loan, a petition is filed with the clerk of the city signed by eligible electors of the city equal in number to twenty percent of the persons in the city who voted for the office of president of the United States at the last preceding general election that had such office on the ballot, asking that the question of issuing the bonds or authorizing the loan be submitted to the registered voters of the city, the council shall either by resolution declare the proposal to issue the bonds or authorize the loan to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of issuing the bonds or authorizing the loan. Notice of the election and its conduct shall be in the manner provided in section 384.26.

c. If a petition is not filed, or if a petition is filed and the proposition of issuing the bonds or authorizing the loan is approved at an election, the council may proceed with the authorization and issuance of the bonds or authorization of the loan.

S.F. 387

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

S.F. 387

1 together with the maximum rate of interest which the bonds are
2 to bear or which the loan is to bear, and the right to petition
3 for an election, to be published at least once in a newspaper
4 of general circulation within the city at least ten days prior
5 to the meeting at which it is proposed to take action for the
6 issuance of the bonds or authorization of the loan subject to
7 the following limitations:
8 (1) In cities having a population of five thousand or less,
9 in an amount of not more than four hundred thousand dollars.
10 (2) In cities having a population of more than five thousand
11 and not more than seventy-five thousand, in an amount of not
12 more than seven hundred thousand dollars.
13 (3) In cities having a population in excess of seventy-five
14 thousand, in an amount of not more than one million dollars.
15 *b.* If at any time before the date fixed for taking action
16 for the issuance of the bonds or the authorization of the
17 loan, a petition is filed with the clerk of the city in the
18 manner provided by section 362.4, asking that the question
19 of issuing the bonds or authorizing the loan be submitted to
20 the registered voters of the city, the council shall either by
21 resolution declare the proposal to issue the bonds or authorize
22 the loan to have been abandoned or shall direct the county
23 commissioner of elections to call a special election upon the
24 question of issuing the bonds or authorizing the loan. Notice
25 of the election and its conduct shall be in the manner provided
26 in the preceding subsections of this section.
27 *c.* If no petition is filed, or if a petition is filed and
28 the proposition of issuing the bonds or authorizing the loan
29 is approved at an election, the council may proceed with the
30 authorization and issuance of the bonds or the authorization
31 of the loan.
32 Sec. 5. Section 384.33, Code 2013, is amended to read as
33 follows:
34 **384.33 Action.**
35 No action may be brought which questions the legality of

S.F. 387

1 general obligation bonds, notes, or loans under this chapter or
2 the power of the city to issue the bonds, notes or loans or the
3 effectiveness of any proceedings relating to the authorization
4 and issuance of the bonds, notes, or loans from and after sixty
5 days from the time the bonds, notes or loans are ordered issued
6 by the city.
7 EXPLANATION
8 This bill enacts new Code section 384.24B to allow a city
9 to borrow surplus money from its reserve accounts or funds
10 for certain public purposes. The bill requires that a city
11 certify taxes to be levied for deposit in the debt service
12 fund in the amount necessary to pay principal and interest on
13 loans authorized under the bill. This bill defines "loan" and
14 "surplus".
15 The bill requires that such loans not cause the balances
16 of such reserve accounts or funds to fall below any minimum
17 balance prescribed by law. The bill requires that such loans
18 not result in a user fee, rate, or property tax increase as
19 a result of unavailability of surplus funds. The terms of
20 each loan shall require repayment of the loan within 90 days
21 to the extent necessary to prevent a user fee rate or property
22 tax increase. Such a loan shall be payable from the city debt
23 service fund and shall constitute an indebtedness within the
24 meaning of any statutory debt limitation.
25 The full or partial repayment of a loan entered into under
26 the bill shall constitute an essential corporate purpose
27 pursuant to Code section 384.24, subsection 3, paragraph "f".
28 The bill provides that upon approval of such a loan that the
29 loan shall be accounted for and disclosed annually on the
30 city's annual financial report. The bill further provides
31 that interest rates on such a loan be set between 50 and 100
32 percent of the average interest rate reported by a municipal
33 bond sale reporting service on the day the loan is authorized.
34 The bill provides that such a loan not include any transfers or
35 obligations from a reserve fund or account of a city utility or

S.F. 387

combined city utility.

The bill requires that such authorization by a city council follow substantially the same procedures for the issuance of general obligation bonds for essential corporate purposes, pursuant to Code section 384.25, or for general corporate purposes, pursuant to Code section 384.26. The bill further provides that no action may be brought against a city regarding the legality, power to issue, or power to authorize notes or loans under new Code section 384.24B at any time after 60 days following issuance.

Senate File 388 - Introduced

SENATE FILE 388
BY COMMITTEE ON NATURAL
RESOURCES AND ENVIRONMENT

(SUCCESSOR TO SF 245)

A BILL FOR

1 An Act relating to sponsor projects under the water resource
2 restoration sponsor program.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2232SV (1) 85
tm/nh

S.F. 388

1 Section 1. Section 455B.199, subsection 6, Code 2013, is
2 amended by adding the following new paragraph:
3 NEW PARAGRAPH. *g.* Practices related to water quality or
4 water quality protection that are included in a field office
5 technical guide published by the natural resources conservation
6 service of the United States department of agriculture or are
7 included in the Iowa stormwater management manual published by
8 the department of natural resources.
9 Sec. 2. Section 455B.199, subsection 7, paragraph b, Code
10 2013, is amended to read as follows:
11 *b.* Parking lots, unless a parking lot is constructed in a
12 manner to improve water quality and construction is consistent
13 with a field office technical guide published by the natural
14 resources conservation service of the United States department
15 of agriculture or the Iowa stormwater management manual
16 published by the department of natural resources.
17 EXPLANATION
18 This bill relates to sponsor projects under the water
19 resource restoration sponsor program.
20 Under the water resource restoration sponsor program,
21 there is a nonexclusive list of certain types of permissible
22 projects. The bill adds as a permissible type of project a
23 project that includes practices related to water quality or
24 water quality protection that are included in a field office
25 technical guide published by the natural resources conservation
26 service of the United States department of agriculture or are
27 included in the Iowa stormwater management manual published by
28 the department of natural resources.
29 Under the water resource restoration sponsor program,
30 certain types of projects are prohibited including projects
31 involving parking lots. The bill amends the parking lot
32 prohibition to allow parking lot projects when the parking
33 lot is constructed in a manner to improve water quality and
34 construction is consistent with a field office technical guide
35 published by the natural resources conservation service of the

S.F. 388

1 United States department of agriculture or the Iowa stormwater
2 management manual published by the department of natural
3 resources.

Senate File 389 - Introduced

SENATE FILE 389
BY COMMITTEE ON NATURAL
RESOURCES AND ENVIRONMENT

(SUCCESSOR TO SSB 1223)

A BILL FOR

1 An Act relating to hunter safety and ethics education course
2 requirements.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2488SV (1) 85
av/nh

S.F. 389

1 Section 1. Section 483A.27, subsection 2, Code 2013, is
2 amended to read as follows:
3 2. *a.* A certificate of completion shall not be issued
4 to a person who has not satisfactorily completed a minimum
5 of ten hours of training in an approved hunter safety and
6 ethics education course. The department shall establish the
7 curriculum for the first ten hours of an approved hunter
8 safety and ethics education course offered in this state.
9 Upon completion of the ten-hour curriculum, each person shall
10 pass an individual oral test or a written test provided by
11 the department. The department shall establish the criteria
12 for successfully passing the tests. Based on the results of
13 the test and demonstrated safe handling of a firearm, the
14 instructor shall determine the persons who shall be issued a
15 certificate of completion.
16 *b.* Notwithstanding paragraph *"a"*, a resident who is eighteen
17 years of age or older may obtain a certificate of completion
18 without demonstrating the safe handling of a firearm.
19 EXPLANATION
20 This bill amends Code section 483A.27 to provide that
21 a resident who is 18 years of age or older may obtain a
22 certificate of completion of the hunter safety and ethics
23 education course without demonstrating the safe handling of a
24 firearm.

Senate File 390 - Introduced

SENATE FILE 390
BY COMMITTEE ON NATURAL
RESOURCES AND ENVIRONMENT

(SUCCESSOR TO SSB 1219)

A BILL FOR

1 An Act relating to certain title abstracts to property with
2 private sewage disposal systems and providing effective date
3 and retroactive applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2227SV (1) 85
tm/sc

S.F. 390

1 Section 1. 2010 Iowa Acts, chapter 1120, is amended by
2 adding the following new section:
3 NEW SECTION. SEC. 8. RETROACTIVE APPLICABILITY. The
4 following provision or provisions of this Act apply
5 retroactively to July 1, 2009:
6 1. The portion of the section of this Act amending section
7 455B.172, subsection 11, paragraph "i".
8 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
9 immediate importance, takes effect upon enactment.
10 Sec. 3. RETROACTIVE APPLICABILITY. This Act applies
11 retroactively to July 1, 2010.
12 EXPLANATION
13 This bill relates to certain abstracts to property with
14 private sewage disposal systems.
15 Pursuant to 2008 Iowa Acts, chapter 1033, beginning July
16 1, 2009, certain title transfers required an inspection of
17 any private sewage disposal system located on the property.
18 Title abstracts to such property were required to include
19 documentation of the inspection. Pursuant to 2010 Iowa Acts,
20 chapter 1120, the title abstract requirement was eliminated.
21 The bill adds a retroactive applicability provision to 2010
22 Iowa Acts, chapter 1120, making the elimination of the title
23 abstract requirement retroactively applicable to July 1, 2009,
24 which is the original enactment date of the title abstract
25 requirement.
26 The bill takes effect upon enactment and applies
27 retroactively to July 1, 2010.

Senate File 391 - Introduced

SENATE FILE 391
BY COMMITTEE ON ECONOMIC GROWTH

(SUCCESSOR TO SSB 1216)

A BILL FOR

1 An Act relating to offers of suitable work made to certain
2 injured employees and including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2479SV (1) 85
av/rj

S.F. 391

1 Section 1. Section 85.33, subsection 3, Code 2013, is
2 amended to read as follows:
3 3. *a.* If an employee is temporarily, partially disabled and
4 the employer for whom the employee was working at the time of
5 injury offers to the employee suitable work consistent with the
6 employee's disability, the employee shall accept the suitable
7 work, and be compensated with temporary partial benefits. If
8 the employee refuses to accept the suitable work with the same
9 employer, the employee shall not be compensated with temporary
10 partial, temporary total, or healing period benefits during the
11 period of the refusal. If suitable work is not offered by the
12 employer for whom the employee was working at the time of the
13 injury and the employee who is temporarily, partially disabled
14 elects to perform work with a different employer, the employee
15 shall be compensated with temporary partial benefits. For the
16 purposes of this subsection, work offered to an employee shall
17 be considered suitable work if the work offered meets all of
18 the following requirements:
19 (1) The work offered is reasonably appropriate for the
20 employee's education, training, and vocational experience.
21 (2) The work offered is consistent with the employee's
22 medical restrictions.
23 (3) The work offered does not require the employee to work a
24 substantially different schedule which unreasonably interferes
25 with the employee's customary activities in caring for a
26 dependent. For the purposes of this subsection, *"dependent"*
27 means a dependent as described in section 85.42 or 85.44.
28 (4) The work is not offered for the purpose of punishing or
29 harassing the employee.
30 (5) The work offered does not require the employee to accept
31 a permanent reassignment to a different job subsequent to the
32 period of temporary disability, provided that once the period
33 of temporary disability ends, this subsection shall not be
34 construed to limit the employer from reassigning the employee
35 to a job consistent with the employee's permanent medical

S.F. 391

1 restrictions, if any.
2 *b.* For the purposes of paragraph *"c"*, *"traveling employee"*
3 means an employee whose regular job duties regularly require
4 the employee to be away from the employee's residence for
5 extended periods of time.
6 *c.* For the purposes of this subsection, work offered to a
7 traveling employee shall be considered suitable work if the
8 work offered meets the requirements contained in paragraph *"a"*,
9 subject to the following additional requirements:
10 (1) The geographic location of the work offered to
11 the traveling employee shall be considered in making a
12 determination of whether the work offered is suitable work only
13 if the work offered does any of the following:
14 (a) Requires a commute or other travel beyond the physical
15 capacity of the employee.
16 (b) Requires the traveling employee to spend substantially
17 more time away from the employee's residence than the
18 employee's regular job duties.
19 (c) Interferes with the medical care of the traveling
20 employee for the work-related injury, including but not limited
21 to forcing a change in a health service provider or a delay in
22 medical care or treatment.
23 (2) If an employer offers suitable work to a traveling
24 employee that requires the employee to spend substantially more
25 time away from the employee's residence than the employee's
26 regular job duties, the employer shall notify the employee in
27 writing of the following:
28 (a) The nature of the job duties and physical requirements
29 of the work offered.
30 (b) The geographic location of the work offered, if the
31 location of the work offered will be substantially different
32 than the location of the traveling employee's regular job
33 duties.
34 (c) The possible suspension of temporary partial, temporary
35 total, or healing period benefits if the traveling employee

S.F. 391

1 refuses the suitable work offered.
2 (d) The traveling employee's right to file a claim with the
3 workers' compensation commissioner.
4 (3) The employer shall deliver written notice of the
5 suitable work offered to the traveling employee, by mail, or by
6 personal or electronic delivery.
7 (4) Within seven days after the employer mails written
8 notice to the traveling employee of the suitable work
9 offered, or within three days after the employer personally
10 or electronically delivers written notice to the traveling
11 employee of the suitable work offered, whichever is earlier,
12 the employee shall either accept the offer of suitable work or
13 refuse the offer of suitable work, in written or electronic
14 form, stating the basis for the employee's refusal of the
15 suitable work offered, if applicable.
16 (5) If at any time the employer substantially alters the
17 job duties, physical requirements, or location of the suitable
18 work, the employer shall provide the traveling employee with
19 written notice of the proposed alterations and the employee
20 shall accept or refuse the alterations to the suitable work, in
21 written or electronic form, within three days after the notice
22 is delivered, stating the basis for the employee's refusal of
23 the alterations, if applicable.
24 (6) If the traveling employee believes that the suitable
25 work offered is not suitable under this subsection after
26 accepting and engaging in the work, the employee may refuse the
27 work as unsuitable. The employee's right to refuse the work
28 offered as unsuitable is not affected by the employee's initial
29 acceptance of and engagement in the work.
30 (7) If the employer makes an offer of suitable work pursuant
31 to this subsection that requires a traveling employee to
32 commute or travel further than the location of the employee's
33 regular job duties, the employer shall provide the employee
34 with reasonable transportation, overnight lodging, and meals,
35 or with prompt reimbursement for such reasonable travel

S.F. 391

1 expenses.
2 *d.* This subsection shall not be construed to create a new
3 legal claim or cause of action or to extinguish or modify any
4 existing legal claim or cause of action.
5 Sec. 2. APPLICABILITY. This Act applies to offers of
6 suitable work made pursuant to section 85.33, subsection 3, on
7 or after July 1, 2013.
8 EXPLANATION
9 This bill relates to offers of suitable work made by an
10 employer to an employee while the employee is temporarily,
11 partially disabled. The bill specifies what work is considered
12 suitable work for purposes of the statute such that an
13 employee's refusal to accept the work will result in suspension
14 of that employee's weekly workers' compensation benefits during
15 the period of the refusal.
16 The bill provides that in order to be considered suitable,
17 the work offered must be reasonably appropriate for the
18 employee's education, training, and vocational experience;
19 consistent with the employee's medical restrictions; not
20 require the employee to work a substantially different schedule
21 that unreasonably interferes with the care of dependents; not
22 be offered to punish or harass the employee; and not require
23 the employee to accept a permanent reassignment to a different
24 job subsequent to the period of temporary disability, unless
25 such reassignment is necessary due to the employee's permanent
26 medical restrictions.
27 The bill imposes additional requirements for determining
28 whether work offered to an injured traveling employee is
29 suitable. For purposes of the bill, a "traveling employee"
30 is an employee whose regular job duties regularly require the
31 employee to be away from the employee's residence for extended
32 periods of time.
33 For a traveling employee, the geographic location of the
34 work offered shall be considered only if the work requires a
35 commute or other travel beyond the physical capacity of the

S.F. 391

1 employee; requires the employee to spend substantially more
2 time away from the employee's residence than the employee's
3 regular job duties; or interferes with the employee's medical
4 care for the work-related injury including forcing a change
5 in a health service provider or a delay in medical care or
6 treatment.
7 If an employer offers suitable work to a traveling employee
8 that requires the employee to spend substantially more time
9 away from the employee's residence than the employee's regular
10 job duties, the employer must notify the employee in writing
11 of the nature of the job duties and physical requirements of
12 the work offered; the geographic location of the work, if the
13 location is substantially different than the location of the
14 employee's regular job duties; the possible suspension of
15 weekly workers' compensation benefits if the employee refuses
16 the suitable work offered; and the employee's right to file a
17 claim with the workers' compensation commissioner.
18 The employer must also deliver written notice of the
19 suitable work offered to a traveling employee by mail, or by
20 personal or electronic delivery. Within seven days after the
21 notice is mailed, or within three days after the notice is
22 delivered personally or electronically to the employee, the
23 employee must either accept or refuse the offer of suitable
24 work, in written or electronic form, including the basis for a
25 refusal, if applicable.
26 If the employer substantially alters the job duties,
27 physical requirements, or location of the suitable work, the
28 employer shall provide the traveling employee with written
29 notice of the proposed alterations and the employee must accept
30 or refuse the alterations, in written or electronic form,
31 within three days of delivery of the notice, including the
32 basis for a refusal, if applicable.
33 If the traveling employee believes that the work offered
34 is not suitable after accepting and engaging in the work, the
35 employee may refuse the work as unsuitable. The employee's

S.F. 391

1 right to refuse the work offered as unsuitable is not affected
2 by the employee's initial acceptance of and engagement in the
3 work.
4 If an employer makes an offer of suitable work that requires
5 a traveling employee to commute or travel further than the
6 location of the employee's regular job duties, the employer
7 must provide the employee with reasonable transportation,
8 overnight lodging, and meals, or with prompt reimbursement for
9 such reasonable travel expenses.
10 The provisions of the bill shall not be construed to create
11 a new legal claim or cause of action or to extinguish or modify
12 any existing legal claim or cause of action.
13 The bill is applicable to offers of suitable work made by an
14 employer on or after July 1, 2013.

Senate File 392 - Introduced

SENATE FILE 392
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SF 279)

A BILL FOR

1 An Act relating to school breakfast programs.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2331SV (1) 85
je/sc

S.F. 392

1 Section 1. Section 256.11, Code 2013, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 16. As part of a phase I site visit and a
4 phase II on-site visit at a school district or nonpublic school
5 conducted pursuant to subsection 10, paragraphs *"a"* and *"b"*, the
6 department or accreditation committee shall document whether
7 the school district or nonpublic school operates or provides
8 for the operation of a school breakfast program pursuant to
9 chapter 283A.
10 EXPLANATION
11 This bill requires the Iowa department of education or a
12 school accreditation committee to document whether a school
13 district or nonpublic school operates or provides for the
14 operation of a school breakfast program pursuant to Code
15 chapter 283A.

Senate File 393 - Introduced

SENATE FILE 393
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO SSB 1001)

A BILL FOR

1 An Act relating to prenatal care including required critical
2 congenital heart disease screening for newborns as part of
3 the state´s newborn screening panel and the convening of a
4 task force on prenatal care.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1177SV (3) 85
pf/nh

S.F. 393

1 Section 1. NEW SECTION. **136A.5A Newborn critical congenital**
2 **heart disease screening.**
3 1. Each newborn born in this state shall receive a critical
4 congenital heart disease screening by pulse oximetry or other
5 means as determined by rule, in conjunction with the metabolic
6 screening required pursuant to section 136A.5.
7 2. An attending health care provider shall ensure that
8 every newborn under the provider's care receives the critical
9 congenital heart disease screening.
10 3. This section does not apply if a parent objects to
11 the screening. If a parent objects to the screening of a
12 newborn, the attending health care provider shall document the
13 refusal in the newborn's medical record and shall obtain a
14 written refusal from the parent and report the refusal to the
15 department as provided by rule of the department.
16 4. The results of each newborn's critical congenital heart
17 disease screening shall be reported in a manner consistent with
18 the reporting of the results of metabolic screenings pursuant
19 to section 136A.5.
20 5. This section shall be administered in accordance with
21 rules adopted pursuant to section 136A.8.
22 Sec. 2. NEWBORN CRITICAL CONGENITAL HEART DISEASE
23 SCREENING. Notwithstanding any provision to the contrary
24 relating to the newborn screening policy pursuant to 641 IAC
25 4.3(1), critical congenital heart disease screening shall be
26 included in the state's newborn screening panel as included
27 in the recommended uniform screening panel as approved by
28 the United States secretary of health and human services.
29 The center for congenital and inherited disorders advisory
30 committee shall make recommendations regarding implementation
31 of the screening and the center for congenital and inherited
32 disorders shall adopt rules as necessary to implement the
33 screening.
34 Sec. 3. TASK FORCE ON PRENATAL CARE. The department
35 of public health shall convene a task force to review

S.F. 393

1 opportunities to improve prenatal care in the state. The task
2 force shall review overall guidelines and best practices to
3 maximize the possibility of assessing the risk factors for and
4 preventing premature births, stillbirth, and other delivery
5 complications, and shall specifically review guidelines
6 and education relating to prenatal ultrasounds and fetal
7 movement monitoring. The task force shall include but is not
8 limited to inclusion of representatives of perinatologists,
9 neonatologists, obstetricians/gynecologists, sonographers,
10 hospitals, the center for congenital and inherited disorders,
11 and others with interest or expertise in prenatal care. The
12 task force shall report its findings and recommendations to the
13 governor and the general assembly by December 15, 2013.
14 EXPLANATION
15 The bill relates to prenatal care including newborn
16 screenings. The bill requires each newborn born in the state
17 to receive a critical congenital heart disease screening
18 by pulse oximetry or other means as determined by rule, in
19 conjunction with the metabolic screening already required.
20 The bill directs that an attending health care provider shall
21 ensure that every newborn under the provider's care receives
22 the critical congenital heart disease screening, and provides
23 that that requirement does not apply if a parent objects to
24 the screening. If a parent objects, the health care provider
25 is required to document the refusal in the newborn's medical
26 record, obtain a written refusal from the parent, and report
27 the refusal to the department of public health (DPH). The
28 results of each newborn's screening are required to be reported
29 in a manner consistent with the reporting of the results of
30 metabolic screenings. The provisions are to be administered in
31 accordance with rules adopted by the center for congenital and
32 inherited disorders, with assistance provided by DPH.
33 The bill directs that the critical congenital heart disease
34 screening shall be included in the state's newborn screening
35 panel. The bill requires the center for congenital and

S.F. 393

1 inherited disorders advisory committee to make recommendations
2 regarding implementation of the screening and the center for
3 congenital and inherited disorders to adopt rules as necessary
4 to implement the screening.
5 The bill directs DPH to convene a task force to review
6 opportunities to improve prenatal care in the state. The task
7 force is to review overall guidelines and best practices to
8 maximize the possibility of assessing the risk factors for and
9 preventing premature births, stillbirth, and other delivery
10 complications, and to specifically review guidelines and
11 education relating to prenatal ultrasounds and fetal movement
12 monitoring. The bill specifies the membership of the task
13 force and directs the task force to report its findings and
14 recommendations to the governor and the general assembly by
15 December 15, 2013.

Senate File 394 - Introduced

SENATE FILE 394
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO SSB 1105)

A BILL FOR

1 An Act relating to informal conferences on contested citations
2 or regulatory insufficiencies in health care facilities
3 or assisted living programs and including applicability
4 provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1705SV (3) 85
ad/nh

S.F. 394

1 Section 1. Section 135C.41, subsection 2, Code 2013, is
2 amended to read as follows:
3 2. Notify the director that the facility desires to
4 contest the citation and request an informal conference with
5 ~~a representative of the department~~ an independent reviewer
6 pursuant to section 135C.42.
7 Sec. 2. Section 135C.42, Code 2013, is amended to read as
8 follows:
9 **135C.42 Informal conference on contested citation.**
10 1. The director shall ~~assign a representative of the~~
11 ~~department, other than the inspector upon whose inspection the~~
12 ~~contested citation is based,~~ provide an independent reviewer
13 to hold an informal conference with the facility within ten
14 working days after receipt of a request made under section
15 135C.41, subsection 2. At the conclusion of the conference the
16 ~~representative~~ independent reviewer may affirm or may modify or
17 dismiss the citation. ~~In the latter case, the representative~~
18 The independent reviewer shall state in writing the specific
19 reasons for the affirmation, modification, or dismissal and
20 immediately transmit copies of the statement to the director,
21 and to the facility. If the facility does not desire to
22 further contest an affirmed or modified citation, it shall
23 within five working days after the informal conference, or
24 after receipt of the written explanation of the ~~representative~~
25 independent reviewer, as the case may be, comply with section
26 135C.41, subsection 1.
27 2. An independent reviewer shall be licensed as an attorney
28 in the state of Iowa and shall not be employed or have been
29 employed by the department in the past eight years or have
30 appeared in front of the department on behalf of a health care
31 facility in the past eight years. Preference shall be given to
32 an attorney with background knowledge, experience, or training
33 in long-term care. The department may issue a request for
34 proposals to enter into a contract for the purpose of providing
35 one or more independent reviewers for informal conferences.

S.F. 394

3. The department shall hold the informal conference, as required in this section, concurrently with any informal dispute resolution held pursuant to 42 C.F.R. § 488.331 for those health care facilities certified under Medicare or the medical assistance program.

Sec. 3. Section 135C.43, subsection 1, Code 2013, is amended to read as follows:

1. A facility ~~which~~ that desires to further contest an affirmed or modified citation for a Class I, Class II, or Class III violation, may do so in the manner provided by chapter 17A for contested cases. Notice of intent to formally contest a citation shall be given the department in writing within five days after the informal conference or after receipt of the written explanation of the ~~representative delegated~~ independent reviewer provided to hold the informal conference, whichever is applicable, in the case of an affirmed or modified citation. A facility which has exhausted all adequate administrative remedies and is aggrieved by the final action of the department may petition for judicial review in the manner provided by chapter 17A.

Sec. 4. Section 231C.8, Code 2013, is amended by striking the section and inserting in lieu thereof the following:

231C.8 Exit interview — issuance of findings.

1. The department shall provide an assisted living program an exit interview at the conclusion of a monitoring evaluation or complaint investigation, and the department shall inform the program's representative of all issues and areas of concern related to the insufficient practices. The department may conduct the exit interview in person or by telephone, and the department shall provide a second exit interview if any additional issues or areas of concern are identified. The program shall have two working days from the date of the exit interview to submit additional or rebuttal information to the department.

2. The department shall issue the final findings of a

S.F. 394

1 monitoring evaluation or complaint investigation within
2 ten working days after completion of the on-site monitoring
3 evaluation or complaint investigation. The final findings
4 shall be served upon the program personally, by electronic
5 mail, or by certified mail.
6 Sec. 5. Section 231C.9, Code 2013, is amended to read as
7 follows:
8 **231C.9 Public disclosure of findings.**
9 Upon completion of a monitoring evaluation or complaint
10 investigation of an assisted living program by the department
11 pursuant to this chapter, ~~including the conclusion of informal~~
12 ~~review,~~ the department's final findings with respect to
13 compliance by the assisted living program with requirements
14 for certification shall be made available to the public
15 in a readily available form and place. Other information
16 relating to an assisted living program that is obtained by
17 the department which does not constitute the department's
18 final findings from a monitoring evaluation or complaint
19 investigation of the assisted living program shall not be made
20 available to the public except in proceedings involving the
21 denial, suspension, or revocation of a certificate under this
22 chapter.
23 Sec. 6. NEW SECTION. **231C.9A Informal conference — formal**
24 **contest — judicial review.**
25 1. Within twenty business days after issuance of the final
26 findings, the assisted living program shall notify the director
27 if the program desires to contest the findings and request an
28 informal conference.
29 2. The department shall provide an independent reviewer to
30 hold an informal conference with an assisted living program
31 within ten working days after receiving a request from the
32 program pursuant to subsection 1. At the conclusion of the
33 informal conference, the independent reviewer may affirm,
34 modify, or dismiss a contested regulatory insufficiency. The
35 independent reviewer shall state in writing the specific

S.F. 394

1 reasons for the affirmation, modification, or dismissal and
2 immediately transmit copies of the statement to the department
3 and to the program.
4 3. An independent reviewer shall be licensed as an attorney
5 in the state of Iowa and shall not be employed or have been
6 employed by the department in the past eight years or have
7 appeared in front of the department on behalf of an assisted
8 living program in the past eight years. Preference shall be
9 given to an attorney with background knowledge, experience,
10 or training in long-term care. The department may issue a
11 request for proposals to enter into a contract for the purpose
12 of providing one or more independent reviewers for informal
13 conferences.
14 4. An assisted living program that desires to further
15 contest an affirmed or modified regulatory insufficiency may do
16 so in the manner provided by chapter 17A for contested cases.
17 The program shall give notice of intent to formally contest
18 a regulatory insufficiency, in writing, to the department
19 within five days after receipt of the written decision of the
20 independent reviewer. The formal hearing shall be conducted
21 in accordance with chapter 17A and rules adopted by the
22 department.
23 5. An assisted living program that has exhausted all
24 adequate administrative remedies and is aggrieved by the final
25 action of the department may petition for judicial review in
26 the manner provided by chapter 17A.
27 Sec. 7. APPLICABILITY.
28 1. The sections of this Act amending sections 135C.41,
29 135C.42, and 135C.43 apply to an informal conference requested
30 under chapter 135C on or after January 1, 2014.
31 2. The sections of this Act amending sections 231C.8 and
32 231C.9, and adding section 231C.9A, apply to assisted living
33 programs desiring to request an informal conference on or after
34 January 1, 2014.
35 EXPLANATION

S.F. 394

1 This bill relates to informal conferences on contested
2 citations in health care facilities or assisted living
3 programs. Currently, the director of the department of
4 inspections and appeals (DIA) assigns a representative of the
5 department who was not involved in the contested citation
6 to hold an informal conference with a health care facility
7 within 10 working days after receipt of a request made by the
8 facility to contest a citation. The bill would require that an
9 independent reviewer hold the informal conference concurrently
10 with any informal dispute resolution required by federal
11 regulations rather than a representative of DIA. The bill
12 provides that the independent reviewer must be an Iowa-licensed
13 attorney that has not appeared in front of DIA on behalf of a
14 health care facility in the past eight years and has not been
15 employed by DIA in the last eight years. Preference for the
16 position of independent reviewer is given to persons who have
17 experience or training in geriatric long-term care.
18 The bill also changes the process for assisted living
19 programs that receive a regulatory insufficiency and wish to
20 contest that finding. Current law allows assisted living
21 programs to request an informal review of contested regulatory
22 insufficiencies, but does not provide for an exit interview or
23 an informal conference. The bill removes the current informal
24 review process and replaces it with an exit interview and
25 informal conference in a manner similar to that provided for
26 health care facilities, as amended in the bill.
27 At the completion of the informal conference, the
28 independent reviewer may affirm, modify, or dismiss the
29 regulatory insufficiency. The reviewer must provide written
30 specific reasons for the decision and immediately transmit
31 copies of the written statement to DIA and to the program. If,
32 after receiving the reviewer's statement, the program no longer
33 wishes to contest the decision, the program shall comply with
34 the payment of any civil penalty.
35 If an assisted living program wants to further contest the

S.F. 394

1 independent reviewer's affirmation or modification of the
2 regulatory insufficiency, the program may do so pursuant to
3 chapter 17A for contested cases. The program must provide
4 DIA with written notice of the intent to formally contest a
5 regulatory insufficiency within five days of receiving the
6 independent reviewer's written decision. A formal hearing will
7 be conducted pursuant to Code chapter 17A and rules adopted by
8 DIA. After exhausting administrative remedies, a program may
9 petition for judicial review pursuant to Code chapter 17A.
10 The bill applies to an informal conference requested by
11 a health care facility under Code chapter 135C on or after
12 January 1, 2014, and to assisted living programs desiring to
13 request an informal conference under Code chapter 231C on or
14 after January 1, 2014.

Senate File 395 - Introduced

SENATE FILE 395
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO SSB 1227)

(COMPANION TO LSB 1151HV BY
COMMITTEE ON HUMAN RESOURCES)

A BILL FOR

1 An Act relating to child, adult, and family services under
2 the purview of the department of human services, making
3 penalties applicable, and including effective date
4 provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1151SV (5) 85
pf/nh

S.F. 395

1 Section 1. Section 225C.38, subsection 1, paragraph c, Code
2 2013, is amended to read as follows:
3 *c.* Except as provided in section 225C.41, a family support
4 subsidy for a fiscal year shall be in an amount determined by
5 the department ~~in consultation with the comprehensive family~~
6 ~~support council created in section 225C.48~~. The parent or
7 legal guardian receiving a family support subsidy may elect
8 to receive a payment amount which is less than the amount
9 determined in accordance with this paragraph.
10 Sec. 2. Section 225C.42, subsection 1, Code 2013, is amended
11 to read as follows:
12 1. The department shall conduct an annual evaluation of
13 the family support subsidy program ~~in conjunction with the~~
14 ~~comprehensive family support council~~ and shall submit the
15 evaluation report with recommendations to the governor and
16 general assembly. The report shall be submitted on or before
17 October 30 and provide an evaluation of the latest completed
18 fiscal year.
19 Sec. 3. Section 225C.47, subsection 5, unnumbered paragraph
20 1, Code 2013, is amended to read as follows:
21 The department shall design the program ~~in consultation with~~
22 ~~the comprehensive family support council created in section~~
23 ~~225C.48~~. The department shall adopt rules to implement the
24 program which provide for all of the following:
25 Sec. 4. Section 225C.49, subsection 4, Code 2013, is amended
26 to read as follows:
27 4. The department shall designate one individual whose sole
28 duties are to provide central coordination of the programs
29 under sections 225C.36 and 225C.47 and ~~to work with the~~
30 ~~comprehensive family support council~~ to oversee development and
31 implementation of the programs.
32 Sec. 5. Section 239B.5, Code 2013, is amended by adding the
33 following new subsection:
34 NEW SUBSECTION. 4. *a.* The department shall implement
35 policies and procedures as necessary to comply with provisions

S.F. 395

of the federal Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, to prevent assistance provided under this chapter from being used in any electronic benefit transfer transaction in any liquor store; any casino, gambling casino, or gaming establishment; or any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment. For purposes of this paragraph, the definitions found in the federal Middle Class Tax Relief and Job Creation Act and related rules and statutes apply.

b. Unless otherwise precluded by federal law or regulation, policies and procedures implemented under this subsection shall at a minimum impose the prohibition described in paragraph *"a"* as a condition for continued eligibility for assistance under this chapter.

c. The department may implement additional measures as may be necessary to comply with federal regulations in implementing paragraph *"a"*.

d. The department shall adopt rules as necessary to implement this subsection.

Sec. 6. Section 239B.14, subsection 1, Code 2013, is amended to read as follows:

1. *a.* An individual who obtains, or attempts to obtain, or aids or abets an individual to obtain, by means of a willfully false statement or representation, by knowingly failing to disclose a material fact, or by impersonation, or any fraudulent device, any assistance or other benefits under this chapter to which the individual is not entitled, commits a fraudulent practice.

b. An individual who accesses benefits provided under this chapter in violation of any prohibition imposed by the department pursuant to section 239B.5, subsection 4, commits a fraudulent practice.

Sec. 7. Section 249A.3, subsection 1, Code 2013, is amended by adding the following new paragraph:

S.F. 395

1 NEW PARAGRAPH. *v.* Beginning January 1, 2014, is an
2 individual who meets all of the following requirements:
3 (1) Is under twenty-six years of age.
4 (2) Was in foster care under the responsibility of the state
5 on the date of attaining eighteen years of age or such higher
6 age to which foster care is provided.
7 (3) Was enrolled in the medical assistance program under
8 this chapter while in such foster care.
9 Sec. 8. Section 249A.3, subsection 2, paragraph a,
10 subparagraph (9), Code 2013, is amended by striking the
11 subparagraph.
12 Sec. 9. Section 249J.26, subsection 2, Code 2013, is amended
13 to read as follows:
14 2. This chapter is repealed ~~October~~ December 31, 2013.
15 Sec. 10. Section 514I.4, subsection 5, paragraph a, Code
16 2013, is amended by striking the paragraph.
17 Sec. 11. Section 514I.5, subsection 7, paragraph f, Code
18 2013, is amended to read as follows:
19 *f.* Review, in consultation with the department, and take
20 necessary steps to improve interaction between the program and
21 other public and private programs which provide services to the
22 population of eligible children. ~~The board, in consultation~~
23 ~~with the department, shall also develop and implement a plan~~
24 ~~to improve the medical assistance program in coordination with~~
25 ~~the hawk-i program, including but not limited to a provision to~~
26 ~~coordinate eligibility between the medical assistance program~~
27 ~~and the hawk-i program, and to provide for common processes~~
28 ~~and procedures under both programs to reduce duplication and~~
29 ~~bureaucracy.~~
30 Sec. 12. Section 514I.5, subsection 8, paragraphs b and f,
31 Code 2013, are amended by striking the paragraphs.
32 Sec. 13. Section 514I.7, subsection 2, paragraphs a and g,
33 Code 2013, are amended to read as follows:
34 *a.* Determine ~~individual~~ eligibility for program enrollment
35 ~~based upon review of completed applications and supporting~~

S.F. 395

1 ~~documentation~~ as prescribed by federal law and regulation,
2 using policies and procedures adopted by rule of the department
3 pursuant to chapter 17A. The administrative contractor shall
4 not enroll a child who has group health coverage, unless
5 expressly authorized by such rules.
6 *g.* ~~Create and~~ Utilize the department's eligibility system
7 to maintain eligibility files ~~that are compatible with the~~
8 ~~data system of the department~~ with pertinent eligibility
9 determination and ongoing enrollment information including~~,~~ but
10 not limited to~~,~~ data regarding beneficiaries, enrollment dates,
11 disenrollments, and annual financial redeterminations.
12 Sec. 14. Section 514I.7, subsection 2, paragraphs c, d, e,
13 f, and k, Code 2013, are amended by striking the paragraphs.
14 Sec. 15. Section 514I.8, subsection 1, Code 2013, is amended
15 to read as follows:
16 1. *a.* Effective July 1, 1998, and notwithstanding any
17 medical assistance program eligibility criteria to the
18 contrary, medical assistance shall be provided to, or on behalf
19 of, an eligible child under the age of nineteen whose family
20 income does not exceed one hundred thirty-three percent of the
21 federal poverty level, as defined by the most recently revised
22 poverty income guidelines published by the United States
23 department of health and human services.
24 *b.* ~~Additionally, effective~~ Effective July 1, 2000, and
25 notwithstanding any medical assistance program eligibility
26 criteria to the contrary, medical assistance shall be provided
27 to, or on behalf of, an eligible infant whose family income
28 does not exceed two hundred percent of the federal poverty
29 level, as defined by the most recently revised poverty income
30 guidelines published by the United States department of health
31 and human services.
32 *c.* Effective July 1, 2009, and notwithstanding any medical
33 assistance program eligibility criteria to the contrary,
34 medical assistance shall be provided to, or on behalf of, a
35 pregnant woman or an eligible child who is an infant and whose

S.F. 395

1 family income is at or below three hundred percent of the
2 federal poverty level, as defined by the most recently revised
3 poverty income guidelines published by the United States
4 department of health and human services.
5 Sec. 16. Section 514I.8, subsection 2, paragraph c, Code
6 2013, is amended to read as follows:
7 *c.* Is a member of a family whose income does not exceed
8 three hundred percent of the federal poverty level, as defined
9 in 42 U.S.C. § 9902(2), including any revision required by
10 such section, and in accordance with the federal Children's
11 Health Insurance Program Reauthorization Act of 2009, Pub. L.
12 No. 111-3. The modified adjusted gross income methodology
13 prescribed in section 2101 of the federal Patient Protection
14 and Affordable Care Act, Pub. L. No. 111-148, to determine
15 family income under this paragraph.
16 Sec. 17. Section 514I.8, subsections 3 and 4, Code 2013, are
17 amended to read as follows:
18 3. In accordance with the rules adopted by the board,
19 a child may be determined to be presumptively eligible for
20 the program pending a final eligibility determination.
21 Following final determination of eligibility ~~by the~~
22 ~~administrative contractor~~, a child shall be eligible for a
23 twelve-month period. At the end of the twelve-month period,
24 ~~the administrative contractor shall conduct~~ a review of the
25 circumstances of the ~~eligible~~ child's family shall be conducted
26 to establish eligibility and cost sharing for the subsequent
27 twelve-month period.
28 4. Once an eligible child is enrolled in a plan, the
29 ~~eligible child shall remain enrolled in the plan unless a~~
30 ~~determination is made, according to criteria established by the~~
31 ~~board, that the eligible child should be allowed to enroll in~~
32 ~~another qualified child health plan or should be disenrolled.~~
33 ~~An~~ enrollee may request to change plans within ninety days of
34 initial enrollment for any reason and at any time for cause, as
35 defined in 42 C.F.R. § 438.56(d)(2). Otherwise, an enrollee

S.F. 395

may change plan enrollment once a year on the enrollee's anniversary date.

Sec. 18. Section 514I.8, subsections 5 and 6, Code 2013, are amended by striking the subsections.

Sec. 19. Section 514I.9, Code 2013, is amended to read as follows:

514I.9 Program benefits.

1. ~~Until June 30, 1999, the benefits provided under the program shall be those benefits established by rule of the board and in compliance with Tit. XXI of the federal Social Security Act.~~

~~2. On or before June 30, 1999, the hawk-i board shall adopt rules to amend the benefits package based upon review of the results of the initial benefits package used.~~

~~3. Subsequent to June 30, 1999, the~~ The hawk-i board shall review the benefits package annually and shall determine additions to or deletions from the benefits package offered. The hawk-i board shall submit the recommendations to the general assembly for any amendment to the benefits package.

~~4.~~ 2. Benefits, in addition to those required by rule, may be provided to eligible children by a participating insurer if the benefits are provided at no additional cost to the state.

Sec. 20. REPEAL. Section 225C.48, Code 2013, is repealed.

Sec. 21. EFFECTIVE DATE. The following provision or provisions of this Act take effect December 31, 2013:

1. The section of this Act amending section 249A.3, subsection 2, paragraph "a", subparagraph (9).

EXPLANATION

This bill relates to child, adult, and family services under the purview of the department of human services.

The bill eliminates the comprehensive family support council and strikes references to the council.

The bill directs the department of human services (DHS) to implement policies and procedures necessary to comply with the federal Middle Class Tax Relief and Job Creation Act of 2012,

S.F. 395

1 to prevent family investment program assistance from being used
2 in any electronic benefit transfer transaction in a liquor
3 store; a casino, gambling casino, or gaming establishment;
4 or a retail establishment that provides adult-oriented
5 entertainment. The bill also provides that an individual
6 accessing benefits through the family investment program in a
7 way prohibited under the policies and procedures implemented by
8 the department commits a fraudulent practice.
9 The bill extends the repeal date of the IowaCare program from
10 October 31, 2013, to December 31, 2013.
11 The bill amends provisions relating to the medical
12 assistance (Medicaid) and hawk-i programs to comply with
13 provisions of the federal Patient Protection and Affordable
14 Care Act (ACA).
15 The bill provides, as required under the ACA, that beginning
16 January 1, 2014, individuals who were in foster care and
17 enrolled in the Medicaid program while they were in foster
18 care, are eligible for Medicaid up to 26 years of age. As a
19 conforming measure, the bill eliminates Medicaid eligibility
20 for an individual who is under the age of 21 who aged out of the
21 foster care system and has an income of less than 200 percent
22 of the federal poverty level. This provision takes effect
23 December 31, 2013.
24 The bill amends provisions relating to the hawk-i program.
25 Because the ACA changes requirements relating to determination
26 of eligibility and the application process, the bill eliminates
27 various provisions relating to application development and
28 the application process under the hawk-i program. The bill
29 eliminates the requirement that DHS develop a joint application
30 form for the hawk-i and Medicaid programs; eliminates the
31 requirement that the hawk-i board and DHS develop and implement
32 a plan to improve coordination between the hawk-i program and
33 the Medicaid program; and eliminates the requirement that
34 the hawk-i board and DHS adopt rules addressing the hawk-i
35 application form and standards for program eligibility.

S.F. 395

1 Because of changes in the application process, the bill
2 provides that the administrative contractor shall determine
3 eligibility as prescribed by federal law and regulation, using
4 policies and procedures established by rule rather than based
5 on a review of individual applications. The administrative
6 contractor must also utilize the department's eligibility
7 system to maintain eligibility files with pertinent eligibility
8 determination and ongoing enrollment information. The bill
9 also eliminates the following duties of the administrative
10 contractor: forward names of children that may be eligible
11 for Medicaid to DHS and retain their identifying data; monitor
12 and assess the medical and dental care provided as well as
13 complaints and grievances; verify and forward participating
14 insurers' payment requests to DHS; develop and issue approval,
15 denial, and cancellation notifications to applicants and
16 enrollees, and process applications; and receive completed
17 applications and verifications at a central location. The bill
18 also eliminates the duty of the administrative contractor to
19 conduct a review of the circumstances of the child's family
20 to establish eligibility and cost-sharing in the subsequent
21 eligibility period following the initial determination and
22 period of eligibility.
23 The bill requires the use of the modified adjusted gross
24 income methodology as required under the ACA to establish
25 family income in determining eligibility for hawk-i.
26 The bill modifies the ability of an enrollee to request a
27 change in health plans by providing that an enrollee of the
28 program may request to change plans within the initial 90-day
29 period of enrollment for any reason and at any time for cause,
30 as identified in federal regulations, and otherwise may change
31 once a year on the enrollee's anniversary date.
32 The bill eliminates the requirement that the hawk-i board
33 study and make recommendations regarding the level of family
34 income appropriate for application to the program; and the
35 requirement that the board and the council on human services

S.F. 395

1 cooperate to coordinate the administration of hawk-i and the
2 medical assistance program and develop a plan for a unified
3 medical assistance and hawk-i program system through use of a
4 single health insurance card.
5 The bill makes other technical changes to eliminate outdated
6 provisions under the hawk-i program.

Senate File 396 - Introduced

SENATE FILE 396
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1106)

A BILL FOR

1 An Act relating to government operations and efficiency
2 and other related matters, making an appropriation, and
3 including effective date and applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1864SV (5) 85
ec/rj

S.F. 396

DIVISION I
GOVERNMENT INFORMATION TECHNOLOGY SERVICES

Section 1. Section 8A.101, unnumbered paragraph 1, Code 2013, is amended to read as follows:

As used in this chapter and chapter 8B, unless the context otherwise requires:

Sec. 2. Section 8A.103, unnumbered paragraph 1, Code 2013, is amended to read as follows:

The department is created for the purpose of managing and coordinating the major resources of state government including the human, financial, and physical~~, and information~~ resources of state government.

Sec. 3. Section 8A.104, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. Provide accounting and fiscal services and such additional assistance and administrative support services to the office of the chief information officer, created in section 8B.2, as the department and the office determines maximizes the efficiency and effectiveness of both the department and office.

Sec. 4. Section 8A.111, subsection 3, Code 2013, is amended by striking the subsection.

Sec. 5. NEW SECTION. **8B.1 Definitions.**

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

1. *"Information technology"* means computing and electronics applications used to process and distribute information in digital and other forms and includes information technology devices, telecommunications devices, internet protocol solutions and devices, mobile devices, information technology services, infrastructure services, and value-added services.

2. *"Information technology device"* means equipment or associated software, including programs, languages, procedures, or associated documentation, used in operating the equipment which is designed for utilizing information stored in an

S.F. 396

electronic format. *"Information technology device"* includes but is not limited to computer systems, computer networks, and equipment used for input, output, processing, storage, display, scanning, and printing.

3. *"Information technology services"* means services designed to do any of the following:

a. Provide functions, maintenance, and support of information technology devices.

b. Provide services including but not limited to any of the following:

(1) Computer systems application development and maintenance.

(2) Systems integration and interoperability.

(3) Operating systems maintenance and design.

(4) Computer systems programming.

(5) Computer systems software support.

(6) Planning and security relating to information technology devices.

(7) Data management consultation.

(8) Information technology education and consulting.

(9) Information technology planning and standards.

(10) Establishment of local area network and workstation management standards.

4. *"Information technology staff"* includes any employees performing information technology services, including but not limited to agency employees in information technology classifications, contractors, temporary workers, and any other employees providing information technology services.

5. *"Infrastructure services"* includes all of the following:

a. Data centers used to support mainframe and other computers and their associated components including servers, information networks, storage systems, redundant or backup power systems, redundant data communications connections, environmental controls, and security devices.

b. Servers, mainframes, or other centralized processing

S.F. 396

1 systems.
2 *c.* Storage systems, including but not limited to disk, tape,
3 optical, and other structured repositories for storing digital
4 information.
5 *d.* Computer networks commonly referred to as local area
6 networks.
7 *e.* Network services, including equipment and software
8 which support local area networks, campus area networks, wide
9 area networks, and metro area networks. Network services
10 also include data network services such as routers, switches,
11 firewalls, virtual private networks, intrusion detection
12 systems, access control, internet protocol load balancers,
13 event logging and correlation, and content caching. Network
14 services do not include services provided by the public
15 broadcasting division of the department of education.
16 *f.* Groupware applications used to facilitate collaboration,
17 communication, and workflow, including electronic mail,
18 directory services, calendaring and scheduling, and imaging
19 systems.
20 *g.* Information technology help desk services.
21 *h.* Cyber security functions and equipment.
22 *i.* Digital printing and printing procurement services.
23 *j.* Data warehouses, including services that assist in
24 managing and locating digital information.
25 *k.* Disaster recovery technology and services.
26 *l.* Other similar or related services as determined by the
27 chief information officer.
28 6. *"Office"* means the office of the chief information
29 officer created in section 8B.2.
30 7. *"Participating agency"* means any state agency, except
31 the state board of regents and institutions operated under the
32 authority of the state board of regents.
33 8. *"Technology advisory council"* means the council
34 established in section 8B.8.
35 9. *"Value-added services"* means services that offer or

S.F. 396

1 provide unique, special, or enhanced value, benefits, or
2 features to the customer or user including but not limited to
3 services in which information technology is specially designed,
4 modified, or adapted to meet the special or requested needs
5 of the user or customer; services involving the delivery,
6 provision, or transmission of information or data that require
7 or involve additional processing, formatting, enhancement,
8 compilation, or security; services that provide the customer
9 or user with enhanced accessibility, security, or convenience;
10 research and development services; and services that are
11 provided to support technological or statutory requirements
12 imposed on participating agencies and other governmental
13 entities, businesses, and the public.
14 Sec. 6. NEW SECTION. **8B.2 Office created — chief**
15 **information officer appointed.**
16 1. The office of the chief information officer is created
17 as an independent agency and is attached to the department of
18 administrative services for accounting and fiscal services.
19 The department of administrative services shall provide such
20 additional assistance and administrative support services to
21 the office as the department of administrative services and the
22 office determines maximizes the efficiency and effectiveness of
23 both the department and office.
24 2. The chief information officer, who shall be the head
25 of the office, shall be appointed by the governor to serve at
26 the pleasure of the governor and is subject to confirmation by
27 the senate. If the office becomes vacant, the vacancy shall
28 be filled in the same manner as provided for the original
29 appointment.
30 3. The person appointed as the chief information officer
31 for the state shall be professionally qualified by education
32 and have no less than five years' experience in the field of
33 information technology, and a working knowledge of financial
34 management. The chief information officer shall not be
35 a member of any local, state, or national committee of a

S.F. 396

political party, an officer or member of a committee in any partisan political club or organization, or hold or be a candidate for a paid elective public office. The chief information officer is subject to the restrictions on political activity provided in section 8A.416.

Sec. 7. NEW SECTION. **8B.3 Office — purpose — mission.**

1. The office is created for the purpose of leading, directing, managing, coordinating, and providing accountability for the information technology resources of state government.

2. The mission of the office is to provide high-quality, customer-focused information technology services and business solutions to government and to citizens.

Sec. 8. NEW SECTION. **8B.4 Powers and duties of the chief information officer.**

The chief information officer shall do all of the following:

1. Direct the internal operations of the office and develop and implement policies, procedures, and internal organization measures designed to ensure the efficient administration of the office.

2. Appoint all information technology staff deemed necessary for the administration of the office's functions as provided in this chapter. For nonprofessional employees of the office, employment shall be consistent with chapter 8A, subchapter IV. The employment of professional employees of the office shall be exempt from the provisions of chapter 8A, subchapter IV, and chapter 20.

3. Manage, in consultation with the applicable participating agency, the information technology staff of participating agencies, to include directing the work of information technology staff, assigning information technology staff as required to support information technology requirements and initiatives of the office, and to review and recommend approval of information technology staff employment decisions in coordination with the department of management.

S.F. 396

1 4. Prepare an annual budget for the office. Adopt rules
2 for the approval of information technology budgets for
3 participating agencies in conjunction with the department of
4 management.
5 5. Adopt rules deemed necessary for the administration of
6 this chapter in accordance with chapter 17A.
7 6. Prescribe and adopt information technology standards and
8 rules.
9 7. Develop and recommend legislative proposals deemed
10 necessary for the continued efficiency of the office in
11 performing information technology functions, and review
12 legislative proposals generated outside of the office which are
13 related to matters within the office's purview.
14 8. Provide advice to the governor on issues related to
15 information technology.
16 9. Consult with agencies and other governmental entities on
17 issues relating to information technology.
18 10. Work with all governmental entities in an effort to
19 achieve the information technology goals established by the
20 office.
21 11. Develop systems and methodologies to review, evaluate,
22 and prioritize information technology projects.
23 12. Administer all accounting, billing, and collection
24 functions required by the department of administrative services
25 pursuant to policies adopted by the chief information officer
26 after consultation and in cooperation with the director of the
27 department of administrative services.
28 13. Utilize, in a manner determined by the chief information
29 officer, such assistance and administrative support services as
30 provided by the department of administrative services as the
31 office determines to maximize the efficiency and effectiveness
32 of the office.
33 14. Enter into contracts for the receipt and provision of
34 services as deemed necessary. The chief information officer
35 and the governor may obtain and accept grants and receipts

S.F. 396

1 to or for the state to be used for the administration of the
2 office's functions as provided in this chapter.
3 15. Exercise and perform such other powers and duties as may
4 be prescribed by law.
5 Sec. 9. NEW SECTION. **8B.5 Prohibited interests**
6 **— penalty.**
7 The chief information officer shall not have any pecuniary
8 interest, directly or indirectly, in any contract for supplies
9 furnished to the state, or in any business enterprise involving
10 any expenditure by the state. A violation of the provisions
11 of this section is a serious misdemeanor, and upon conviction,
12 the chief information officer shall be removed from office in
13 addition to any other penalty.
14 Sec. 10. NEW SECTION. **8B.6 Acceptance of funds.**
15 The office may receive and accept donations, grants, gifts,
16 and contributions in the form of moneys, services, materials,
17 or otherwise, from the United States or any of its agencies,
18 from this state or any of its agencies, or from any other
19 person, and expend such moneys, services, materials, or other
20 contributions, or issue grants, in carrying out the operations
21 of the office. All federal grants to and the federal receipts
22 of the office are appropriated for the purpose set forth in
23 such federal grants or receipts. The office shall report
24 annually to the general assembly on or before September 1 the
25 donations, grants, gifts, and contributions with a monetary
26 value of one thousand dollars or more that were received during
27 the most recently concluded fiscal year.
28 Sec. 11. NEW SECTION. **8B.7 Federal funds.**
29 1. Neither the provisions of this chapter nor rules adopted
30 pursuant to this chapter shall apply in any situation where
31 such provision or rule is in conflict with a governing federal
32 regulation or where the provision or rule would jeopardize the
33 receipt of federal funds.
34 2. If it is determined by the attorney general that
35 any provision of this chapter would cause denial of funds

S.F. 396

1 or services from the United States government which would
2 otherwise be available to an agency of this state, such
3 provision shall be suspended as to such agency, but only to the
4 extent necessary to prevent denial of such funds or services.
5 Sec. 12. NEW SECTION. **8B.8 Technology advisory council.**
6 1. *Definitions.* For purposes of this section, unless the
7 context otherwise requires:
8 *a. "Large agency"* means a participating agency with more
9 than seven hundred full-time, year-round employees.
10 *b. "Medium-sized agency"* means a participating agency with
11 at least seventy or more full-time, year-round employees, but
12 not more than seven hundred permanent employees.
13 *c. "Small agency"* means a participating agency with less
14 than seventy full-time, year-round employees.
15 2. *Membership.*
16 *a.* The technology advisory council is composed of ten
17 members as follows:
18 (1) The chief information officer.
19 (2) The director of the department of management, or the
20 director's designee.
21 (3) Eight members appointed by the governor as follows:
22 (a) Three representatives from large agencies.
23 (b) Two representatives from medium-sized agencies.
24 (c) One representative from a small agency.
25 (d) Two public members who are knowledgeable and have
26 experience in information technology matters.
27 *b.* (1) Members appointed pursuant to paragraph *"a"*,
28 subparagraph (3), shall serve two-year staggered terms. The
29 office shall provide, by rule, for the commencement of the
30 term of membership for the nonpublic members. The terms of
31 the public members shall be staggered at the discretion of the
32 governor.
33 (2) Sections 69.16, 69.16A, and 69.19 shall apply to the
34 public members of the council.
35 (3) Public members appointed by the governor are subject to

S.F. 396

1 senate confirmation.
2 (4) Public members appointed by the governor may be eligible
3 to receive compensation as provided in section 7E.6.
4 (5) Members shall be reimbursed for actual and necessary
5 expenses incurred in performance of the members' duties.
6 (6) A director, deputy director, or employee of an agency
7 who has information technology expertise is preferred as an
8 appointed representative for each of the agency categories of
9 membership pursuant to paragraph *"a"*, subparagraph (3).
10 *c.* The technology advisory council annually shall elect a
11 chair and a vice chair from among the members of the council,
12 by majority vote, to serve one-year terms.
13 *d.* A majority of the members of the council shall constitute
14 a quorum.
15 *e.* Meetings of the council shall be held at the call of the
16 chairperson or at the request of three members.
17 3. *Powers and duties of the council.* The powers and
18 duties of the technology advisory council as they relate to
19 information technology services shall include but are not
20 limited to all of the following:
21 *a.* Make recommendations to the chief information officer
22 regarding all of the following:
23 (1) Information technology standards to be applicable to
24 all participating agencies.
25 (2) Technology utility services to be implemented by the
26 office.
27 (3) Improvements to information technology service
28 levels and modifications to the business continuity plan for
29 information technology operations developed by the office for
30 agencies, and to maximize the value of information technology
31 investments by the state.
32 (4) Technology initiatives for the executive branch.
33 *b.* Advise the office regarding rates to be charged for
34 access to and for value-added services performed through
35 IowAccess.

S.F. 396

1 Sec. 13. NEW SECTION. **8B.9 Reports required.**
2 The office shall provide all of the following reports:
3 1. An annual report of the office.
4 2. Internal service fund service business plans and
5 financial reports as required under section 8B.13, subsection
6 5, paragraph *"a"*, and an annual internal service fund
7 expenditure report as required under section 8B.13, subsection
8 5, paragraph *"b"*.
9 3. An annual report regarding total spending on technology
10 as required under section 8B.21, subsection 6.
11 4. An annual report of expenditures from the IowAccess
12 revolving fund as provided in section 8B.33.
13 Sec. 14. NEW SECTION. **8B.12 Services to governmental**
14 **entities and nonprofit organizations.**
15 1. The chief information officer shall enter into
16 agreements with state agencies, and may enter into agreements
17 with any other governmental entity or a nonprofit organization,
18 to furnish services and facilities of the office to the
19 applicable governmental entity or nonprofit organization. The
20 agreement shall provide for the reimbursement to the office of
21 the reasonable cost of the services and facilities furnished.
22 All governmental entities of this state may enter into such
23 agreements. For purposes of this subsection, *"nonprofit*
24 *organization"* means a nonprofit entity which is exempt from
25 federal income taxation pursuant to section 501(c)(3) of the
26 Internal Revenue Code and which is funded in whole or in part
27 by public funds.
28 2. This chapter does not affect any city civil service
29 programs established under chapter 400.
30 3. The state board of regents shall not be required to
31 obtain any service for the state board of regents or any
32 institution under the control of the state board of regents
33 that is provided by the office pursuant to this chapter without
34 the consent of the state board of regents.
35 Sec. 15. NEW SECTION. **8B.13 Office internal service funds.**

S.F. 396

1 1. Activities of the office shall be accounted for
2 within the general fund of the state, except that the chief
3 information officer may establish and maintain internal
4 service funds in accordance with generally accepted accounting
5 principles, as defined in section 8.57, subsection 4, for
6 activities of the office which are primarily funded from
7 billings to governmental entities for services rendered by
8 the office. The establishment of an internal service fund is
9 subject to the approval of the director of the department of
10 management and the concurrence of the auditor of state. At
11 least ninety days prior to the establishment of an internal
12 service fund pursuant to this section, the chief information
13 officer shall notify in writing the general assembly, including
14 the legislative council, legislative fiscal committee, and the
15 legislative services agency.
16 2. Internal service funds shall be administered by the
17 office and shall consist of moneys collected by the office
18 from billings issued in accordance with section 8B.15 and any
19 other moneys obtained or accepted by the office, including
20 but not limited to gifts, loans, donations, grants, and
21 contributions, which are designated to support the activities
22 of the individual internal service funds.
23 3. The proceeds of an internal service fund established
24 pursuant to this section shall be used by the office for the
25 operations of the office consistent with this chapter. The
26 chief information officer may appoint the personnel necessary
27 to ensure the efficient provision of services funded pursuant
28 to an internal service fund established under this section.
29 However, this usage requirement shall not limit or restrict
30 the office from using proceeds from gifts, loans, donations,
31 grants, and contributions in conformance with any conditions,
32 directions, limitations, or instructions attached or related
33 thereto.
34 4. Section 8.33 does not apply to any moneys in internal
35 service funds established pursuant to this section.

S.F. 396

1 Notwithstanding section 12C.7, subsection 2, interest or
2 earnings on moneys deposited in these funds shall be credited
3 to these funds.
4 5. *a.* The chief information officer shall annually provide
5 internal service fund service business plans and financial
6 reports to the department of management and the general
7 assembly. The business plans may include the recommendation
8 that a portion of unexpended net income be periodically
9 returned to the appropriate funding source.
10 *b.* The office shall submit an annual report not later
11 than October 1 to the members of the general assembly and the
12 legislative services agency of the activities funded by and
13 expenditures made from an internal service fund established
14 pursuant to this section during the preceding fiscal year.
15 Sec. 16. NEW SECTION. **8B.14 Additional personnel.**
16 The office may employ, upon the approval of the department
17 of management, additional personnel in excess of the number
18 of full-time equivalent positions authorized by the general
19 assembly if such additional personnel are reasonable and
20 necessary to perform such duties as required to meet the
21 needs of the office to provide services to other governmental
22 entities and as authorized by this chapter. The chief
23 information officer shall notify in writing the department
24 of management, the legislative fiscal committee, and the
25 legislative services agency of any additional personnel
26 employed pursuant to this section.
27 Sec. 17. NEW SECTION. **8B.15 Billing — credit card**
28 **payments.**
29 1. The chief information officer may bill a governmental
30 entity for services rendered by the office in accordance with
31 the duties of the office as provided in this chapter. Bills
32 may include direct, indirect, and developmental costs which
33 have not been funded by an appropriation to the office. The
34 office shall periodically render a billing statement to a
35 governmental entity outlining the cost of services provided to

S.F. 396

1 the governmental entity. The amount indicated on the statement
2 shall be paid by the governmental entity and amounts received
3 by the office shall be considered repayment receipts as defined
4 in section 8.2, and deposited into the accounts of the office.
5 2. In addition to other forms of payment, a person may pay
6 by credit card for services provided by the office, according
7 to rules adopted by the treasurer of state. The credit card
8 fees to be charged shall not exceed those permitted by statute.
9 A governmental entity may adjust its payment to reflect the
10 costs of processing as determined by the treasurer of state.
11 The discount charged by the credit card issuer may be included
12 in determining the fees to be paid for completing a financial
13 transaction under this section by using a credit card. All
14 credit card payments shall be credited to the fund used to
15 account for the services provided.
16 Sec. 18. NEW SECTION. **8B.16 Office debts and liabilities**
17 **— appropriation request.**
18 If a service provided by the office and funded from an
19 internal service fund established under section 8B.13 ceases
20 to be provided and insufficient funds remain in the internal
21 service fund to pay any outstanding debts and liabilities
22 relating to that service, the chief information officer shall
23 notify the department of management and the general assembly
24 and request that moneys be appropriated from the general fund
25 of the state to pay such debts and liabilities.
26 Sec. 19. NEW SECTION. **8B.21 Information technology services**
27 **— office powers and duties — responsibilities.**
28 1. *Powers and duties of office.* The powers and duties of
29 the office as it relates to information technology services
30 shall include but are not limited to all of the following:
31 *a.* Approving information technology for use by agencies and
32 other governmental entities.
33 *b.* Implementing the strategic information technology plan.
34 *c.* Developing and implementing a business continuity plan,
35 as the chief information officer determines is appropriate, to

S.F. 396

1 be used if a disruption occurs in the provision of information
2 technology to participating agencies and other governmental
3 entities.
4 *d.* Prescribing standards and adopting rules relating to
5 cyber security, geospatial systems, application development,
6 and information technology and procurement, including but
7 not limited to system design and systems integration, and
8 interoperability, which shall apply to all participating
9 agencies except as otherwise provided in this chapter. The
10 office shall implement information technology standards as
11 established pursuant to this chapter which are applicable to
12 information technology procurements for participating agencies.
13 *e.* Establishing an enterprise strategic and project
14 management function for oversight of all information
15 technology-related projects and resources of participating
16 agencies.
17 *f.* (1) Developing and maintaining security policies and
18 systems to ensure the integrity of the state's information
19 resources and to prevent the disclosure of confidential
20 records. The office shall ensure that the security policies
21 and systems be consistent with the state's data transparency
22 efforts by developing and implementing policies and systems for
23 the sharing of data and information by participating agencies.
24 (2) Establishing statewide standards, to include periodic
25 review and compliance measures, for information technology
26 security to maximize the functionality, security, and
27 interoperability of the state's distributed information
28 technology assets, including but not limited to communications
29 and encryption technologies.
30 (3) Requiring all information technology security services,
31 solutions, hardware, and software purchased or used by a
32 participating agency to be subject to approval by the office in
33 accordance with security standards.
34 *g.* Developing and implementing effective and efficient
35 strategies for the use and provision of information technology

S.F. 396

1 and information technology staff for participating agencies and
2 other governmental entities.
3 *h.* Coordinating and managing the acquisition of information
4 technology services by participating agencies in furtherance
5 of the purposes of this chapter. The office shall institute
6 procedures to ensure effective and efficient compliance with
7 the applicable standards established pursuant to this chapter.
8 *i.* Entering into contracts, leases, licensing agreements,
9 royalty agreements, marketing agreements, memorandums of
10 understanding, or other agreements as necessary and appropriate
11 to administer this chapter.
12 *j.* Determining and implementing statewide efforts
13 to standardize data elements, determine data ownership
14 assignments, and implement the sharing of data.
15 *k.* Requiring that a participating agency provide such
16 information as is necessary to establish and maintain an
17 inventory of information technology used by participating
18 agencies, and such participating agency shall provide such
19 information to the office in a timely manner. The form and
20 content of the information to be provided shall be determined
21 by the office.
22 *l.* Requiring participating agencies to provide the full
23 details of the agency's information technology and operational
24 requirements upon request, report information technology
25 security incidents to the office in a timely manner, provide
26 comprehensive information concerning the information technology
27 security employed by the agency to protect the agency's
28 information technology, and forecast the parameters of the
29 agency's projected future information technology security needs
30 and capabilities.
31 *m.* Charging reasonable fees, costs, expenses, charges,
32 or other amounts to an agency, governmental entity, public
33 official, or person or entity related to the provision, sale,
34 use, or utilization of, or cost sharing with respect to,
35 information technology and any intellectual property interests

S.F. 396

1 related thereto; research and development; proprietary
2 hardware, software, and applications; and information
3 technology architecture and design. The office may enter
4 into nondisclosure agreements and take any other legal action
5 reasonably necessary to secure a right to an interest in
6 information technology development by or on behalf of the
7 state of Iowa and to protect the state of Iowa's proprietary
8 information technology and intellectual property interests.
9 The provisions of chapter 23A relating to noncompetition
10 by state agencies and political subdivisions with private
11 enterprise shall not apply to office activities authorized
12 under this paragraph.
13 *n.* Charging reasonable fees, costs, expenses, charges,
14 or other amounts to an agency, governmental entity, public
15 official, or other person or entity to or for whom information
16 technology or other services have been provided by or on behalf
17 of, or otherwise made available through, the office.
18 *o.* Providing, selling, leasing, licensing, transferring, or
19 otherwise conveying or disposing of information technology, or
20 any intellectual property or other rights with respect thereto,
21 to agencies, governmental entities, public officials, or other
22 persons or entities.
23 *p.* Entering into partnerships, contracts, leases, or other
24 agreements with public and private entities for the evaluation
25 and development of information technology pilot projects.
26 *q.* Initiating and supporting the development of electronic
27 commerce, electronic government, and internet applications
28 across participating agencies and in cooperation with
29 other governmental entities. The office shall foster joint
30 development of electronic commerce and electronic government
31 involving the public and private sectors, develop customer
32 surveys and citizen outreach and education programs and
33 material, and provide for citizen input regarding the state's
34 electronic commerce and electronic government applications.
35 2. *Responsibilities.* The responsibilities of the office

S.F. 396

as it relates to information technology services include the following:

a. Coordinate the activities of the office in promoting, integrating, and supporting information technology in all business aspects of state government.

b. Provide for server systems, including mainframe and other server operations, desktop support, and applications integration.

c. Provide applications development, support, and training, and advice and assistance in developing and supporting business applications throughout state government.

3. *Information technology charges.* The office shall render a statement to an agency, governmental entity, public official, or other person or entity to or for whom information technology, value-added services, or other items or services have been provided by or on behalf of, or otherwise made available through, the office. Such an agency, governmental entity, public official, or other person or entity shall pay an amount indicated on such statement in a manner determined by the office.

4. *Dispute resolution.* If a dispute arises between the office and an agency for which the office provides or refuses to provide information technology, the dispute shall be resolved as provided in section 679A.19.

5. *Waivers.*

a. The office shall adopt rules allowing for participating agencies to seek a temporary or permanent waiver from any of the requirements of this chapter concerning the acquisition, utilization, or provision of information technology. The rules shall provide that a waiver may be granted upon a written request by a participating agency and approval of the chief information officer. A waiver shall only be approved if the participating agency shows that a waiver would be in the best interests of the state.

b. Prior to approving or denying a request for a waiver, the

S.F. 396

1 chief information officer shall consider all of the following:
2 (1) Whether the failure to grant a waiver would violate
3 any state or federal law or any published policy, standard,
4 or requirement established by a governing body other than the
5 office.
6 (2) Whether the failure to grant a waiver would result in
7 the duplication of existing services, resources, or support.
8 (3) Whether the waiver would obstruct the state's
9 information technology strategic plan, enterprise architecture,
10 security plans, or any other information technology policy,
11 standard, or requirement.
12 (4) Whether the waiver would result in excessive
13 expenditures or expenditures above market rates.
14 (5) The life cycle of the system or application for which
15 the waiver is requested.
16 (6) Whether the participating agency can show that it can
17 obtain or provide the information technology more economically
18 than the information technology can be provided by the office.
19 For purposes of determining if the participating agency can
20 obtain or provide the information technology more economically,
21 the chief information officer shall consider the impact on
22 other participating agencies if the waiver is granted or
23 denied.
24 (7) Whether the failure to grant a waiver would jeopardize
25 federal funding.
26 *c.* Rules adopted pursuant to this subsection relating to a
27 request for a waiver, at a minimum, shall provide for all of
28 the following:
29 (1) The request shall be in writing and signed by the head
30 of the participating agency seeking the waiver.
31 (2) The request shall include a reference to the specific
32 policy, standard, or requirement for which the waiver is
33 submitted.
34 (3) The request shall include a statement of facts including
35 a description of the problem or issue prompting the request;

S.F. 396

1 the participating agency's preferred solution; an alternative
2 approach to be implemented by the participating agency intended
3 to satisfy the waived policy, standard, or requirement; the
4 business case for the alternative approach; a third party audit
5 or report that compares the participating agency's preferred
6 solution to the information technology solution that can be
7 provided by the office; the economic justification for the
8 waiver or a statement as to why the waiver is in the best
9 interests of the state; the time period for which the waiver is
10 requested; and any other information deemed appropriate.
11 *d.* A participating agency may appeal the decision of the
12 chief information officer to the director of the department of
13 management within seven calendar days following the decision of
14 the chief information officer. The director of the department
15 of management shall respond within fourteen days following the
16 receipt of the appeal.
17 *e.* The department of public defense shall not be required
18 to obtain any information technology services pursuant to this
19 chapter for the department of public defense that is provided
20 by the office pursuant to this chapter without the consent of
21 the adjutant general.
22 6. *Annual report.* On an annual basis, prepare a report to
23 the governor, the department of management, and the general
24 assembly regarding the total spending on technology for the
25 previous fiscal year, the total amount appropriated for the
26 current fiscal year, and an estimate of the amount to be
27 requested for the succeeding fiscal year for all agencies. The
28 report shall include a five-year projection of technology cost
29 savings, an accounting of the level of technology cost savings
30 for the current fiscal year, and a comparison of the level of
31 technology cost savings for the current fiscal year with that
32 of the previous fiscal year. The report shall be filed as soon
33 as possible after the close of a fiscal year, and by no later
34 than the second Monday of January of each year.
35 Sec. 20. NEW SECTION. **8B.22 Digital government.**

S.F. 396

1 1. The office is responsible for initiating and
2 supporting the development of electronic commerce, electronic
3 government, mobile applications, and internet applications
4 across participating agencies and in cooperation with other
5 governmental entities.
6 2. In developing the concept of digital government, the
7 office shall do all of the following:
8 *a.* Establish standards, consistent with other state law, for
9 the implementation of electronic commerce, including standards
10 for electronic signatures, electronic currency, and other items
11 associated with electronic commerce.
12 *b.* Establish guidelines for the appearance and functioning
13 of applications.
14 *c.* Establish standards for the integration of electronic
15 data across state agencies.
16 *d.* Foster joint development of electronic commerce and
17 electronic government involving the public and private sectors.
18 *e.* Develop customer surveys and citizen outreach and
19 education programs and material, and provide for citizen input
20 regarding the state's electronic commerce and electronic
21 government applications.
22 *f.* Assist participating agencies in converting printed
23 government materials to electronic materials which can be
24 accessed through an internet searchable database.
25 *g.* Encourage participating agencies to utilize duplex
26 printing and a print on demand strategy to reduce printing
27 costs, publication overruns, excessive inventory, and obsolete
28 printed materials.
29 Sec. 21. NEW SECTION. **8B.23 Information technology**
30 **standards.**
31 1. The office shall develop and adopt information
32 technology standards applicable to the procurement of
33 information technology by all participating agencies. Such
34 standards, unless waived by the office, shall apply to all
35 information technology procurements for participating agencies.

S.F. 396

1 2. The office of the governor or the office of an elective
2 constitutional or statutory officer shall consult with the
3 office prior to procuring information technology and consider
4 the information technology standards adopted by the office, and
5 provide a written report to the office relating to the other
6 office's decision regarding such acquisitions.
7 Sec. 22. NEW SECTION. **8B.24 Procurement of information**
8 **technology.**
9 1. Standards established by the office, unless waived by the
10 office, shall apply to all information technology procurements
11 for participating agencies.
12 2. The office shall institute procedures to ensure
13 effective and efficient compliance with standards established
14 by the office.
15 3. The office shall develop policies and procedures
16 that apply to all information technology goods and services
17 acquisitions, and shall ensure the compliance of all
18 participating agencies. The office shall also be the sole
19 provider of infrastructure services for participating agencies.
20 4. The office, by rule, may implement a prequalification
21 procedure for contractors with which the office has entered or
22 intends to enter into agreements regarding the procurement of
23 information technology.
24 5. Notwithstanding the provisions governing purchasing as
25 provided in chapter 8A, subchapter III, the office may procure
26 information technology as provided in this section. The
27 office may cooperate with other governmental entities in the
28 procurement of information technology in an effort to make such
29 procurements in a cost-effective, efficient manner as provided
30 in this section. The office, as deemed appropriate and cost
31 effective, may procure information technology using any of the
32 following methods:
33 *a.* Cooperative procurement agreement. The office may
34 enter into a cooperative procurement agreement with another
35 governmental entity relating to the procurement of information

S.F. 396

1 technology, whether such information technology is for the use
2 of the office or other governmental entities. The cooperative
3 procurement agreement shall clearly specify the purpose of
4 the agreement and the method by which such purpose will be
5 accomplished. Any power exercised under such agreement shall
6 not exceed the power granted to any party to the agreement.
7 *b.* Negotiated contract. The office may enter into an
8 agreement for the purchase of information technology if any of
9 the following applies:
10 (1) The contract price, terms, and conditions are pursuant
11 to the current federal supply contract, and the purchase order
12 adequately identifies the federal supply contract under which
13 the procurement is to be made.
14 (2) The contract price, terms, and conditions are no less
15 favorable than the contractor's current federal supply contract
16 price, terms, and conditions; the contractor has indicated
17 in writing a willingness to extend such price, terms, and
18 conditions to the office; and the purchase order adequately
19 identifies the contract relied upon.
20 (3) The contract is with a vendor who has a current
21 exclusive or nonexclusive price agreement with the state for
22 the information technology to be procured, and such information
23 technology meets the same standards and specifications as the
24 items to be procured and both of the following apply:
25 (a) The quantity purchased does not exceed the quantity
26 which may be purchased under the applicable price agreement.
27 (b) The purchase order adequately identifies the price
28 agreement relied upon.
29 *c.* Contracts let by another governmental entity. The
30 office, on its own behalf or on the behalf of another
31 participating agency or governmental entity, may procure
32 information technology under a contract let by another agency
33 or other governmental entity, or approve such procurement in
34 the same manner by a participating agency or governmental
35 entity. The office, on its own behalf or on the behalf of

S.F. 396

1 another participating agency or governmental entity, may also
2 procure information technology by leveraging an existing
3 competitively procured contract, other than a contract
4 associated with the state board of regents or an institution
5 under the control of the state board of regents.
6 *d.* Reverse auction.
7 (1) The office may enter into an agreement for the purchase
8 of information technology utilizing a reverse auction process.
9 Such process shall result in the purchase of information
10 technology from the vendor submitting the lowest responsible
11 bid amount for the information technology to be acquired. The
12 office, in establishing a reverse auction process, shall do all
13 of the following:
14 (a) Determine the specifications and requirements of the
15 information technology to be acquired.
16 (b) Identify and provide notice to potential vendors
17 concerning the proposed acquisition.
18 (c) Establish prequalification requirements to be met by a
19 vendor to be eligible to participate in the reverse auction.
20 (d) Conduct the reverse auction in a manner as deemed
21 appropriate by the office and consistent with rules adopted by
22 the office.
23 (2) Prior to conducting a reverse auction, the office
24 shall establish a threshold amount which shall be the maximum
25 amount that the office is willing to pay for the information
26 technology to be acquired.
27 (3) The office shall enter into an agreement with a
28 vendor who is the lowest responsible bidder which meets the
29 specifications or description of the information technology
30 to be procured, or the office may reject all bids and begin
31 the process again. In determining the lowest responsible
32 bidder, the office may consider various factors including but
33 not limited to the past performance of the vendor relative
34 to quality of product or service, the past experience of the
35 office in relation to the product or service, the relative

S.F. 396

1 quality of products or services, the proposed terms of
2 delivery, and the best interest of the state.
3 *e.* Competitive bidding. The office may enter into an
4 agreement for the procurement or acquisition of information
5 technology in the same manner as provided under chapter 8A,
6 subchapter III, for the purchasing of service.
7 *f.* Other agreement. In addition to the competitive bidding
8 procedure provided for under paragraph *"e"*, the office may
9 enter into an agreement for the purchase, disposal, or other
10 disposition of information technology in the same manner and
11 subject to the same limitations as otherwise provided in
12 this chapter. The office, by rule, shall provide for such
13 procedures.
14 6. The office shall adopt rules pursuant to chapter 17A to
15 implement the procurement methods and procedures provided for
16 in subsections 2 through 5.
17 Sec. 23. NEW SECTION. **8B.31 IowAccess — office duties and**
18 **responsibilities.**
19 1. *IowAccess.* The office shall establish IowAccess as
20 a service to the citizens of this state that is the gateway
21 for one-stop electronic access to government information and
22 transactions, whether federal, state, or local. Except as
23 provided in this section, IowAccess shall be a state-funded
24 service providing access to government information and
25 transactions. The office, in establishing the fees for
26 value-added services, shall consider the reasonable cost of
27 creating and organizing such government information through
28 IowAccess.
29 2. *Duties.* The office shall do all of the following:
30 *a.* Establish rates to be charged for access to and for
31 value-added services performed through IowAccess.
32 *b.* Approve and establish the priority of projects
33 associated with IowAccess. The determination may also include
34 requirements concerning funding for a project proposed by
35 a political subdivision of the state or an association,

S.F. 396

1 the membership of which is comprised solely of political
2 subdivisions of the state. Prior to approving a project
3 proposed by a political subdivision, the office shall verify
4 that all of the following conditions are met:
5 (1) The proposed project provides a benefit to the state.
6 (2) The proposed project, once completed, can be shared
7 with and used by other political subdivisions of the state, as
8 appropriate.
9 (3) The state retains ownership of any final product or is
10 granted a permanent license to the use of the product.
11 *c.* Establish expected outcomes and effects of the use of
12 IowAccess and determine the manner in which such outcomes are
13 to be measured and evaluated.
14 *d.* Establish the IowAccess total budget request and
15 ensure that such request reflects the priorities and goals of
16 IowAccess as established by the office.
17 *e.* Advocate for access to government information and
18 services through IowAccess and for data privacy protection,
19 information ethics, accuracy, and security in IowAccess
20 programs and services.
21 *f.* Receive status and operations reports associated with
22 IowAccess.
23 3. *Data purchasing.* This section shall not be construed
24 to impair the right of a person to contract to purchase
25 information or data from the Iowa court information system
26 or any other governmental entity. This section shall not be
27 construed to affect a data purchase agreement or contract in
28 existence on April 25, 2000.
29 Sec. 24. NEW SECTION. **8B.32 Financial transactions.**
30 1. Moneys paid to a participating agency from persons who
31 complete an electronic financial transaction with the agency by
32 accessing IowAccess shall be transferred to the treasurer of
33 state for deposit in the general fund of the state, unless the
34 disposition of the moneys is specifically provided for under
35 other law. The moneys may include all of the following:

S.F. 396

1 *a.* Fees required to obtain an electronic public record as
2 provided in section 22.3A.
3 *b.* Fees required to process an application or file a
4 document, including but not limited to fees required to obtain
5 a license issued by a licensing authority.
6 *c.* Moneys owed to a governmental entity by a person
7 accessing IowAccess in order to satisfy a liability
8 arising from the operation of law, including the payment of
9 assessments, taxes, fines, and civil penalties.
10 2. Moneys transferred using IowAccess may include amounts
11 owed by a governmental entity to a person accessing IowAccess
12 in order to satisfy a liability of the governmental entity.
13 The moneys may include the payment of tax refunds, and the
14 disbursement of support payments as defined in section 252D.16
15 or 598.1 as required for orders issued pursuant to section
16 252B.14.
17 3. In addition to other forms of payment, credit cards shall
18 be accepted in payment for moneys owed to or fees imposed by a
19 governmental entity in the same manner as provided in section
20 8B.15.
21 Sec. 25. NEW SECTION. **8B.33 IowAccess revolving fund.**
22 1. An IowAccess revolving fund is created in the state
23 treasury. The revolving fund shall be administered by the
24 office and shall consist of moneys collected by the office as
25 fees, moneys appropriated by the general assembly, and any
26 other moneys obtained or accepted by the office for deposit in
27 the revolving fund. The proceeds of the revolving fund are
28 appropriated to and shall be used by the office to maintain,
29 develop, operate, and expand IowAccess consistent with this
30 chapter, and for the support of activities of the technology
31 advisory council pursuant to section 8B.8.
32 2. The office shall submit an annual report not later than
33 January 31 to the members of the general assembly and the
34 legislative services agency of the activities funded by and
35 expenditures made from the revolving fund during the preceding

S.F. 396

1 fiscal year. Section 8.33 does not apply to any moneys in the
2 revolving fund, and, notwithstanding section 12C.7, subsection
3 2, earnings or interest on moneys deposited in the revolving
4 fund shall be credited to the revolving fund.
5 Sec. 26. Section 8D.4, Code 2013, is amended to read as
6 follows:
7 **8D.4 Executive director appointed.**
8 The commission, in consultation with the director of
9 the department of administrative services and the chief
10 information officer, shall appoint an executive director of
11 the commission, subject to confirmation by the senate. Such
12 individual shall not serve as a member of the commission.
13 The executive director shall serve at the pleasure of the
14 commission. The executive director shall be selected primarily
15 for administrative ability and knowledge in the field, without
16 regard to political affiliation. The governor shall establish
17 the salary of the executive director within range nine as
18 established by the general assembly. The salary and support of
19 the executive director shall be paid from funds deposited in
20 the Iowa communications network fund.
21 Sec. 27. Section 12C.1, subsection 2, paragraph e,
22 subparagraph (6), Code 2013, is amended to read as follows:
23 (6) Moneys placed in a depository for the purpose of
24 completing an electronic financial transaction pursuant to
25 section ~~8A.222~~ 8B.32 or 331.427.
26 Sec. 28. Section 12C.4, Code 2013, is amended to read as
27 follows:
28 **12C.4 Location of depositories.**
29 Deposits by the treasurer of state shall be in depositories
30 located in this state; by a county officer or county public
31 hospital officer or merged area hospital officer, in
32 depositories located in the county or in an adjoining county
33 within this state; by a memorial hospital treasurer, in a
34 depository located within this state which shall be selected
35 by the memorial hospital treasurer and approved by the

S.F. 396

memorial hospital commission; by a city treasurer or other city financial officer, in depositories located in the county in which the city is located or in an adjoining county, but if there is no depository in the county in which the city is located or in an adjoining county then in any other depository located in this state which shall be selected as a depository by the city council; by a school treasurer or by a school secretary in a depository within this state which shall be selected by the board of directors or the trustees of the school district; by a township clerk in a depository located within this state which shall be selected by the township clerk and approved by the trustees of the township. However, deposits may be made in depositories outside of Iowa for the purpose of paying principal and interest on bonded indebtedness of any municipality when the deposit is made not more than ten days before the date the principal or interest becomes due. Further, the treasurer of state may maintain an account or accounts outside the state of Iowa for the purpose of providing custodial services for the state and state retirement fund accounts. Deposits made for the purpose of completing an electronic financial transaction pursuant to section ~~8A.222~~ 8B.32 or 331.427 may be made in any depository located in this state.

Sec. 29. Section 23A.2, subsection 10, paragraph o, Code 2013, is amended to read as follows:

o. The performance of an activity authorized pursuant to section ~~8A.202~~ 8B.21, subsection ~~2~~ 1, paragraph ~~"j"~~ "m".

Sec. 30. Section 262.9B, subsection 3, paragraph a, Code 2013, is amended to read as follows:

a. The board shall direct institutions under its control to cooperate with the chief information officer of the state in efforts to cooperatively obtain information technology and related services that result in mutual cost savings and efficiency improvements, and shall seek input from the ~~department of administrative services and the~~ chief information

S.F. 396

1 officer of the state regarding specific areas of potential
2 cooperation between the institutions under the control of the
3 board and the ~~department of administrative services~~ office of
4 the chief information officer.
5 Sec. 31. REPEAL. Sections 8A.201, 8A.201A, 8A.202, 8A.203,
6 8A.204, 8A.205, 8A.206, 8A.207, 8A.221, 8A.222, and 8A.224,
7 Code 2013, are repealed.
8 Sec. 32. ADMINISTRATIVE RULES —— TRANSITION
9 PROVISIONS. Any rule, regulation, form, order, or directive
10 promulgated by the department of administrative services as
11 it relates to information technology and in effect on the
12 effective date of this Act shall continue in full force and
13 effect until amended, repealed, or supplemented by affirmative
14 action of the office of the chief information officer as
15 established in this Act.
16 Sec. 33. MISCELLANEOUS TRANSITION PROVISIONS.
17 1. Any personnel in the state merit system of employment
18 who are mandatorily transferred due to the effect of this Act
19 shall be so transferred without any loss in salary, benefits,
20 or accrued years of service.
21 2. Any funds in any account or fund of the department of
22 administrative services as it relates to information technology
23 shall be transferred to the comparable fund or account as
24 established and provided by this Act.
25 3. Any cause of action or statute of limitation relating to
26 the information technology duties provided by the department
27 of administrative services that are transferred to the office
28 of the chief information officer as provided by this Act shall
29 not be affected as a result of the transfer and such cause or
30 statute of limitation shall apply to the successor office.
31 Sec. 34. OFFICE OF THE CHIEF INFORMATION OFFICER ——
32 INFORMATION TECHNOLOGY DEVICE INVENTORY.
33 1. The office of the chief information officer shall
34 complete an inventory of information technology devices
35 utilized by the office and participating agencies, as defined

S.F. 396

1 in section 8B.1, as enacted by this Act. The office shall
2 conduct the inventory with the goal of identifying potential
3 information technology device upgrades, changes, or other
4 efficiencies that will meet the information technology needs
5 of the applicable department or agency at reduced cost to the
6 state.
7 2. The office shall submit a report to the general assembly
8 by January 1, 2014, describing the office's actions as required
9 by this section. The report shall, if applicable, identify
10 any statutory barriers or needed technology investments for
11 pursuing efforts described in this section and shall include in
12 the report its findings and any recommendations for legislative
13 action.
14 Sec. 35. OFFICE OF THE CHIEF INFORMATION OFFICER —
15 INFORMATION TECHNOLOGY COORDINATION AND MANAGEMENT.
16 1. The office of the chief information officer, in
17 accordance with the requirements of Code section 8B.21,
18 subsection 1, paragraph "h", as enacted by this Act, shall
19 coordinate and manage information technology services within
20 the office, shall establish a schedule by which all departments
21 subject to the requirements of that Act and chapter 8B, as
22 enacted by this Act, shall comply with these requirements. The
23 schedule shall provide for implementation of the requirements
24 to all affected state agencies and departments by December 31,
25 2014. The office shall submit a copy of the schedule to the
26 general assembly by July 31, 2013, and shall provide periodic
27 updates to the general assembly on the progress of meeting the
28 time deadlines contained in the schedule.
29 2. In procuring information technology as provided in
30 section 8B.24, as enacted by this Act, the office should
31 explore strategies of procuring information technology through
32 leasing.
33 DIVISION II
34 PHASED RETIREMENT PROGRAM
35 Sec. 36. Section 70A.30, Code 2013, is amended to read as

S.F. 396

1 follows:
2 **70A.30 Establishment of phased retirement program.**
3 1. ~~There is established~~ The department of administrative
4 services may establish a voluntary employee phased retirement
5 incentive program for full-time state employees ~~who are at~~
6 ~~least sixty years of age and have completed at least twenty~~
7 ~~years as full-time state employees~~.
8 2. ~~The~~ A phased retirement incentive program established
9 by the department of administrative services is a retirement
10 system for purposes of section 20.9, but is not retirement
11 for purposes of chapter 97A, 97B, or 602 or for the
12 employees who are members of the teachers insurance annuity
13 association-college retirement equities fund (TIAA-CREF).
14 Sec. 37. REPEAL. Sections 70A.31, 70A.32, 70A.33, and
15 70A.34, Code 2013, are repealed.
16 Sec. 38. PHASED RETIREMENT PROGRAM —— TRANSITION PROVISIONS
17 —— STANDING APPROPRIATION.
18 1. State employees who are participating in the phased
19 retirement program established by sections 70A.30 through
20 70A.34, Code 2013, as of the effective date of this Act shall
21 remain in the program and be eligible for the benefits of the
22 program as provided prior to the effective date of this Act.
23 2. For state employees who became participants in the phased
24 retirement program prior to the effective date of this Act, the
25 department of administrative services shall, annually after
26 June 30 of each fiscal year, determine the cost during the
27 preceding fiscal year to the Iowa public employees' retirement
28 fund of continued participation of such state employees in
29 the phased retirement program as authorized by this section.
30 Annually, there is appropriated from the fund from which
31 the participating employees are paid to the Iowa public
32 employees' retirement fund an amount sufficient to reimburse
33 the retirement fund for the costs of the phased retirement
34 program for those state employees who became participants in
35 the program prior to the effective date of this Act.

S.F. 396

1 DIVISION III
2 HUMAN RESOURCE MANAGEMENT
3 Sec. 39. Section 8A.402, subsection 1, Code 2013, is amended
4 by adding the following new paragraph:
5 NEW PARAGRAPH. *i.* The development and implementation of
6 a plan to centralize the human resource management functions
7 for state executive branch agencies within the department,
8 except for institutions under the control of the state board
9 of regents.
10 Sec. 40. DEPARTMENT OF ADMINISTRATIVE SERVICES —
11 CENTRALIZED HUMAN RESOURCE MANAGEMENT.
12 1. The director of the department of administrative
13 services shall develop and implement a plan to centralize
14 the human resource management functions for executive branch
15 agencies under the department of administrative services,
16 except for institutions under the control of the state board of
17 regents, by December 15, 2015.
18 2. The centralized human resource management plan shall do
19 all of the following:
20 a. Identify the human resource duties and processes being
21 utilized by each agency.
22 b. Identify the positions being utilized by the agencies to
23 perform the human resource duties.
24 c. Establish best practices for a consolidated human
25 resources model and identify the estimated cost savings that
26 will result from implementation of the plan.
27 d. Detail and implement an organizational structure to
28 support a fully consolidated human resources model.
29 e. Identify space, technology, and equipment needs, and
30 acquire and implement such tools and resources in support of
31 the consolidated human resources model. Such efforts shall be
32 done in collaboration with the state chief information officer
33 and the general services, state accounting, and information
34 technology enterprises of the department of administrative
35 services.

S.F. 396

1 f. Establish a comprehensive budget to be used and establish
2 the utility rate to be charged each agency as a result of the
3 consolidation.
4 g. Establish detailed timelines for transition and
5 communicate the timelines to the agencies.
6 3. State executive branch agencies, except for institutions
7 under the control of the state board of regents, shall do all
8 of the following:
9 a. Provide the department of administrative services with
10 all of the following information:
11 (1) Information regarding the human resource duties and
12 responsibilities being performed by agency staff.
13 (2) The direct and indirect costs associated with agency
14 staff performing human resource duties.
15 (3) Information about the human resource information and
16 records storage systems being used to perform human resource
17 work.
18 b. Adjust internal staffing as required in the centralized
19 human resource management plan developed by the department of
20 administrative services.
21 c. Agencies outside of the department of administrative
22 services shall not hire or replace any staff for the
23 purposes of conducting human resource work. The department
24 of administrative services shall partner with agencies
25 to transition and consolidate work in the human resource
26 enterprise of the department of administrative services.
27 d. Transition to the human resources and payroll systems
28 selected and operated by the department of administrative
29 services pursuant to timelines identified by the department of
30 administrative services.
31 e. Adhere to all objectives and timelines required in the
32 centralized human resource management plan developed by the
33 department of administrative services.
34 DIVISION IV
35 STATE PHYSICAL RESOURCES

S.F. 396

1 Sec. 41. STATE EMPLOYEE WORK ENVIRONMENT ANALYSIS
2 AND REPORT. By September 30, 2013, the department of
3 administrative services shall conduct a high level needs
4 analysis of state employee work stations and office standards,
5 assessing adequate square footage needs, and creating healthy,
6 productive, and efficient work environments in an economical
7 manner. Overall objectives of the analysis shall include
8 improving employee density; properly allocating space for
9 individual and group work; improving worker health and
10 safety; improving technology integration; and improving energy
11 efficiency and sustainability in state offices. The department
12 shall submit findings and recommendations to the capitol
13 planning commission and to the legislative fiscal committee by
14 October 30, 2013.
15 DIVISION V
16 AUDITS
17 Sec. 42. Section 11.6, subsection 10, Code 2013, is amended
18 to read as follows:
19 10. The auditor of state shall adopt rules in accordance
20 with chapter 17A to establish and collect a filing fee for
21 the filing of each report of audit or examination conducted
22 pursuant to ~~subsections 1 through 3~~ subsection 1, paragraphs *"a"*
23 and *"c"*, subsection 2, and subsection 3. The funds collected
24 shall be maintained in a segregated account for use by the
25 office of the auditor of state in performing audits conducted
26 pursuant to subsection 4 and for work paper reviews conducted
27 pursuant to subsection 5. Any funds collected by the auditor
28 pursuant to subsection 4 shall be deposited in this account.
29 Notwithstanding section 8.33, the funds in this account shall
30 not revert at the end of any fiscal year.
31 Sec. 43. EFFECTIVE UPON ENACTMENT. This division of this
32 Act, being deemed of immediate importance, takes effect upon
33 enactment.
34 DIVISION VI
35 ELECTRONIC COMMUNICATIONS

S.F. 396

Sec. 44. Section 22.7, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 65. Electronic mail addresses of individuals collected by state departments and agencies for the sole purpose of disseminating routine information and notices through electronic communications that are not prepared for a specific recipient.

Sec. 45. STATE DEPARTMENT AND AGENCY LIMITATIONS ON MAIL. Notwithstanding any provision of the law to the contrary, a state department or agency shall provide departmental or agency notices or information through the department's or agency's internet site or through electronic mail to the fullest extent possible. This requirement shall not apply to department and agency communications required for purposes of pursuing legal action or to comply with federal law. Departments and agencies shall have rulemaking authority to implement this section and to collect electronic mail addresses for the purpose of electronic communications.

DIVISION VII

STATE RECORDS

Sec. 46. Section 96.11, subsection 11, Code 2013, is amended to read as follows:

11. *Destruction of records.* The department may destroy or dispose of such original reports or records as have been properly recorded or summarized in the permanent records of the department and are deemed by the director and the ~~state records commission~~ department of cultural affairs to be no longer necessary to the proper administration of this chapter. Wage records of the individual worker or transcripts therefrom may be destroyed or disposed of, if approved by the ~~state records commission~~ department of cultural affairs, two years after the expiration of the period covered by such wage records or upon proof of the death of the worker. Such destruction or disposition shall be made only by order of the director in consultation with the ~~state records commission~~ department of

S.F. 396

1 cultural affairs. Any moneys received from the disposition of
2 such records shall be deposited to the credit of the employment
3 security administration fund, subject to rules promulgated by
4 the department.
5 Sec. 47. Section 305.2, subsection 2, Code 2013, is amended
6 to read as follows:
7 2. *"Archives"* means records that have been appraised by
8 the ~~state records commission~~ department as having sufficient
9 historical, research, evidential, or informational value to
10 warrant permanent preservation and that have been transferred
11 to the custody of the state archives.
12 Sec. 48. Section 305.2, subsections 3 and 5, Code 2013, are
13 amended by striking the subsections.
14 Sec. 49. Section 305.2, Code 2013, is amended by adding the
15 following new subsection:
16 NEW SUBSECTION. 4A. *"Department"* means the department of
17 cultural affairs.
18 Sec. 50. Section 305.2, subsection 12, Code 2013, is amended
19 to read as follows:
20 12. *"Records series retention and disposition schedule"*
21 means a timetable established by the ~~state records commission~~
22 department that describes the length of time a records series
23 of an agency or multiple agencies must be retained in active
24 and inactive status and provides authorization for a final
25 disposition of the records series by destruction or permanent
26 retention.
27 Sec. 51. Section 305.4, unnumbered paragraph 1, Code 2013,
28 is amended to read as follows:
29 The ~~commission~~ department shall adopt government information
30 policies, standards, and guidelines to do all of the following:
31 Sec. 52. Section 305.8, subsection 1, unnumbered paragraph
32 1, Code 2013, is amended to read as follows:
33 The ~~commission~~ department shall do all of the following:
34 Sec. 53. Section 305.8, subsection 1, Code 2013, is amended
35 by adding the following new paragraph:

S.F. 396

1 NEW PARAGRAPH. *0e.* Provide training, advice, and counsel
2 to agencies on government information policies, standards, and
3 guidelines.
4 Sec. 54. Section 305.8, subsection 1, Code 2013, is amended
5 by adding the following new paragraphs:
6 NEW PARAGRAPH. *0f.* Develop and distribute operating
7 procedures for agencies to use to implement the plans,
8 policies, standards, and guidelines adopted by the department.
9 NEW PARAGRAPH. *00f.* Manage any centralized records storage
10 facility established by the department for the temporary
11 storage of agency records prior to their final disposition by
12 destruction or permanent preservation in accordance with the
13 records series retention and disposition schedules.
14 NEW PARAGRAPH. *000f.* Appoint a state archivist to head the
15 state archives and records program.
16 NEW PARAGRAPH. *0000f.* Manage the state archives and develop
17 operating procedures for the transfer, accession, arrangement,
18 description, preservation, protection, and public access of
19 those records the department identifies as having permanent
20 value.
21 NEW PARAGRAPH. *00000f.* Maintain physical custody and legal
22 custody of archives that have been transferred and delivered
23 to the state archives.
24 (1) Upon receipt by the state archivist, the archives shall
25 not be removed without the state archivist's consent except in
26 response to a subpoena of a court of record or in accordance
27 with approved records series retention and disposition
28 schedules or after review and approval of the department.
29 (2) Upon request, the state archivist shall make a certified
30 copy of any record in the legal custody or in the physical
31 custody of the state archivist, or a certified transcript
32 of any record if reproduction is inappropriate because of
33 legal or physical considerations. If a copy or transcript is
34 properly authenticated, it has the same legal effect as though
35 certified by the officer from whose office it was transferred

S.F. 396

or by the secretary of state. The department shall establish reasonable fees for certified copies or certified transcripts of records in the legal custody or physical custody of the state archivist.

NEW PARAGRAPH. *000000f.* Establish, maintain, and administer an archive of records created and maintained in electronic format in order to preserve and provide public access to state government records identified as having permanent historical value by the department.

Sec. 55. Section 305.8, subsection 1, Code 2013, is amended by adding the following new paragraph:

NEW PARAGRAPH. *0i.* Establish rates to be charged an agency by the department for storage and retention of records of the agency in a records storage facility maintained by the department. Rates established shall be reviewed annually by the department and shall be reasonably related to the cost of storing and retaining records of an agency.

Sec. 56. Section 305.8, subsection 2, unnumbered paragraph 1, Code 2013, is amended to read as follows:

The ~~commission~~ department may do all of the following:

Sec. 57. Section 305.8, subsection 2, Code 2013, is amended by adding the following new paragraph:

NEW PARAGRAPH. *0g.* Upon written consent of the state archivist, accept records of political subdivisions that are voluntarily transferred to the state archives.

Sec. 58. Section 305.8, subsection 2, paragraph e, Code 2013, is amended to read as follows:

e. Make, or cause to be made, preservation duplicates of records, which may include existing copies of original state records. Any preservation duplicate record shall be durable, accurate, complete, and clear, and shall be made by means designated by the ~~commission~~ department.

Sec. 59. NEW SECTION. **305.8A Records retention and storage costs — billing — internal service fund.**

1. The department may bill an agency for records storage

S.F. 396

1 and retention services rendered by the department pursuant to
2 the rates established by the department for these services.
3 The department shall periodically render a billing statement
4 to an agency outlining the cost of services provided. The
5 amount indicated on the statement shall be paid by the agency
6 and amounts received by the department shall be considered
7 repayment receipts as defined in section 8.2, and deposited
8 into the accounts of the department.
9 2. *a.* The department may establish and maintain an internal
10 service fund in accordance with generally accepted accounting
11 principles, as defined in section 8.57, for the records storage
12 and retention activities of the department which are primarily
13 funded from billings to agencies for services rendered by the
14 department.
15 *b.* The internal service fund shall be administered by
16 the department and shall consist of moneys collected by the
17 department from billings issued in accordance with this section
18 and any other moneys obtained or accepted by the department,
19 including but not limited to gifts, loans, donations, grants,
20 and contributions, which are designated to support the
21 activities of the internal service fund.
22 *c.* The proceeds of the internal service fund established
23 pursuant to this section shall be used by the department
24 for the operations of the department in records storage and
25 retention consistent with this chapter.
26 *d.* Section 8.33 does not apply to any moneys in the
27 internal service fund established pursuant to this section.
28 Notwithstanding section 12C.7, subsection 2, interest or
29 earnings on moneys deposited in the fund shall be credited to
30 the fund.
31 *e.* The director of the department shall annually provide
32 financial information and reports relative to the internal
33 service fund established pursuant to this section to the
34 department of management and the general assembly. The
35 information provided may include the recommendation that a

S.F. 396

1 portion of unexpended net income be periodically returned to
2 the appropriate funding source.
3 Sec. 60. Section 305.10, subsection 1, paragraphs c, d, e,
4 f, and j, Code 2013, are amended to read as follows:
5 *c.* Cooperate with the ~~state records commission~~ department
6 and the state archives and records program in the development
7 and implementation of government information policies,
8 standards, and guidelines, and in the development and
9 implementation of records series retention and disposition
10 schedules.
11 *d.* Comply with requests from the ~~state records commission~~
12 ~~or~~ department and the state archives and records program to
13 examine records in the possession, constructive possession, or
14 control of the agency in order to carry out the purposes of
15 this chapter.
16 *e.* Inventory agency records in accordance with ~~state~~
17 ~~records commission~~ department policies to draft records series
18 retention and disposition schedules.
19 *f.* Identify vital operating records in accordance with
20 the policies, standards, and guidelines of the ~~state records~~
21 ~~commission~~ department.
22 *j.* Provide for compliance with this chapter and the rules
23 adopted by the ~~state records commission~~ department.
24 Sec. 61. Section 305.10, subsection 2, Code 2013, is amended
25 to read as follows:
26 2. Agency heads may petition the ~~state records commission~~
27 department to create or modify government information policies,
28 standards, and guidelines, and to create or modify records
29 series retention and disposition schedules.
30 Sec. 62. Section 305.11, Code 2013, is amended to read as
31 follows:
32 **305.11 Termination of state agency — records transfer.**
33 Upon the termination of a state agency whose functions have
34 not been transferred to another agency, custody of the records
35 of the agency shall transfer to the ~~commission~~ department.

S.F. 396

1 Sec. 63. Section 305.14, Code 2013, is amended to read as
2 follows:
3 **305.14 Liability precluded.**
4 ~~No member~~ An employee of the ~~commission~~ department or head
5 of an agency shall not be held liable for damages or loss, or
6 civil or criminal liability, because of the destruction of
7 public records pursuant to the provisions of this chapter or
8 any other law authorizing their destruction.
9 Sec. 64. Section 305.15, Code 2013, is amended to read as
10 follows:
11 **305.15 Exemptions — duties of state department of**
12 **transportation and state board of regents.**
13 The state department of transportation and the agencies and
14 institutions under the control of the state board of regents
15 are exempt from the state records manual and the provisions of
16 this chapter. However, the state department of transportation
17 and the state board of regents shall adopt rules pursuant to
18 chapter 17A for their employees, agencies, and institutions
19 that are consistent with the objectives of this chapter.
20 The rules shall be approved by the ~~state records commission~~
21 department.
22 Sec. 65. Section 305.16, subsection 6, paragraph b,
23 subparagraph (1), Code 2013, is amended to read as follows:
24 (1) Serve in an advisory capacity to the ~~state records~~
25 ~~commission~~ department, the state archives and records program,
26 and other statewide archival or records agencies.
27 Sec. 66. Section 321.31, subsection 1, paragraph b, Code
28 2013, is amended to read as follows:
29 *b.* The department may make photostatic, microfilm, or other
30 photographic copies of certificates of title, registration
31 receipts, or other records, reports or documents which are
32 required to be retained by the department. When copies have
33 been made, the department may destroy the original records in
34 such manner as prescribed by the director. The photostatic,
35 microfilm, or other photographic copies, when no longer of use,

S.F. 396

may be destroyed in the manner prescribed by the director, subject to the approval of the ~~state records commission~~ department of cultural affairs. Photostatic, microfilm, or other photographic copies of records shall be admissible in evidence when duly certified and authenticated by the officer having custody and control of the copies of records. Records of vehicle certificates of title may be destroyed seven years after the date of issue.

Sec. 67. REPEAL. Sections 305.3, 305.5, 305.6, 305.7, and 305.9, Code 2013, are repealed.

Sec. 68. ADMINISTRATIVE RULES — TRANSITION PROVISIONS.

1. Any rule, regulation, form, order, or directive promulgated by the state records commission relative to the provisions of this division of this Act in existence on the effective date of this division of this Act shall continue in full force and effect until amended, repealed, or supplemented by affirmative action of the department of cultural affairs under the duties and powers established in this division of this Act and under the procedure established in subsection 2.

2. In regard to updating references and format in the Iowa administrative code in order to correspond to the transferring of duties as established in this division of this Act, the administrative rules coordinator and the administrative rules review committee, in consultation with the administrative code editor, shall jointly develop a schedule for the necessary updating of the Iowa administrative code.

DIVISION VIII
PUBLIC HEALTH

Sec. 69. Section 135.11, subsection 24, Code 2013, is amended by striking the subsection.

Sec. 70. Section 135.11, subsection 28, Code 2013, is amended to read as follows:

28. ~~In consultation with the advisory committee for perinatal guidelines, develop~~ Develop and maintain the statewide perinatal program based on the recommendations of

S.F. 396

1 the American academy of pediatrics and the American college
2 of obstetricians and gynecologists contained in the most
3 recent edition of the guidelines for perinatal care, and shall
4 adopt rules in accordance with chapter 17A to implement those
5 recommendations. Hospitals within the state shall determine
6 whether to participate in the statewide perinatal program,
7 and select the hospital's level of participation in the
8 program. A hospital having determined to participate in the
9 program shall comply with the guidelines appropriate to the
10 level of participation selected by the hospital. Perinatal
11 program surveys and reports are privileged and confidential
12 and are not subject to discovery, subpoena, or other means
13 of legal compulsion for their release to a person other than
14 the affected hospital, and are not admissible in evidence in a
15 judicial or administrative proceeding other than a proceeding
16 involving verification of the participating hospital under this
17 subsection.
18 Sec. 71. Section 147A.24, subsection 1, paragraph q, Code
19 2013, is amended by striking the paragraph and inserting in
20 lieu thereof the following:
21 *q.* Iowa's Medicare quality improvement organization.
22 Sec. 72. Section 147A.24, subsection 4, Code 2013, is
23 amended by adding the following new paragraph:
24 NEW PARAGRAPH. *h.* Develop, implement, and conduct trauma
25 care system evaluation, quality assessment, and quality
26 improvement.
27 Sec. 73. Section 147A.24, Code 2013, is amended by adding
28 the following new subsection:
29 NEW SUBSECTION. 5. Proceedings, records, and reports
30 developed pursuant to this section constitute peer review
31 records under section 147.135, and are not subject to discovery
32 by subpoena or admissible as evidence. All information and
33 documents received from a hospital or emergency care facility
34 under this subchapter shall be confidential pursuant to section
35 272C.6, subsection 4.

S.F. 396

1 Sec. 74. Section 147A.26, subsection 1, Code 2013, is
2 amended to read as follows:
3 1. The department shall maintain a statewide trauma
4 reporting system by which ~~the system evaluation and quality~~
5 ~~improvement committee,~~ the trauma system advisory council, and
6 the department may monitor the effectiveness of the statewide
7 trauma care system.
8 Sec. 75. REPEAL. Section 147A.25, Code 2013, is repealed.
9 Sec. 76. REPEAL. Chapter 135N, Code 2013, is repealed.
10 DIVISION IX
11 PUBLIC SAFETY PEACE OFFICERS' RETIREMENT SYSTEM
12 Sec. 77. Section 97A.6, subsection 7, paragraph a,
13 subparagraph (1), Code 2013, is amended to read as follows:
14 (1) Should any beneficiary for either ordinary or
15 accidental disability, except a beneficiary who is fifty-five
16 years of age or over and would have completed twenty-two years
17 of service if the beneficiary had remained in active service,
18 be engaged in a gainful occupation paying more than the
19 difference between the member's net retirement allowance and
20 ~~one~~ two and one-half times the current earnable compensation
21 of an active member at the same position on the salary scale
22 within the member's rank as the member held at retirement, then
23 the amount of the retirement allowance shall be reduced to an
24 amount such that the member's net retirement allowance plus the
25 amount earned by the member shall equal ~~one~~ two and one-half
26 times the amount of the current earnable compensation of an
27 active member at the same position on the salary scale within
28 the member's rank as the member held at retirement. Should
29 the member's earning capacity be later changed, the amount of
30 the retirement allowance may be further modified, provided
31 that the new retirement allowance shall not exceed the amount
32 of the retirement allowance originally granted adjusted by
33 annual readjustments of pensions pursuant to subsection 14 of
34 this section nor an amount which would cause the member's net
35 retirement allowance, when added to the amount earned by the

S.F. 396

1 beneficiary, to equal ~~one~~ two and one-half times the amount
2 of the current earnable compensation of an active member at
3 the same position on the salary scale within the member's rank
4 as the member held at retirement. A beneficiary restored
5 to active service at a salary less than the average final
6 compensation upon the basis of which the member was retired at
7 age fifty-five or greater, shall not again become a member of
8 the retirement system and shall have the member's retirement
9 allowance suspended while in active service. If the rank or
10 position held by the retired member is subsequently abolished,
11 adjustments to the allowable limit on the amount of income
12 which can be earned in a gainful occupation shall be computed
13 in the same manner as provided in subsection 14, paragraph *"c"*,
14 of this section for readjustment of pensions when a rank or
15 position has been abolished. If the salary scale associated
16 with a member's rank at retirement is changed after the member
17 retires, earnable compensation for purposes of this section
18 shall be based upon the salary an active member currently
19 would receive at the same rank and with seniority equal to
20 that of the retired member at the time of retirement. For
21 purposes of this paragraph, *"net retirement allowance"* means
22 the amount determined by subtracting the amount paid during the
23 previous calendar year by the beneficiary for health insurance
24 or similar health care coverage for the beneficiary and the
25 beneficiary's dependents from the amount of the member's
26 retirement allowance paid for that year pursuant to this
27 chapter. The beneficiary shall submit sufficient documentation
28 to the board of trustees to permit the system to determine the
29 member's net retirement allowance for the applicable year.
30 DIVISION X
31 REPORT — STATE DEBT COORDINATOR
32 Sec. 78. DEPARTMENT OF REVENUE AND OFFICE OF THE STATE
33 DEBT COORDINATOR — REPORT. The director of revenue shall
34 develop and recommend legislative proposals deemed necessary
35 for the continued efficiency of the functions of the office of

S.F. 396

1 the state debt coordinator established in section 421C.1, and
2 shall prepare and file a report detailing the recommendations.
3 The report shall be filed by the director of revenue with
4 the department of management, the governor, and the general
5 assembly no later than January 13, 2014.
6 DIVISION XI
7 ONGOING PROGRAM REVIEW
8 Sec. 79. Section 2.69, subsection 4, Code 2013, is amended
9 by adding the following new paragraph:
10 NEW PARAGRAPH. *0c.* Comprehensively review on a regular
11 basis the programs and projects administered by state
12 government to determine whether each program and project
13 reviewed is effectively and efficiently meeting the needs for
14 which created, and whether the needs remain applicable. The
15 review shall consider whether modifications to the program or
16 project reviewed could better meet the needs identified in a
17 more effective manner.
18 DIVISION XII
19 BOARDS AND COMMISSIONS
20 Sec. 80. Section 190A.3, subsection 3, Code 2013, is amended
21 to read as follows:
22 3. The ~~farm-to-school council~~ department of agriculture
23 and land stewardship and the department of education shall
24 seek to establish partnerships with public agencies and
25 nonprofit organizations to implement a structure to facilitate
26 communication between farmers and schools.
27 Sec. 81. Section 190A.3, subsection 4, Code 2013, is amended
28 to read as follows:
29 4. The ~~farm-to-school council~~ department of agriculture and
30 land stewardship and the department of education shall actively
31 seek financial or in-kind contributions from organizations or
32 persons to support the program.
33 Sec. 82. Section 256.9, subsection 55, paragraph j, Code
34 2013, is amended by striking the paragraph.
35 Sec. 83. REPEAL. Section 190A.2, Code 2013, is repealed.

S.F. 396

1 DIVISION XIII
2 OBSOLETE PROVISIONS
3 Sec. 84. REPEAL. Section 15.112, Code 2013, is repealed.
4 Sec. 85. REPEAL. Chapters 15C and 15D, Code 2013, are
5 repealed.
6 EXPLANATION
7 This bill relates to government efficiency, including other
8 matters related to the operation of state and local government.
9 DIVISION I —— GOVERNMENT INFORMATION TECHNOLOGY SERVICES.
10 This division transfers the information technology
11 functions and chief information officer of the department of
12 administrative services (DAS) to a new independent office
13 of the chief information officer that is attached to the
14 department of administrative services.
15 Code section 8A.101, the definitions provision for DAS, is
16 amended to provide that the definitions also apply to the Code
17 chapter creating the new office.
18 Code section 8A.104, describing the powers and duties of the
19 director of DAS, is amended to provide that the director shall
20 provide assistance and administrative support services to the
21 new office as necessary.
22 New Code chapter 8B establishes the office of the chief
23 information officer directed by the chief information officer
24 of the state.
25 The new Code chapter includes provisions of Code chapter
26 8A that apply generally to DAS to include provisions in Code
27 chapter 8A on prohibited interests, acceptance of funds,
28 federal funds, services to governmental entities and nonprofit
29 organizations, internal service funds, additional personnel,
30 billing, debts, and liabilities.
31 Concerning information technology, the provisions in
32 Code chapter 8A, subchapter II, providing for, in part, the
33 appointment of a chief information officer and the information
34 technology duties and services provided by DAS, are moved to
35 new Code chapter 8B.

S.F. 396

1 In addition, the powers and duties of the chief information
2 officer, currently described in Code section 8A.203 and moved
3 to new Code section 8B.4 in the bill, are expanded from current
4 law to give the chief information officer the authority to
5 adopt rules, prepare a budget, adopt rules regarding the
6 approval of information technology budgets of other agencies,
7 and administer all accounting, billing, and collection
8 functions required by DAS.
9 New Code section 8B.21, concerning information technology
10 services currently described in Code section 8A.202, also
11 includes new provisions directing the new office to establish
12 an enterprise strategic and project management function for
13 oversight of all information technology-related projects and
14 resources of participating agencies and requiring that security
15 policies and systems developed by the new office be consistent
16 with the state's data transparency efforts.
17 The bill also includes transition provisions governing
18 administrative rules, personnel moved from DAS to the new
19 office, transfer of funds to the new office, and information
20 technology-related causes of action.
21 The division directs the new office to conduct an inventory
22 of information technology devices utilized by state agencies
23 with the goal of identifying possibilities to reduce costs.
24 The new office is required to submit a report to the general
25 assembly by January 1, 2014, concerning the results of the
26 inventory.
27 The division also directs the new office to establish a
28 schedule for departments to comply with information technology
29 coordination and management requirements of Code chapter
30 8B. In addition, the new office is encouraged to procure
31 information technology for participating agencies through
32 leasing.
33 DIVISION II —— PHASED RETIREMENT PROGRAM. This division
34 repeals the phased retirement program for state employees.
35 Code section 70A.30 is amended to authorize, but not require,

S.F. 396

1 the department of administrative services to establish a phased
2 retirement program. A transition provision allows those state
3 employees currently participating in the phased retirement
4 program repealed by the bill to continue participation in
5 the program after the effective date of this division of
6 the bill. The bill provides for continuation of a standing
7 appropriation to the Iowa public employees' retirement fund for
8 such continued participation.
9 DIVISION III — HUMAN RESOURCE MANAGEMENT. This division
10 concerns human resource management for state executive branch
11 agencies. The bill requires the department of administrative
12 services to centralize the human resource management functions
13 for executive branch agencies under the department of
14 administrative services, except for institutions under the
15 control of the state board of regents, by December 15, 2015.
16 The bill amends Code section 8A.402(1) by requiring that the
17 department develop and implement the plan. The bill provides
18 the elements that must be included in the centralized human
19 resource management plan and describes what applicable state
20 executive branch agencies must do relative to developing and
21 implementing the centralized plan.
22 DIVISION IV — STATE PHYSICAL RESOURCES. This division
23 of the bill requires that DAS conduct an analysis of state
24 employee workstations and office standards by September 30,
25 2013. The division further requires the department to submit
26 findings and recommendations to the capitol planning commission
27 and the legislative fiscal committee by October 30, 2013.
28 DIVISION V — AUDITS. This division concerns audit costs and
29 filing fees for the filing of certain audits or examinations
30 conducted by the auditor of state.
31 Code section 11.6(10) is amended to eliminate the authority
32 of the auditor to establish and collect a filing fee relative
33 to certain audits conducted on certain mental health centers,
34 substance abuse programs, and community action agencies.
35 The division takes effect upon enactment.

S.F. 396

1 DIVISION VI — ELECTRONIC COMMUNICATIONS. This division
2 provides that each state department and agency shall provide
3 departmental or agency notices or information through the
4 department's or agency's internet site or through electronic
5 mail to the fullest extent possible. Code section 22.7,
6 concerning confidential public records, is amended to provide
7 that electronic mail addresses of individuals collected
8 by state departments and agencies for the sole purpose
9 of disseminating routine information and notices through
10 electronic communications that are not prepared for a specific
11 recipient shall be considered confidential.
12 DIVISION VII — STATE RECORDS. This division eliminates
13 the state records commission and transfers the duties and
14 responsibilities of the state records commission to the
15 department of cultural affairs. The division includes a
16 transition provision that any rule promulgated by the state
17 records commission shall continue until changed by the
18 department of cultural affairs.
19 The division also authorizes the department of cultural
20 affairs to bill agencies for records storage and retention.
21 Code section 305.8 is amended to provide that the department
22 of cultural affairs establish rates to charge agencies for
23 providing records storage and retention services. New Code
24 section 305.8A authorizes the department of cultural affairs
25 to bill agencies for records storage and retention services,
26 establish an internal service fund for receipt of moneys from
27 agencies billed for this purpose, and authorizes the department
28 to utilize moneys received and deposited in the fund for the
29 operations of the department in records storage and retention.
30 DIVISION VIII — PUBLIC HEALTH. This division concerns the
31 department of public health.
32 Code section 135.11 is amended to eliminate the requirement
33 of the department to establish an abuse education review panel
34 and the advisory committee for perinatal guidelines.
35 Code section 147A.25, establishing a system evaluation and

S.F. 396

1 quality improvement committee, is repealed and the duties
2 transferred to the trauma system advisory council. The bill
3 also adds a representative to the trauma system advisory
4 council from Iowa's Medicare quality improvement organization
5 in lieu of the state emergency medical services medical
6 director.
7 Code chapter 135N, establishing a hemophilia advisory
8 committee, is repealed.
9 DIVISION IX — PUBLIC SAFETY PEACE OFFICERS' RETIREMENT
10 SYSTEM. This division concerns the recalculation of an
11 accidental or ordinary disability retirement benefit for a
12 beneficiary under 55 years of age under the Public Safety
13 Peace Officers' Retirement, Accident, and Disability system
14 (PORS). The bill provides that a beneficiary shall have
15 their disability retirement benefit reduced equal to the
16 difference in income the beneficiary is receiving from other
17 work and two and one-half times the amount of the current
18 earnable compensation of an active member of PORS at the same
19 position on the salary scale as the disability beneficiary less
20 the disability beneficiary's net retirement allowance. Net
21 retirement allowance is defined as the disability beneficiary's
22 retirement allowance minus certain health insurance costs.
23 Current law reduces the disability benefit if the disability
24 beneficiary's income from other employment is one and one-half
25 times the amount of an active member of PORS minus the net
26 retirement allowance.
27 DIVISION X — REPORT — STATE DEBT COORDINATOR. This
28 division establishes a report to be prepared and filed by the
29 director of revenue. The director will develop and recommend
30 legislative proposals deemed necessary for the office of the
31 state debt coordinator, which shall be compiled in a report and
32 filed with the department of management, the governor, and the
33 general assembly no later than January 13, 2014.
34 DIVISION XI — ONGOING PROGRAM REVIEW. This division
35 amends Code section 2.69, establishing the legislative

S.F. 396

1 state government efficiency review committee, to provide
2 that the committee also conduct a comprehensive review on a
3 regular basis of programs and projects administered by state
4 government.
5 DIVISION XII —— BOARDS AND COMMISSIONS. The division
6 repeals the farm-to-school council.
7 DIVISION XIII —— OBSOLETE PROVISIONS. This division repeals
8 Code section 15.112, relating to matching funds for a farmworks
9 national demonstration project; Code chapter 15C, relating to
10 a world trade center; and Code chapter 15D, relating to the
11 midwest nuclear compact, which contains provisions relating to
12 repeal and withdrawal from the compact.

Senate File 397 - Introduced

SENATE FILE 397
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1221)

A BILL FOR

1 An Act relating to pari-mutuel wagering on horse racing.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2107SV (2) 85
ec/nh

S.F. 397

Section 1. Section 99D.7, subsection 5, paragraph b, Code 2013, is amended to read as follows:

b. The commission shall, beginning January 1, 2012, regulate the purse structure for all horse racing so that seventy-six percent is designated for thoroughbred racing, fifteen and one-quarter percent is designated for quarter horse racing, and eight and ~~three-quarter~~ three-quarters percent is designated for standardbred racing. The purse moneys designated for standardbred racing may only be used to support standardbred harness racing purses at the state fair, county fairs, or other harness racing tracks approved by the commission, or for the construction, maintenance, or repair of harness racing tracks located in Iowa and at the fairgrounds for such fairs or other harness racing tracks located in Iowa and approved by the commission. The horse racetrack in Polk county shall not provide funding to support standardbred racing at such county fairs that is not otherwise provided for in this paragraph.

Sec. 2. Section 99D.11, subsection 6, paragraph c, subparagraph (4), Code 2013, is amended to read as follows:

(4) An unlicensed advance deposit wagering operator or an individual taking or receiving wagers from residents of this state ~~on races conducted at the horse racetrack located in Polk county~~ is guilty of a class "D" felony.

Sec. 3. Section 99D.25A, subsection 2, Code 2013, is amended to read as follows:

2. Phenylbutazone shall not be administered to a horse in dosages which would result in concentrations of more than five micrograms of the substance or its metabolites per milliliter of blood. In races recognized as graded stakes thoroughbred races, the commission may establish restrictions on dosage amounts for phenylbutazone which would result in concentrations of less than five micrograms of the substance or its metabolites per milliliter of blood.

EXPLANATION

This bill concerns pari-mutuel wagering and horse racing.

S.F. 397

1 Code section 99D.7(5), concerning purse moneys for horse
2 racing, is amended to allow purse moneys designated for
3 standardbred racing to be used for the construction of harness
4 racing tracks.
5 Code section 99D.11(6)(c)(4), governing penalties for
6 advance deposit wagering violations, is amended by striking the
7 provision that the current penalty for unlawful advance deposit
8 wagering applies to taking wagers only on races conducted in
9 Polk county.
10 Code section 99D.25A is amended to allow the racing and
11 gaming commission to establish restrictions on dosage amounts
12 for phenylbutazone in races recognized as graded stakes
13 thoroughbred races.

Senate File 398 - Introduced

SENATE FILE 398
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1169)

A BILL FOR

1 An Act relating to business corporations, including by
2 providing for their organization and operation; providing
3 for the relationship between shareholders, directors, and
4 officers; and including effective date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1488SV (1) 85
da/nh

S.F. 398

DIVISION I
PRINCIPAL PROVISIONS

Section 1. Section 490.140, subsections 3, 6, 9, and 26, Code 2013, are amended to read as follows:

3. *"Conspicuous"* means so written, displayed, or presented that a reasonable person against whom the writing is to operate should have noticed it. For example, ~~printing~~ text in italics, ~~or~~ boldface, ~~or~~ contrasting color, ~~or typing in~~ capitals, or underlined~~,~~ is conspicuous.

6. *"Deliver"* or *"delivery"* means any method of delivery used in conventional commercial practice, including delivery ~~in person,~~ by hand, mail, commercial delivery, and, if authorized in accordance with section 490.141, by electronic transmission.

9. *"Electronic transmission"* or *"electronically transmitted"* means any form or process of communication not directly involving the physical transfer of paper ~~that~~ or another tangible medium, which is ~~suitable~~ all of the following:

a. Suitable for the retention, retrieval, and reproduction of information by the recipient.

b. Retrievable in paper form by the recipient through an automated process used in conventional commercial practice, unless otherwise authorized in accordance with section 490.141, subsection 10.

26. *"Sign"* or *"signature"* means, with present intent to authenticate or adopt a document, doing any of the following:

a. Executing or adopting a tangible symbol to a document, and includes any manual, facsimile, or conformed~~, or electronic~~ signature.

b. Attaching to or logically associating with an electronic transmission an electronic sound, symbol, or process, and includes an electronic signature in an electronic transmission.

Sec. 2. Section 490.140, Code 2013, is amended by adding the following new subsections:

NEW SUBSECTION. 7A. *"Document"* means any of the following:

a. A tangible medium on which information is inscribed, and

S.F. 398

1 includes any writing or written instrument.
2 *b.* An electronic record.
3 NEW SUBSECTION. 7B. *"Domestic unincorporated entity"* means
4 an unincorporated entity whose internal affairs are governed by
5 the laws of this state.
6 NEW SUBSECTION. 8A. *"Electronic"* means relating to
7 technology having electrical, digital, magnetic, wireless,
8 optical, electromagnetic, or similar capabilities.
9 NEW SUBSECTION. 8B. *"Electronic record"* means information
10 that is stored in an electronic or other medium and is
11 retrievable in paper form through an automated process used in
12 conventional commercial practice, unless otherwise authorized
13 in accordance with section 490.141, subsection 10.
14 NEW SUBSECTION. 11A. *"Expenses"* means reasonable expenses
15 of any kind that are incurred in connection with a matter.
16 NEW SUBSECTION. 21B. *"Qualified director"* means the same
17 as defined in section 490.143.
18 NEW SUBSECTION. 32. *"Writing"* or *"written"* means any
19 information in the form of a document.
20 Sec. 3. Section 490.141, Code 2013, is amended to read as
21 follows:
22 **490.141 Notice or other communication.**
23 1. Notice under this chapter must be in writing unless oral
24 notice is reasonable ~~under~~ in the circumstances. ~~Notice by~~
25 ~~electronic transmission is written notice.~~ Unless otherwise
26 agreed between the sender and the recipient, words in a notice
27 or other communication under this chapter must be in English.
28 2. ~~Notice~~ A notice or other communication may be
29 ~~communicated in person; by mail or other~~ given or sent by
30 any method of delivery~~; or by telephone, voice mail, or~~
31 ~~other~~, except that electronic ~~means~~ transmissions must be in
32 accordance with this section. If these ~~forms of personal~~
33 ~~notice~~ methods of delivery are impracticable, a notice or
34 other communication may be communicated by a newspaper of
35 general circulation in the area where published; or by radio,

S.F. 398

1 television, or other form of public broadcast communication.
2 3. ~~Written notice by a domestic or foreign corporation to~~
3 ~~its shareholder, if in a comprehensible form, is effective~~
4 ~~according to one of the following:~~
5 ~~*a.* Upon deposit in the United States mail, if mailed~~
6 ~~postpaid and correctly addressed to the shareholder's address~~
7 ~~shown in the corporation's current record of shareholders.~~
8 ~~*b.* When electronically transmitted to the shareholder in a~~
9 ~~manner authorized by the shareholder.~~
10 ~~4. Written notice~~ Notice or other communication to a
11 domestic or foreign corporation authorized to transact business
12 in this state may be ~~addressed~~ delivered to its registered
13 agent at its registered office or to the secretary of the
14 corporation ~~or its secretary~~ at its principal office shown in
15 its most recent biennial report or, in the case of a foreign
16 corporation that has not yet delivered a biennial report, in
17 its application for a certificate of authority.
18 4. Notice or other communications may be delivered by
19 electronic transmission if consented to by the recipient or if
20 authorized by subsection 10.
21 5. Any consent under subsection 4 may be revoked by the
22 person who consented by written or electronic notice to the
23 person to whom the consent was delivered. Any such consent is
24 deemed revoked if all of the following apply:
25 *a.* The corporation is unable to deliver two consecutive
26 electronic transmissions given by the corporation in accordance
27 with such consent.
28 *b.* Such inability becomes known to the secretary or an
29 assistant secretary of the corporation or to the transfer
30 agent, or other person responsible for the giving of notice
31 or other communications; provided, however, the inadvertent
32 failure to treat such inability as a revocation shall not
33 invalidate any meeting or other action.
34 6. Unless otherwise agreed between the sender and the
35 recipient, an electronic transmission is received when all of

S.F. 398

the following apply:

a. The electronic transmission enters an information processing system that the recipient has designated or uses for the purposes of receiving electronic transmissions or information of the type sent, and from which the recipient is able to retrieve the electronic transmission.

b. The electronic transmission is in a form capable of being processed by that system.

7. Receipt of an electronic acknowledgment from an information processing system described in subsection 6, paragraph *"a"*, establishes that an electronic transmission was received but, by itself, does not establish that the content sent corresponds to the content received.

8. An electronic transmission is received under this section even if no individual is aware of its receipt.

~~5.~~ 9. ~~Except as provided in subsection 3, written notice,~~ Notice or other communication if in a comprehensible form or manner, is effective at the earliest of any of the following:

a. ~~When received.~~ If in physical form, the earliest of when it is actually received or when it is left at any of the following:

(1) A shareholder's address shown on the corporation's record of shareholders maintained by the corporation under section 490.1601, subsection 3.

(2) A director's residence or usual place of business.

(3) The corporation's principal place of business.

b. ~~Five days after its deposit in the United States mail, if~~ If mailed ~~postpaid~~ by United States mail postage prepaid and correctly addressed to a shareholder, upon deposit in the United States mail.

c. ~~On the date shown on the~~ If mailed by United States mail postage prepaid and correctly addressed to a recipient other than a shareholder, the earliest of when it is actually received or as follows:

(1) If sent by registered or certified mail, return receipt

S.F. 398

1 requested, ~~if sent by registered or certified mail, return~~
2 ~~receipt requested, and~~ the date shown on the return receipt ~~is~~
3 signed by or on behalf of the addressee.
4 ~~6. Oral notice is effective when communicated if~~
5 ~~communicated in a comprehensible manner.~~
6 (2) Five days after it is deposited in the United States
7 mail.
8 *d.* If an electronic transmission, when it is received as
9 provided in subsection 6.
10 *e.* If oral, when communicated.
11 10. A notice or other communication may be in the form of
12 an electronic transmission that cannot be directly reproduced
13 in paper form by the recipient through an automated process
14 used in conventional commercial practice only if all of the
15 following apply:
16 *a.* The electronic transmission is otherwise retrievable in
17 perceivable form.
18 *b.* The sender and the recipient have consented in writing to
19 the use of such form of electronic transmission.
20 ~~7.~~ 11. If this chapter prescribes ~~notice~~ requirements for
21 notices or other communications in particular circumstances,
22 those requirements govern. If articles of incorporation or
23 bylaws prescribe ~~notice~~ requirements for notices or other
24 communications, not inconsistent with this section or other
25 provisions of this chapter, those requirements govern. The
26 articles of incorporation or bylaws may authorize or require
27 delivery of notices of meetings of directors by electronic
28 transmission.
29 Sec. 4. NEW SECTION. **490.143 Qualified director.**
30 1. For purposes of this chapter, a *"qualified director"*
31 is a director who takes action under any of the following
32 provisions, if at the time action is to be taken any of the
33 following applies:
34 *a.* Under section 490.744, the director does not have any of
35 the following:

S.F. 398

1 (1) A material interest in the outcome of the proceeding.
2 (2) A material relationship with a person who has such an
3 interest.
4 *b.* Under section 490.853 or 490.855, all of the following
5 apply:
6 (1) The director is not a party to the proceeding.
7 (2) The director is not a director as to whom a transaction
8 is a director's conflicting interest transaction or who sought
9 a disclaimer of the corporation's interest in a business
10 opportunity under section 490.870, which transaction or
11 disclaimer is challenged in the proceeding.
12 (3) The director does not have a material relationship with
13 a director described in either subparagraph (1) or (2).
14 *c.* Under section 490.862, the director is not any of the
15 following:
16 (1) A director as to whom the transaction is a director's
17 conflicting interest transaction.
18 (2) A director who has a material relationship with another
19 director as to whom the transaction is a director's conflicting
20 interest transaction.
21 *d.* Under section 490.870, the director would be a qualified
22 director under paragraph *"c"*, if the business opportunity was a
23 director's conflicting interest transaction.
24 2. For purposes of this section, all of the following apply:
25 *a.* *"Material interest"* means an actual or potential
26 benefit or detriment, other than one which would devolve on
27 the corporation or the shareholders generally, that would
28 reasonably be expected to impair the objectivity of the
29 director's judgment when participating in the action to be
30 taken.
31 *b.* *"Material relationship"* means a familial, financial,
32 professional, employment, or other relationship that would
33 reasonably be expected to impair the objectivity of the
34 director's judgment when participating in the action to be
35 taken.

S.F. 398

1 3. The presence of one or more of the following
2 circumstances shall not automatically prevent a director from
3 being a qualified director:
4 *a.* Nomination or election of the director to the current
5 board by any director who is not a qualified director with
6 respect to the matter, or by any person that has a material
7 relationship with that director, acting alone or participating
8 with others.
9 *b.* Service as a director of another corporation of which a
10 director who is not a qualified director with respect to the
11 matter, or any individual who has a material relationship with
12 that director, is or was also a director.
13 *c.* With respect to action to be taken under section 490.744,
14 status as a named defendant, as a director against whom action
15 is demanded, or as a director who approved the conduct being
16 challenged.
17 Sec. 5. NEW SECTION. **490.144 Householding.**
18 1. A corporation has delivered written notice or any
19 other report or statement under this chapter, the articles of
20 incorporation, or the bylaws to all shareholders who share a
21 common address if all of the following apply:
22 *a.* The corporation delivers one copy of the notice, report,
23 or statement to the common address.
24 *b.* The corporation addresses the notice, report, or
25 statement to those shareholders either as a group or to each
26 of those shareholders individually or to the shareholders in a
27 form to which each of those shareholders has consented.
28 *c.* Each of those shareholders consents to delivery of
29 a single copy of such notice, report, or statement to the
30 shareholders' common address. Any such consent shall be
31 revocable by any of such shareholders who deliver written
32 notice of revocation to the corporation. If such written
33 notice of revocation is delivered, the corporation shall begin
34 providing individual notices, reports, or other statements
35 to the revoking shareholder no later than thirty days after

S.F. 398

1 delivery of the written notice of revocation.
2 2. Any shareholder who fails to object by written notice
3 to the corporation, within sixty days of written notice by the
4 corporation of its intention to send single copies of notices,
5 reports, or statements to shareholders who share a common
6 address as permitted by subsection 1, shall be deemed to have
7 consented to receiving such single copy at the common address.
8 Sec. 6. Section 490.502, subsection 2, Code 2013, is amended
9 to read as follows:
10 2. If ~~a registered agent changes~~ the street address of ~~the~~
11 a registered agent's business office changes, the ~~registered~~
12 agent may change the street address of the registered office of
13 any corporation for which the person is the registered agent by
14 ~~notifying~~ delivering a signed written notice of the change to
15 the corporation ~~in writing of the change and signing, either~~
16 ~~manually or in facsimile,~~ and delivering to the secretary of
17 state for filing a signed statement that complies with the
18 requirements of subsection 1 and recites that the corporation
19 has been notified of the change.
20 Sec. 7. Section 490.620, subsection 4, Code 2013, is amended
21 to read as follows:
22 4. If a subscriber defaults in payment of money or
23 property under a subscription agreement entered into before
24 incorporation, the corporation may collect the amount owed
25 as any other debt. Alternatively, unless the subscription
26 agreement provides otherwise, the corporation may rescind the
27 agreement and may sell the shares if the debt remains unpaid
28 more than twenty days after the corporation sends a written
29 demand for payment to the subscriber.
30 Sec. 8. Section 490.624, Code 2013, is amended by adding the
31 following new subsection:
32 NEW SUBSECTION. 3. The board of directors may authorize one
33 or more officers to do all of the following:
34 *a.* Designate the recipients of rights, options, warrants,
35 or other equity compensation awards that involve the issuance

S.F. 398

of shares.

b. Determine, within an amount and subject to any other limitations established by the board and, if applicable, the stockholders, the number of such rights, options, warrants, or other equity compensation awards and the terms thereof to be received by the recipients, provided that an officer shall not use such authority to designate the officer or any other persons the board of directors may specify as a recipient of such rights, options, warrants, or other equity compensation awards.

Sec. 9. Section 490.701, subsection 1, Code 2013, is amended to read as follows:

1. ~~A~~ Unless directors are elected by written consent in lieu of an annual meeting as permitted by section 490.704, a corporation shall hold annually, at a time stated in or fixed in accordance with the bylaws, a meeting of shareholders; provided, however, that if a corporation's articles of incorporation authorize shareholders to cumulate their votes when electing directors pursuant to section 490.728, directors shall not be elected by less than unanimous consent.

Sec. 10. Section 490.703, Code 2013, is amended to read as follows:

490.703 Court-ordered meeting.

1. The district court of the county where a corporation's principal office, or, if none in this state, its registered office, is located may summarily order a meeting to be held ~~either:~~ pursuant to any of the following:

a. On application of any shareholder of the corporation entitled to participate in an annual meeting if an annual meeting was not held or action by written consent in lieu thereof did not become effective within the earlier of six months after the end of the corporation's fiscal year or fifteen months after its last annual meeting.

b. On application of a shareholder who signed a demand for a special meeting valid under section 490.702 if ~~either~~ any of

S.F. 398

1 the following applies:
2 (1) Notice of the special meeting was not given within
3 thirty days after the date the demand was delivered to the
4 corporation's secretary.
5 (2) The special meeting was not held in accordance with the
6 notice.
7 2. The court may fix the time and place of the meeting,
8 ascertain the shares entitled to participate in the meeting,
9 specify a record date or dates for ascertaining shareholders
10 entitled to notice of and to vote at the meeting, prescribe the
11 form and content of the meeting notice, fix the quorum required
12 for specific matters to be considered at the meeting or direct
13 that the votes represented at the meeting constitute a quorum
14 for action on those matters, and enter other orders necessary
15 to accomplish the purpose or purposes of the meeting.
16 Sec. 11. Section 490.704, Code 2013, is amended to read as
17 follows:
18 **490.704 Action without meeting.**
19 1. Unless otherwise provided in the articles of
20 incorporation, any action required or permitted by this chapter
21 to be taken at a shareholders' meeting may be taken without
22 a meeting or vote, and, except as provided in subsection
23 5, without prior notice, if one or more written consents
24 describing the action taken are signed by the holders of
25 outstanding shares having not less than ninety percent of the
26 votes entitled to be cast at a meeting at which all shares
27 entitled to vote on the action were present and voted, and are
28 delivered to the corporation for inclusion in the minutes or
29 filing with the corporate records.
30 2. ~~A written consent shall bear the date of signature of~~
31 ~~each shareholder who signs the consent and no written consent~~
32 ~~is effective to take the corporate action referred to in~~
33 ~~the consent unless, within sixty days of the earliest dated~~
34 ~~consent delivered in the manner required by this section to the~~
35 ~~corporation, written consents signed by a sufficient number~~

S.F. 398

1 ~~of holders to take action are delivered to the corporation.~~
2 ~~A written consent may be revoked by a writing to that effect~~
3 ~~received by the corporation prior to the receipt by the~~
4 ~~corporation of unrevoked written consents sufficient in number~~
5 ~~to take corporate action.~~ Except in the case of a public
6 corporation, the articles of incorporation may provide that
7 any action required or permitted by this chapter to be taken
8 at a shareholders' meeting may be taken without a meeting, and
9 without prior notice, if consents in writing setting forth the
10 action so taken are signed by the holders of outstanding shares
11 having not less than the minimum number of votes that would be
12 required to authorize or take the action at a meeting at which
13 all shares entitled to vote on the action were present and
14 voted. The written consent shall bear the date of signature
15 of the shareholder who signs the consent and be delivered to
16 the corporation for inclusion in the minutes or filing with the
17 corporate records.
18 3. ~~If not otherwise fixed under section 490.703 or 490.707,~~
19 ~~the record date for determining shareholders entitled to take~~
20 ~~action without a meeting is the date the first shareholder~~
21 ~~signs the consent under subsection 1.~~ If not otherwise fixed
22 under section 490.707 and if prior board action is not required
23 respecting the action to be taken without a meeting, the
24 record date for determining the shareholders entitled to take
25 action without a meeting shall be the first date on which a
26 signed written consent is delivered to the corporation. If
27 not otherwise fixed under section 490.707 and if prior board
28 action is required respecting the action to be taken without
29 a meeting, the record date shall be the close of business on
30 the day the resolution of the board taking such prior action
31 is adopted. No written consent shall be effective to take
32 the corporate action referred to therein unless, within sixty
33 days of the earliest date on which a consent delivered to the
34 corporation as required by this section was signed, written
35 consents signed by sufficient shareholders to take the action

S.F. 398

have been delivered to the corporation. A written consent may be revoked by a writing to that effect delivered to the corporation before unrevoked written consents sufficient in number to take the corporate action are delivered to the corporation.

4. A consent signed ~~under~~ pursuant to the provisions of this section has the effect of a meeting vote and may be described as such in any document. Unless the articles of incorporation, bylaws, or a resolution of the board of directors provides for a reasonable delay to permit tabulation of written consents, the action taken by written consent shall be effective when written consents signed by sufficient shareholders to take the action are delivered to the corporation.

~~5. If this chapter requires that notice of proposed action be given to shareholders not entitled to vote and the action is to be taken by consent of the voting shareholders, the corporation must give all shareholders written notice of the proposed action at least ten days before the action is taken. The notice must contain or be accompanied by the same material that, under this chapter, would have been required to be sent to shareholders not entitled to vote in a notice of meeting at which the proposed action would have been submitted to the shareholders for action.~~

~~6. Prompt notice of the taking of corporate action without a meeting by less than unanimous written consent shall be given to those shareholders who have not consented in writing. If the taking of that corporate action requires the giving of notice under section 490.1320, subsection 2, the notice of the action shall set forth the matters described in section 490.1322.~~

5. *a.* If this chapter requires that notice of a proposed action be given to nonvoting shareholders and the action is to be taken by written consent of the voting shareholders, the corporation must give its nonvoting shareholders written notice of the action not more than ten days after any of the

S.F. 398

1 following:
2 (1) Written consents sufficient to take the action have been
3 delivered to the corporation.
4 (2) Such later date that tabulation of consents is completed
5 pursuant to an authorization under subsection 4.
6 *b.* The notice must reasonably describe the action taken and
7 contain or be accompanied by the same material that, under any
8 provision of this chapter, would have been required to be sent
9 to nonvoting shareholders in a notice of a meeting at which the
10 proposed action would have been submitted to the shareholders
11 for action.
12 6. *a.* If action is taken by less than unanimous written
13 consent of the voting shareholders, the corporation must give
14 its nonconsenting voting shareholders written notice of the
15 action not more than ten days after any of the following:
16 (1) Written consents sufficient to take the action have been
17 delivered to the corporation.
18 (2) Such later date that tabulation of consents is completed
19 pursuant to an authorization under subsection 4.
20 *b.* The notice must reasonably describe the action taken
21 and contain or be accompanied by the same material that, under
22 any provision of this chapter, would have been required to be
23 sent to voting shareholders in a notice of a meeting at which
24 the action would have been submitted to the shareholders for
25 action.
26 7. The notice requirements in subsections 5 and 6 shall not
27 delay the effectiveness of actions taken by written consent,
28 and a failure to comply with such notice requirements shall
29 not invalidate actions taken by written consent, provided that
30 this subsection shall not be deemed to limit judicial power
31 to fashion any appropriate remedy in favor of a shareholder
32 adversely affected by a failure to give such notice within the
33 required time period.
34 Sec. 12. Section 490.705, subsections 1 and 5, Code 2013,
35 are amended to read as follows:

S.F. 398

1 1. A corporation shall notify shareholders of the date,
2 time, and place of each annual and special shareholders'
3 meeting no fewer than ten nor more than sixty days before
4 the meeting date. The notice shall include the record date
5 for determining the shareholders entitled to vote at the
6 meeting, if such date is different than the record date for
7 determining shareholders entitled to notice of the meeting. If
8 the board of directors has authorized participation by means
9 of remote communication pursuant to section 490.709 for any
10 class or series of shareholders, the notice to such class or
11 series of shareholders shall describe the means of remote
12 communication to be used. Unless this chapter or the articles
13 of incorporation require otherwise, the corporation is required
14 to give notice only to shareholders entitled to vote at the
15 meeting as of the record date for determining the shareholders
16 entitled to notice of the meeting.
17 5. Unless the bylaws require otherwise, if an annual or
18 special shareholders' meeting is adjourned to a different date,
19 time, or place, notice need not be given of the new date,
20 time, or place if the new date, time, or place is announced at
21 the meeting before adjournment. If a new record date for the
22 adjourned meeting is or must be fixed under section 490.707,
23 however, notice of the adjourned meeting must be given under
24 this section to ~~persons who are~~ shareholders ~~as of the new~~
25 ~~record date~~ entitled to vote at such adjourned meeting as of
26 the record date fixed for notice of such adjourned meeting.
27 Sec. 13. Section 490.707, Code 2013, is amended to read as
28 follows:
29 **490.707 Record date.**
30 1. The bylaws may fix or provide the manner of fixing
31 the record date or dates for one or more voting groups in
32 order to determine the shareholders entitled to notice of a
33 shareholders' meeting, to demand a special meeting, to vote,
34 or to take any other action. If the bylaws do not fix or
35 provide for fixing a record date, the board of directors of the

S.F. 398

1 corporation may fix a future date as the record date.
2 2. A record date fixed under this section shall not be more
3 than seventy days before the meeting or action requiring a
4 determination of shareholders.
5 3. A determination of shareholders entitled to notice of
6 or to vote at a shareholders' meeting is effective for any
7 adjournment of the meeting unless the board of directors fixes
8 a new record date or dates, which it must do if the meeting is
9 adjourned to a date more than one hundred twenty days after the
10 date fixed for the original meeting.
11 4. If a court orders a meeting adjourned to a date more than
12 one hundred twenty days after the date fixed for the original
13 meeting, it may provide that the original record date continues
14 in effect or it may fix a new record date or dates.
15 5. The record date for a shareholders' meeting fixed by
16 or in the manner provided in the bylaws or by the board of
17 directors shall be the record date for determining shareholders
18 entitled both to notice of and to vote at the shareholders'
19 meeting unless, in the case of a record date fixed by the
20 board of directors and to the extent not prohibited by the
21 bylaws, the board, at the time it fixes the record date for
22 shareholders entitled to notice of the meeting, fixes a later
23 record date on or before the date of the meeting to determine
24 the shareholders entitled to vote at the meeting.
25 Sec. 14. NEW SECTION. **490.709 Remote participation in**
26 **annual and special meetings.**
27 1. Shareholders of any class or series may participate in
28 any meeting of shareholders by means of remote communication to
29 the extent the board of directors authorizes such participation
30 for such class or series. Participation by means of remote
31 communication shall be subject to such guidelines and
32 procedures as the board of directors adopts, and shall be in
33 conformity with subsection 2.
34 2. Shareholders participating in a shareholders' meeting
35 by means of remote communication shall be deemed present and

S.F. 398

may vote at such a meeting if the corporation has implemented reasonable measures to do all of the following:

a. Verify that each person participating remotely is a shareholder.

b. Provide such shareholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to communicate, and to read or hear the proceedings of the meeting, substantially concurrently with such proceedings.

Sec. 15. Section 490.720, Code 2013, is amended to read as follows:

490.720 Shareholders' list for meeting.

1. After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders who are entitled to notice of a shareholders' meeting. ~~The~~ If the board of directors fixes a different record date under section 490.707, subsection 5, to determine the shareholders entitled to vote at the meeting, a corporation also shall prepare an alphabetical list of the names of all its shareholders who are entitled to vote at the meeting. A list must be arranged by voting group and within each voting group by class or series of shares, and show the address of and number of shares held by each shareholder.

2. The shareholders' list for notice must be available for inspection by any shareholder beginning two business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A shareholders' list for voting must be similarly available for inspection promptly after the record date for voting. A shareholder, or a shareholder's agent or attorney, is entitled on written demand to inspect and, subject to the requirements of section 490.1602, subsection ~~3~~ 4, to copy ~~the~~ a list, during regular business hours and at the person's expense, during the period

S.F. 398

1 it is available for inspection.
2 3. The corporation shall make the ~~shareholders'~~ list of
3 shareholders entitled to vote available at the meeting, and any
4 shareholder, or a shareholder's agent or attorney, is entitled
5 to inspect the list at any time during the meeting or any
6 adjournment.
7 4. If the corporation refuses to allow a shareholder, or a
8 shareholder's agent or attorney, to inspect ~~the~~ a shareholders'
9 list before or at the meeting, or copy ~~the~~ a list as permitted
10 by subsection 2, the district court of the county where a
11 corporation's principal office or, if none in this state,
12 its registered office, is located, on application of the
13 shareholder, may summarily order the inspection or copying at
14 the corporation's expense and may postpone the meeting for
15 which the list was prepared until the inspection or copying is
16 complete.
17 5. Refusal or failure to prepare or make available ~~the~~ a
18 shareholders' list does not affect the validity of action taken
19 at the meeting.
20 Sec. 16. Section 490.722, subsection 2, Code 2013, is
21 amended by striking the subsection.
22 Sec. 17. Section 490.724, subsection 4, Code 2013, is
23 amended to read as follows:
24 4. The corporation and its officer or agent who accepts
25 or rejects a vote, consent, waiver, or proxy appointment in
26 good faith and in accordance with the standards of this section
27 ~~or section 490.722, subsection 2,~~ are not liable in damages
28 to the shareholder for the consequences of the acceptance or
29 rejection.
30 Sec. 18. Section 490.728, Code 2013, is amended by adding
31 the following new subsection:
32 NEW SUBSECTION. 4. Shares otherwise entitled to vote
33 cumulatively shall not be voted cumulatively at a particular
34 meeting unless any of the following applies:
35 *a.* The meeting notice or proxy statement accompanying

S.F. 398

the notice states conspicuously that cumulative voting is authorized.

b. A shareholder who has the right to cumulate the shareholder's votes gives notice to the corporation not less than forty-eight hours before the time set for the meeting of the shareholder's intent to cumulate votes during the meeting, and if one shareholder gives this notice all other shareholders in the same voting group participating in the election are entitled to cumulate their votes without giving further notice.

Sec. 19. Section 490.742, subsection 2, Code 2013, is amended to read as follows:

2. Ninety days have expired from the date delivery of the demand was made, unless the shareholder has earlier been notified that the demand has been rejected by the corporation or unless irreparable injury to the corporation would result by waiting for the expiration of the ninety-day period.

Sec. 20. Section 490.744, Code 2013, is amended to read as follows:

490.744 Dismissal.

1. A derivative proceeding shall be dismissed by the court on motion by the corporation if one of the groups specified in subsection 2 or ~~6~~ 5 has determined in good faith after conducting a reasonable inquiry upon which its conclusions are based that the maintenance of the derivative proceeding is not in the best interests of the corporation. A corporation moving to dismiss on this basis shall submit in support of the motion a short and concise statement of the reasons for its determination.

2. Unless a panel is appointed pursuant to subsection ~~6~~ 5, the determination in subsection 1 shall be made by ~~one~~ any of the following:

a. A majority vote of ~~independent~~ qualified directors present at a meeting of the board of directors if the ~~independent~~ qualified directors constitute a quorum.

b. A majority vote of a committee consisting of two or more

S.F. 398

~~independent~~ qualified directors appointed by majority vote of ~~independent~~ qualified directors present at a meeting of the board of directors, whether or not such ~~independent~~ qualified directors constitute a quorum.

~~3. None of the following shall by itself cause a director to be considered not independent for purposes of this section:~~

~~*a.* The nomination or election of the director by persons who are defendants in the derivative proceeding or against whom action is demanded.~~

~~*b.* The naming of the director as a defendant in the derivative proceeding or as a person against whom action is demanded.~~

~~*c.* The approval by the director of the act being challenged in the derivative proceeding or demand if the act resulted in no personal benefit to the director.~~

~~4.~~ 3. *a.* If a derivative proceeding is commenced after a determination has been made rejecting a demand by a shareholder, the complaint shall allege with particularity facts establishing ~~one~~ any of the following:

(1) That a majority of the board of directors did not consist of ~~independent~~ qualified directors at the time the determination was made.

(2) That the requirements of subsection 1 have not been met.

b. All discovery and other proceedings shall be stayed during the pendency of any motion to dismiss unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or prevent undue prejudice to that party.

~~5.~~ 4. If a majority of the board of directors ~~does not consist~~ consisted of ~~independent~~ qualified directors at the time the determination ~~is~~ was made, the ~~corporation~~ plaintiff shall have the burden of proving that the requirements of subsection 1 have not been met; if not, the corporation shall have the burden of proving that the requirements of subsection 1 have been met. ~~If a majority of the board of directors~~

S.F. 398

1 ~~consists of independent directors at the time the determination~~
2 ~~is made, the plaintiff shall have the burden of proving that~~
3 ~~the requirements of subsection 1 have not been met.~~
4 ~~6.~~ 5. The court may appoint a panel of one or more
5 independent persons upon motion by the corporation to make
6 a determination whether the maintenance of the derivative
7 proceeding is in the best interests of the corporation. In
8 such case, the plaintiff shall have the burden of proving that
9 the requirements of subsection 1 have not been met.
10 Sec. 21. Section 490.746, Code 2013, is amended to read as
11 follows:
12 **490.746 Payment of expenses.**
13 On termination of the derivative proceeding, the court may
14 do ~~either~~ any of the following:
15 1. Order the corporation to pay the plaintiff's ~~reasonable~~
16 expenses~~, including attorney fees~~ incurred in the proceeding,
17 if it finds that the proceeding has resulted in a substantial
18 benefit to the corporation.
19 2. Order the plaintiff to pay any defendant's ~~reasonable~~
20 expenses~~, including attorney fees~~ incurred in defending the
21 proceeding, if it finds that the proceeding was commenced or
22 maintained without reasonable cause or for an improper purpose.
23 Sec. 22. NEW SECTION. **490.748 Shareholder action to appoint**
24 **custodian or receiver.**
25 1. The district court may appoint one or more persons
26 to be custodians, or, if the corporation is insolvent, to
27 be receivers, of and for a corporation in a proceeding by a
28 shareholder where it is established that any of the following
29 applies:
30 *a.* The directors are deadlocked in the management of
31 the corporate affairs, the shareholders are unable to break
32 the deadlock, and irreparable injury to the corporation is
33 threatened or being suffered.
34 *b.* The directors or those in control of the corporation are
35 acting fraudulently and irreparable injury to the corporation

S.F. 398

is threatened or being suffered.

2. *a.* The district court may issue injunctions, appoint a temporary custodian or temporary receiver with all the powers and duties the court directs, take other action to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing is held.

b. The district court shall hold a full hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a custodian or receiver.

c. The district court has jurisdiction over the corporation and all of its property, wherever located.

3. The district court may appoint an individual or domestic or foreign corporation, authorized to transact business in this state, as a custodian or receiver and may require the custodian or receiver to post bond, with or without sureties, in an amount the court directs.

4. The district court shall describe the powers and duties of the custodian or receiver in its appointing order, which may be amended from time to time. Among other powers, all of the following apply:

a. A custodian may exercise all of the powers of the corporation, through or in place of its board of directors, to the extent necessary to manage the business and affairs of the corporation.

b. A receiver may do any of the following:

(1) Dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the district court.

(2) Sue and defend in the receiver's own name as receiver in all courts of this state.

5. The district court during a custodianship may redesignate the custodian as a receiver, and during a receivership may redesignate the receiver as a custodian, if doing so is in the best interests of the corporation.

S.F. 398

6. The district court from time to time during the custodianship or receivership may order compensation paid and expense disbursements or reimbursements made to the custodian or receiver from the assets of the corporation or proceeds from the sale of its assets.

Sec. 23. Section 490.801, Code 2013, is amended to read as follows:

490.801 Requirement for and ~~duties~~ functions of board of directors.

1. Except as provided in section 490.732, each corporation must have a board of directors.

2. All corporate powers shall be exercised by or under the authority of the board of directors of the corporation, and the business and affairs of the corporation shall be managed by or under the direction, and subject to the oversight, of~~,~~ its board of directors, subject to any limitation set forth in the articles of incorporation, or in an agreement authorized under section 490.732.

Sec. 24. Section 490.807, Code 2013, is amended to read as follows:

490.807 Resignation of directors.

1. A director may resign at any time by delivering a written ~~notice~~ resignation to the board of directors~~,~~ or its ~~chairperson~~ chair, or to the secretary of the corporation.

2. A resignation is effective when the ~~notice~~ resignation is delivered unless the ~~notice~~ resignation specifies a later effective date or an effective date determined upon the happening of an event or events. A resignation that is conditioned upon failing to receive a specified vote for election as a director may provide that it is irrevocable.

Sec. 25. Section 490.810, subsection 2, Code 2013, is amended to read as follows:

2. If the vacant office was held by a director elected by a voting group of shareholders, only the holders of shares of that voting group are entitled to vote to fill the vacancy

S.F. 398

if it is filled by the shareholders, and only the directors elected by that voting group are entitled to fill the vacancy if it is filled by the directors.

Sec. 26. NEW SECTION. **490.826 Submission of matters for shareholder vote.**

A corporation may agree to submit a matter to a vote of its shareholders even if, after approving the matter, the board of directors determines it no longer recommends the matter.

Sec. 27. Section 490.830, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. In discharging board or committee duties a director shall disclose, or cause to be disclosed, to the other board or committee members information which the director knows is not already known by them but is known by the director to be material to the discharge of their decision-making or oversight functions, except that disclosure is not required to the extent that the director reasonably believes that doing so would violate a duty imposed under law, a legally enforceable obligation of confidentiality, or a professional ethics rule.

Sec. 28. Section 490.831, subsection 1, paragraph a, subparagraph (1), Code 2013, is amended to read as follows:

(1) No defense interposed by the director based on any of the following precludes liability:

(a) A provision in the articles of incorporation authorized by section 490.202, subsection 2, paragraph *"d"*~~, or the~~.

(b) The protection afforded by section ~~490.832 if interposed as a bar to the proceeding by the director, does not preclude liability~~ 490.861 for action taken in compliance with section 490.862 or 490.863.

(c) The protection afforded by section 490.870.

Sec. 29. Section 490.831, subsection 3, paragraphs a and b, Code 2013, are amended to read as follows:

a. In any instance where fairness is at issue, such as consideration of the fairness of a transaction to the

S.F. 398

corporation under section ~~490.832~~ 490.861, subsection 2, paragraph *"c"*, alter the burden of proving the fact or lack of fairness otherwise applicable.

b. Alter the fact or lack of liability of a director under another section of this chapter, such as the provisions governing the consequences of an unlawful distribution under section 490.833 or a transactional interest under section ~~490.832~~ 490.861.

Sec. 30. Section 490.841, Code 2013, is amended to read as follows:

490.841 ~~Duties~~ Functions of officers.

Each officer has the authority and shall perform the ~~duties~~ functions set forth in the bylaws or, to the extent consistent with the bylaws, the ~~duties~~ functions prescribed by the board of directors or by direction of an officer authorized by the board of directors to prescribe the ~~duties~~ functions of other officers.

Sec. 31. Section 490.842, subsection 1, unnumbered paragraph 1, Code 2013, is amended to read as follows:

An officer when performing in such capacity ~~shall~~ has the duty to act in conformity with all of the following:

Sec. 32. Section 490.850, subsection 2, Code 2013, is amended to read as follows:

2. *"Director"* or *"officer"* means an individual who is or was a director or officer, respectively, of a corporation or who, while a director or officer of the corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, or agent of another domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan, or other entity. A director or officer is considered to be serving an employee benefit plan at the corporation's request if the ~~director's~~ individual's duties to the corporation also impose duties on, or otherwise involve services by, ~~that director~~ the individual to the plan or to participants in or beneficiaries of the plan. *"Director"* or

S.F. 398

1 *"officer"* includes, unless the context requires otherwise, the
2 estate or personal representative of a director or officer.
3 Sec. 33. Section 490.850, subsections 3 and 4, Code 2013,
4 are amended by striking the subsections.
5 Sec. 34. Section 490.850, subsection 5, Code 2013, is
6 amended to read as follows:
7 5. *"Liability"* means the obligation to pay a judgment,
8 settlement, penalty, fine, including an excise tax assessed
9 with respect to an employee benefit plan, or ~~reasonable~~
10 expenses incurred with respect to a proceeding.
11 Sec. 35. Section 490.853, Code 2013, is amended to read as
12 follows:
13 **490.853 Advance for expenses.**
14 1. A corporation may, before final disposition of
15 a proceeding, advance funds to pay for or reimburse the
16 reasonable expenses incurred in connection with the proceeding
17 by ~~a director~~ an individual who is a party to ~~a~~ the proceeding
18 because ~~the person is a director if the person~~ that individual
19 is a member of the board of directors if the director delivers
20 all of the following to the corporation:
21 *a.* A signed written affirmation of the director's good
22 faith belief that the ~~director has met the~~ relevant standard
23 of conduct described in section 490.851 has been met by the
24 director or that the proceeding involved conduct for which
25 liability has been eliminated under a provision of the articles
26 of incorporation as authorized by section 490.202, subsection
27 2, paragraph *"d"*.
28 *b.* ~~The director's~~ A signed written undertaking of the
29 director to repay any funds advanced if the director is not
30 entitled to mandatory indemnification under section 490.852 and
31 it is ultimately determined under section 490.854 or ~~section~~
32 490.855 that the director has not met the relevant standard of
33 conduct described in section 490.851.
34 2. The undertaking required by subsection 1, paragraph *"b"*,
35 must be an unlimited general obligation of the director but

S.F. 398

need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

3. Authorizations under this section shall be made according to ~~one~~ any of the following:

a. By the board of directors as follows:

(1) If there are two or more ~~disinterested~~ qualified directors, by a majority vote of all the ~~disinterested~~ qualified directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two or more ~~disinterested~~ qualified directors appointed by such a vote.

(2) If there are fewer than two ~~disinterested~~ qualified directors, by the vote necessary for action by the board in accordance with section 490.824, subsection 3, in which authorization directors who ~~do~~ are not ~~qualify as disinterested~~ qualified directors may participate.

b. By the shareholders, but shares owned by or voted under the control of a director who at the time ~~does not qualify as~~ is not a ~~disinterested~~ qualified director ~~may~~ shall not be voted on the authorization.

Sec. 36. Section 490.855, Code 2013, is amended to read as follows:

490.855 Determination and authorization of indemnification.

1. A corporation shall not indemnify a director under section 490.851 unless authorized for a specific proceeding after a determination has been made that indemnification ~~of the director~~ is permissible because the director has met the relevant standard of conduct set forth in section 490.851.

2. The determination shall be made by any of the following:

a. If there are two or more ~~disinterested~~ qualified directors, by the board of directors by a majority vote of all the ~~disinterested~~ qualified directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two or more ~~disinterested~~ qualified directors appointed by such a vote.

S.F. 398

1 *b.* By special legal counsel selected in one of the following
2 manners:
3 (1) Selected in the manner prescribed in paragraph *"a"*.
4 (2) If there are fewer than two ~~disinterested~~ qualified
5 directors, selected by the board of directors, in which
6 selection directors who ~~do not qualify as disinterested~~ are not
7 qualified directors may participate.
8 *c.* By the shareholders, but shares owned by or voted under
9 the control of a director who at the time ~~does not qualify as a~~
10 ~~disinterested~~ is not a qualified director shall not be voted on
11 the determination.
12 3. Authorization of indemnification shall be made in
13 the same manner as the determination that indemnification
14 is permissible, except that if there are fewer than two
15 ~~disinterested~~ qualified directors or if the determination is
16 made by special legal counsel, authorization of indemnification
17 shall be made by those entitled ~~under subsection 2, paragraph~~
18 ~~*"b"*,~~ to select special legal counsel under subsection 2,
19 paragraph *"b"*, subparagraph (2).
20 Sec. 37. Section 490.858, Code 2013, is amended by adding
21 the following new subsection:
22 NEW SUBSECTION. 1A. A right of indemnification or to
23 advances for expenses created by this division or under
24 subsection 1 and in effect at the time of an act or omission
25 shall not be eliminated or impaired with respect to such act
26 or omission by an amendment of the articles of incorporation
27 or bylaws or a resolution of the directors or shareholders,
28 adopted after the occurrence of such act or omission, unless,
29 in the case of a right created under subsection 1, the
30 provision creating such right and in effect at the time of
31 such act or omission explicitly authorizes such elimination or
32 impairment after such act or omission has occurred.
33 Sec. 38. Section 490.858, subsection 3, Code 2013, is
34 amended to read as follows:
35 3. ~~A~~ Subject to subsection 1A, a corporation may, by a

S.F. 398

1 provision in its articles of incorporation, limit any of the
2 rights to indemnification or advance for expenses created by or
3 pursuant to this part.
4 Sec. 39. NEW SECTION. **490.860 Part definitions.**
5 As used in this part, unless the context otherwise requires:
6 1. *"Control"*, including the term *"controlled by"*, means any
7 of the following:
8 *a.* Having the power, directly or indirectly, to elect or
9 remove a majority of the members of the board of directors
10 or other governing body of an entity, whether through the
11 ownership of voting shares or interests, by contract, or
12 otherwise.
13 *b.* Being subject to a majority of the risk of loss from the
14 entity's activities or entitled to receive a majority of the
15 entity's residual returns.
16 2. *"Director's conflicting interest transaction"* means
17 a transaction effected or proposed to be effected by the
18 corporation, or by an entity controlled by the corporation to
19 which, or respecting which, any of the following applies:
20 *a.* To which, at the relevant time, the director is a party.
21 *b.* Respecting which, at the relevant time, the director
22 had knowledge and a material financial interest known to the
23 director.
24 *c.* Respecting which, at the relevant time, the director knew
25 that a related person was a party or had a material financial
26 interest.
27 3. *"Fair to the corporation"* means, for purposes of section
28 490.861, subsection 2, paragraph *"c"*, that the transaction
29 as a whole was beneficial to the corporation, taking into
30 appropriate account whether it was all of the following:
31 *a.* Fair in terms of the director's dealings with the
32 corporation.
33 *b.* Comparable to what might have been obtainable in an arm's
34 length transaction, given the consideration paid or received
35 by the corporation.

S.F. 398

1 4. *"Material financial interest"* means a financial interest
2 in a transaction that would reasonably be expected to impair
3 the objectivity of the director's judgment when participating
4 in action on the authorization of the transaction.
5 5. *"Related person"* means any of the following:
6 *a.* The director's spouse.
7 *b.* A child, stepchild, grandchild, parent, stepparent,
8 grandparent, sibling, step sibling, half sibling, aunt, uncle,
9 niece, or nephew, or spouse of any thereof, of the director or
10 of the director's spouse.
11 *c.* An individual living in the same home as the director.
12 *d.* An entity, other than the corporation or an entity
13 controlled by the corporation, controlled by the director or
14 any person specified in this subsection.
15 *e.* A domestic or foreign person who is any of the following:
16 (1) A business or nonprofit corporation, other than the
17 corporation or an entity controlled by the corporation, of
18 which the director is a director.
19 (2) An unincorporated entity of which the director is a
20 general partner or a member of the governing body.
21 (3) An individual, trust, or estate for whom or of which the
22 director is a trustee, guardian, personal representative, or
23 like fiduciary.
24 *f.* A person that is, or an entity that is controlled by, an
25 employer of the director.
26 6. *"Relevant time"* means any of the following:
27 *a.* The time at which directors' action respecting the
28 transaction is taken in compliance with section 490.862.
29 *b.* If the transaction is not brought before the board of
30 directors of the corporation, or its committee, for action
31 under section 490.862, at the time the corporation, or an
32 entity controlled by the corporation, becomes legally obligated
33 to consummate the transaction.
34 7. *"Required disclosure"* means disclosure of all of the
35 following:

S.F. 398

1 *a.* The existence and nature of the director's conflicting
2 interest.
3 *b.* All facts known to the director respecting the subject
4 matter of the transaction that a director free of such
5 conflicting interest would reasonably believe to be material in
6 deciding whether to proceed with the transaction.
7 Sec. 40. NEW SECTION. **490.861 Judicial action.**
8 1. A transaction effected or proposed to be effected by the
9 corporation, or by an entity controlled by the corporation,
10 shall not be the subject of equitable relief, or give rise to
11 an award of damages or other sanctions against a director of
12 the corporation, in a proceeding by a shareholder or by or in
13 the right of the corporation, on the ground that the director
14 has an interest respecting the transaction, if it is not a
15 director's conflicting interest transaction.
16 2. A director's conflicting interest transaction may
17 not be the subject of equitable relief, or give rise to an
18 award of damages or other sanctions against a director of the
19 corporation, in a proceeding by a shareholder or by or in the
20 right of the corporation, on the ground that the director has
21 an interest respecting the transaction, if any of the following
22 apply:
23 *a.* Directors' action respecting the transaction was taken in
24 compliance with section 490.862 at any time.
25 *b.* Shareholders' action respecting the transaction was taken
26 in compliance with section 490.863 at any time.
27 *c.* The transaction, judged according to the circumstances
28 at the relevant time, is established to have been fair to the
29 corporation.
30 Sec. 41. NEW SECTION. **490.862 Directors' action.**
31 1. Directors' action respecting a director's conflicting
32 interest transaction is effective for purposes of section
33 490.861, subsection 2, paragraph *"a"*, if the transaction has
34 been authorized by the affirmative vote of a majority, but
35 no fewer than two, of the qualified directors who voted on

S.F. 398

1 the transaction, after required disclosure by the conflicted
2 director of information not already known by such qualified
3 directors, or after modified disclosure in compliance with
4 subsection 2, provided that all of the following apply:
5 *a.* The qualified directors have deliberated and voted
6 outside the presence of and without the participation by any
7 other director.
8 *b.* Where the action has been taken by a committee, all
9 members of the committee were qualified directors, and any of
10 the following apply:
11 (1) The committee was composed of all the qualified
12 directors on the board of directors.
13 (2) The members of the committee were appointed by the
14 affirmative vote of a majority of the qualified directors on
15 the board.
16 2. Notwithstanding subsection 1, when a transaction is
17 a director's conflicting interest transaction only because a
18 related person described in section 490.860, subsection 5,
19 paragraph *"e"* or *"f"*, is a party to or has a material financial
20 interest in the transaction, the conflicted director is not
21 obligated to make required disclosure to the extent that the
22 director reasonably believes that doing so would violate a
23 duty imposed under law, a legally enforceable obligation of
24 confidentiality, or a professional ethics rule, provided that
25 the conflicted director discloses to the qualified directors
26 voting on the transaction all of the following:
27 *a.* All information required to be disclosed that is not so
28 violative.
29 *b.* The existence and nature of the director's conflicting
30 interest.
31 *c.* The nature of the conflicted director's duty not to
32 disclose the confidential information.
33 3. A majority, but no fewer than two, of all the qualified
34 directors on the board of directors, or on the committee,
35 constitutes a quorum for purposes of action that complies with

S.F. 398

1 this section.
2 4. Where directors' action under this section does not
3 satisfy a quorum or voting requirement applicable to the
4 authorization of the transaction by reason of the articles of
5 incorporation, the bylaws, or a provision of law, independent
6 action to satisfy those authorization requirements must be
7 taken by the board of directors or a committee, in which action
8 directors who are not qualified directors may participate.
9 Sec. 42. NEW SECTION. **490.863 Shareholders' action.**
10 1. *a.* Shareholders' action respecting a director's
11 conflicting interest transaction is effective for purposes of
12 section 490.861, subsection 2, paragraph *"b"*, if a majority of
13 the votes cast by the holders of all qualified shares are in
14 favor of the transaction after all of the following occur:
15 (1) Notice to shareholders describing the action to be taken
16 respecting the transaction.
17 (2) Provision to the corporation of the information
18 referred to in subsection 2.
19 (3) Communication to the shareholders entitled to vote
20 on the transaction of the information that is the subject of
21 required disclosure, to the extent the information is not known
22 by them.
23 *b.* In the case of shareholders' action at a meeting, the
24 shareholders entitled to vote shall be determined as of the
25 record date for notice of the meeting.
26 2. A director who has a conflicting interest respecting
27 the transaction shall, before the shareholders' vote, inform
28 the secretary or other officer or agent of the corporation
29 authorized to tabulate votes, in writing, of the number of
30 shares that the director knows are not qualified shares under
31 subsection 3, and the identity of the holders of those shares.
32 3. For purposes of this section, all of the following apply:
33 *a.* *"Holder"* means and *"held by"* refers to shares held by
34 both a record shareholder, as defined in section 490.1301,
35 subsection 7, and a beneficial shareholder, as defined in

S.F. 398

1 490.1301, subsection 2.
2 *b.* *"Qualified shares"* means all shares entitled to be
3 voted with respect to the transaction except for shares that
4 the secretary or other officer or agent of the corporation
5 authorized to tabulate votes either knows, or under subsection
6 2 is notified, are held by any of the following:
7 (1) A director who has a conflicting interest respecting the
8 transaction.
9 (2) A related person of the director, excluding a person
10 described in section 490.860, subsection 5, paragraph *"f"*.
11 4. A majority of the votes entitled to be cast by the
12 holders of all qualified shares constitutes a quorum for
13 purposes of compliance with this section. Subject to the
14 provisions of subsection 5, shareholders' action that otherwise
15 complies with this section is not affected by the presence of
16 holders, or by the voting, of shares that are not qualified
17 shares.
18 5. If a shareholders' vote does not comply with subsection
19 1 solely because of a director's failure to comply with
20 subsection 2, and if the director establishes that the failure
21 was not intended to influence and did not in fact determine the
22 outcome of the vote, the court may take such action respecting
23 the transaction and the director, and may give such effect,
24 if any, to the shareholders' vote, as the court considers
25 appropriate in the circumstances.
26 6. Where shareholders' action under this section does
27 not satisfy a quorum or voting requirement applicable to the
28 authorization of the transaction by reason of the articles of
29 incorporation, the bylaws, or a provision of law, independent
30 action to satisfy those authorization requirements must be
31 taken by the shareholders, in which action shares that are not
32 qualified shares may participate.
33 Sec. 43. Section 490.870, subsection 1, paragraphs a and b,
34 Code 2013, are amended to read as follows:
35 *a.* Action by qualified directors disclaiming the

S.F. 398

corporation's interest in the opportunity is taken in compliance with the procedures set forth in section ~~490.832~~ 490.862, as if the decision being made concerned a director's conflicting interest transaction.

b. Shareholders' action disclaiming the corporation's interest in the opportunity is taken in compliance with the procedure set forth in section ~~490.832~~ 490.863, as if the decision being made concerned a director's conflicting interest transaction; except that, rather than making the ~~disclosure~~ *"required disclosure"* as ~~required~~ defined in section ~~490.832~~ 490.860, in each case the director shall have made prior disclosure to those acting on behalf of the corporation of all material facts concerning the business opportunity that are then known to the director.

Sec. 44. Section 490.1003, subsection 2, Code 2013, is amended to read as follows:

2. *a.* Except as provided in sections 490.1005, 490.1007, and 490.1008, after adopting the proposed amendment, the board of directors must submit the amendment to the shareholders for their approval. The board of directors must also transmit to the shareholders a recommendation that the shareholders approve the amendment, unless any of the following apply:

(1) The board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation~~, in which case the~~.

(2) Section 490.826 applies.

b. If paragraph *"a"*, subparagraph (1) or (2), applies, the board ~~of directors~~ must transmit to the shareholders the basis for ~~the determination~~ so proceeding.

Sec. 45. Section 490.1104, subsection 2, Code 2013, is amended to read as follows:

2. *a.* Except as provided in subsection 7 and in section 490.1105, after adopting the plan of merger or share exchange the board of directors must submit the plan to the shareholders for their approval. The board of directors must also transmit

S.F. 398

1 to the shareholders a recommendation that the shareholders
2 approve the plan, unless ~~the~~ any of the following apply:
3 (1) The board of directors makes a determination that
4 because of conflicts of interest or other special circumstances
5 it should not make such a recommendation~~, in which case~~.
6 (2) Section 490.826 applies.
7 *b.* If paragraph "*a*", subparagraph (1) or (2), applies, the
8 board ~~of directors~~ must transmit to the shareholders the basis
9 for ~~that determination~~ so proceeding.
10 Sec. 46. Section 490.1106, subsection 1, unnumbered
11 paragraph 1, Code 2013, is amended to read as follows:
12 After a plan of merger or share exchange has been adopted
13 and approved as required by this chapter, articles of merger
14 or share exchange shall be ~~executed~~ signed on behalf of each
15 party to the merger or share exchange by any officer or other
16 duly authorized representative. The articles shall set forth
17 the following:
18 Sec. 47. Section 490.1108, subsection 2, Code 2013, is
19 amended to read as follows:
20 2. If a merger or share exchange is abandoned under
21 subsection 1 after articles of merger or share exchange have
22 been filed with the secretary of state but before the merger
23 or share exchange has become effective, a statement that the
24 merger or share exchange has been abandoned in accordance with
25 this section, ~~executed~~ signed on behalf of a party to the
26 merger or share exchange by an officer or other duly authorized
27 representative, shall be delivered to the secretary of state
28 for filing prior to the effective date of the merger or share
29 exchange. Upon filing, the statement shall take effect and the
30 merger or share exchange shall be deemed abandoned and shall
31 not become effective.
32 Sec. 48. Section 490.1202, subsection 2, Code 2013, is
33 amended to read as follows:
34 2. *a.* A disposition that requires approval of the
35 shareholders under subsection 1 shall be initiated by

S.F. 398

a resolution by the board of directors authorizing the disposition. After adoption of such a resolution, the board of directors shall submit the proposed disposition to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the proposed disposition, unless ~~the~~ any of the following apply:

(1) The board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation~~, in which case~~.

(2) Section 490.826 applies.

b. If paragraph *"a"*, subparagraph (1) or (2), applies, the board ~~of directors~~ shall transmit to the shareholders the basis for ~~that determination~~ so proceeding.

Sec. 49. Section 490.1301, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. *"Interested transaction"* means a corporate action described in section 490.1302, subsection 1, other than a merger pursuant to section 490.1105, involving an interested person in which any of the shares or assets of the corporation are being acquired or converted. As used in this definition, all of the following apply:

a. *"Beneficial owner"* means any person who, directly or indirectly, through any contract, arrangement, or understanding, other than a revocable proxy, has or shares the power to vote, or to direct the voting of, shares; except that a member of a national securities exchange is not deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person solely because the member is the record holder of the securities if the member is precluded by the rules of the exchange from voting without instruction on contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted. When two or more persons agree to act together for the purpose of voting their shares of the corporation, each

S.F. 398

1 member of the group formed thereby is deemed to have acquired
2 beneficial ownership, as of the date of the agreement, of all
3 voting shares of the corporation beneficially owned by any
4 member of the group.
5 *b. "Excluded shares"* means shares acquired pursuant to an
6 offer for all shares having voting power if the offer was made
7 within one year prior to the corporate action for consideration
8 of the same kind and of a value equal to or less than that paid
9 in connection with the corporate action.
10 *c. "Interested person"* means a person, or an affiliate of a
11 person, who at any time during the one-year period immediately
12 preceding approval by the board of directors of the corporate
13 action was or had any of the following:
14 (1) Was the beneficial owner of twenty percent or more of
15 the voting power of the corporation, other than as owner of
16 excluded shares.
17 (2) Had the power, contractually or otherwise, other than as
18 owner of excluded shares, to cause the appointment or election
19 of twenty-five percent or more of the directors to the board of
20 directors of the corporation.
21 (3) Was a senior executive or director of the corporation
22 or a senior executive of any affiliate thereof, and that
23 senior executive or director will receive, as a result of the
24 corporate action, a financial benefit not generally available
25 to other shareholders as such, other than any of the following:
26 (a) Employment, consulting, retirement, or similar benefits
27 established separately and not as part of or in contemplation
28 of the corporate action.
29 (b) Employment, consulting, retirement, or similar benefits
30 established in contemplation of, or as part of, the corporate
31 action that are not more favorable than those existing before
32 the corporate action or, if more favorable, that have been
33 approved on behalf of the corporation in the same manner as is
34 provided in section 490.862.
35 (c) In the case of a director of the corporation who will,

S.F. 398

in the corporate action, become a director of the acquiring entity in the corporate action or one of its affiliates, rights and benefits as a director that are provided on the same basis as those afforded by the acquiring entity generally to other directors of such entity or such affiliate.

Sec. 50. Section 490.1302, subsection 2, paragraph a, Code 2013, is amended by striking the paragraph and inserting in lieu thereof the following:

a. Appraisal rights shall not be available for the holders of shares of any class or series of shares which is any of the following:

(1) A covered security under section 18(b)(1)(A) or (B) of the federal Securities Act of 1933, as amended.

(2) Traded in an organized market and has at least two thousand shareholders and a market value of at least twenty million dollars, exclusive of the value of such shares held by the corporation's subsidiaries, senior executives, directors, and beneficial shareholders owning more than ten percent of such shares.

(3) Issued by an open-end management investment company registered with the United States securities and exchange commission under the federal Investment Company Act of 1940 and may be redeemed at the option of the holder at net asset value.

Sec. 51. Section 490.1302, subsection 2, paragraph b, subparagraph (1), Code 2013, is amended to read as follows:

(1) The record date fixed to determine the shareholders entitled to receive notice of~~, and to vote at,~~ the meeting of shareholders to act upon the corporate action requiring appraisal rights.

Sec. 52. Section 490.1302, subsection 2, paragraph d, Code 2013, is amended by striking the paragraph and inserting in lieu thereof the following:

d. Paragraph *"a"*, shall not be applicable and appraisal rights shall be available pursuant to subsection 1 for the holders of any class or series of shares where the corporate

S.F. 398

1 action is an interested transaction.
2 Sec. 53. Section 490.1302, subsection 2, paragraph e, Code
3 2013, is amended by striking the paragraph.
4 Sec. 54. Section 490.1302, subsection 4, Code 2013, is
5 amended by striking the subsection.
6 Sec. 55. Section 490.1320, Code 2013, is amended to read as
7 follows:
8 **490.1320 Notice of appraisal rights.**
9 1. ~~If~~ Where any proposed corporate action ~~described~~
10 specified in section 490.1302, subsection 1, is to be submitted
11 to a vote at a shareholders' meeting, the meeting notice must
12 state that the corporation has concluded that the shareholders
13 are, are not, or may be entitled to assert appraisal rights
14 under this part. If the corporation concludes that appraisal
15 rights are or may be available, a copy of this part must
16 accompany the meeting notice sent to those record shareholders
17 entitled to exercise appraisal rights.
18 2. In a merger pursuant to section 490.1105, the parent
19 corporation must notify in writing all record shareholders of
20 the subsidiary who are entitled to assert appraisal rights
21 that the corporate action became effective. Such notice must
22 be sent within ten days after the corporate action became
23 effective and include the materials described in section
24 490.1322.
25 3. Where any corporate action specified in section
26 490.1302, subsection 1, is to be approved by written consent
27 of the shareholders pursuant to section 490.704, all of the
28 following apply:
29 *a.* Written notice that appraisal rights are, are not, or may
30 be available must be sent to each record shareholder from whom
31 a consent is solicited at the time consent of such shareholder
32 is first solicited and, if the corporation has concluded that
33 appraisal rights are or may be available, must be accompanied
34 by a copy of this chapter.
35 *b.* Written notice that appraisal rights are, are not, or

S.F. 398

may be available must be delivered together with the notice to nonconsenting and nonvoting shareholders required by section 490.704, subsections 5 and 6, may include the materials described in section 490.1322 and, if the corporation has concluded that appraisal rights are or may be available, must be accompanied by a copy of this chapter.

4. Where corporate action described in section 490.1302, subsection 1, is proposed, or a merger pursuant to section 490.1105 is effected, the notice referred to in subsection 1 or 3, if the corporation concludes that appraisal rights are or may be available, and in subsection 2 shall be accompanied by all of the following:

a. The annual financial statements specified in section 490.1620, subsection 1, of the corporation that issued the shares that may be subject to appraisal, which shall be as of a date ending not more than sixteen months before the date of the notice and shall comply with section 490.1620, subsection 2; provided that, if such annual financial statements are not reasonably available, the corporation shall provide reasonably equivalent financial information.

b. The latest available quarterly financial statements of such corporation, if any.

5. The right to receive the information described in subsection 4 may be waived in writing by a shareholder before or after the corporate action.

Sec. 56. Section 490.1321, Code 2013, is amended to read as follows:

490.1321 Notice of intent to demand payment.

1. If ~~proposed~~ a corporate action ~~requiring appraisal rights under~~ specified in section 490.1302, subsection 1, is submitted to a vote at a shareholders' meeting, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares must do all of the following:

a. Deliver to the corporation before the vote is taken written notice of the shareholder's intent to demand payment if

S.F. 398

the proposed action is effectuated.

b. Not vote, or cause or permit to be voted, any shares of such class or series in favor of the proposed action.

2. If a corporate action specified in section 490.1302, subsection 1, is to be approved by less than unanimous written consent, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares must not sign a consent in favor of the proposed action with respect to that class or series of shares.

3. A shareholder who ~~does not~~ fails to satisfy the requirements of subsection 1 or 2, is not entitled to payment under this part.

Sec. 57. Section 490.1322, subsection 1, Code 2013, is amended to read as follows:

1. If proposed corporate action requiring appraisal rights under section 490.1302, subsection 1, becomes effective, the corporation must ~~deliver~~ send a written appraisal notice and the form required by subsection 2, paragraph *"a"*, to all shareholders who satisfied the requirements of section 490.1321, subsection 1, or section 490.1321, subsection 2. In the case of a merger under section 490.1105, the parent must deliver ~~a written~~ an appraisal notice and form to all record shareholders who may be entitled to assert appraisal rights.

Sec. 58. Section 490.1322, subsection 2, unnumbered paragraph 1, Code 2013, is amended to read as follows:

The appraisal notice must be ~~sent~~ delivered no earlier than the date the corporate action specified in section 490.1302, subsection 1, became effective and no later than ten days after such date and must do all of the following:

Sec. 59. Section 490.1322, subsection 2, paragraph a, Code 2013, is amended to read as follows:

a. ~~Be accompanied by~~ Supply a form that ~~specifies~~ does all of the following:

(1) Specifies the first date of any announcement to shareholders made prior to the date the corporate action became

S.F. 398

effective of the ~~first announcement to shareholders of the~~ principal terms of the proposed corporate action ~~and requires~~, if any.

(2) If such announcement was made, requires the shareholder asserting appraisal rights to certify whether beneficial ownership of those shares for which appraisal rights are asserted was acquired before that date.

(3) Requires the shareholder asserting appraisal rights to certify ~~whether or not beneficial ownership of those shares for which appraisal rights are asserted was acquired before that date, and~~ that ~~the~~ such shareholder did not vote for or consent to the transaction.

Sec. 60. Section 490.1322, subsection 2, paragraph b, subparagraph (2), Code 2013, is amended to read as follows:

(2) A date by which the corporation must receive the form, which date shall not be fewer than forty nor more than sixty days after the date the appraisal notice ~~and form are~~ is sent under subsection 1, and state that the shareholder shall have waived the right to demand appraisal with respect to the shares unless the form is received by the corporation by such specified date.

Sec. 61. Section 490.1323, subsections 1 and 3, Code 2013, are amended to read as follows:

1. A shareholder who receives notice pursuant to section 490.1322 and who wishes to exercise appraisal rights must ~~certify on~~ sign and return the form sent by the corporation and, in the case of certificated shares, deposit the shareholder's certificates in accordance with the terms of the notice by the date referred to in the notice pursuant to section 490.1322, subsection 2, paragraph "*b*", subparagraph (2). In addition, if applicable, the shareholder must certify on the form whether the beneficial owner of such shares acquired beneficial ownership of the shares before the date required to be set forth in the notice pursuant to section 490.1322, subsection 2, paragraph "*a*". If a shareholder fails

S.F. 398

to make this certification, the corporation may elect to treat the shareholder's shares as after-acquired shares under section 490.1325. In addition, a shareholder who wishes to exercise appraisal rights must execute and return the form and, in a case of certificated shares, deposit the shareholder's certificates in accordance with the terms of the notice by the date referred to in the notice pursuant to section 490.1322, subsection 2, paragraph "*b*", subparagraph (2). Once a shareholder deposits that shareholder's certificates or, in the case of uncertificated shares, returns the ~~executed~~ signed forms, that shareholder loses all rights as a shareholder, unless the shareholder withdraws pursuant to subsection 2.

3. A shareholder who does not ~~execute~~ sign and return the form and, in the case of certificated shares, deposit the shareholder's share certificates where required, each by the date set forth in the notice described in section 490.1322, subsection 2, shall not be entitled to payment under this division.

Sec. 62. Section 490.1324, subsection 2, paragraph a, Code 2013, is amended to read as follows:

a. (1) ~~Financial~~ The annual financial statements specified in section 490.1620, subsection 1, of the corporation that issued the shares to be appraised, ~~consisting of a balance sheet as of the end of a fiscal year~~ which shall be of a date ending not more than sixteen months before the date of payment~~,~~ ~~an income statement for that year, a statement of changes in shareholders' equity for that year,~~ and ~~the~~ shall comply with section 490.1620, subsection 2; provided that, if such annual financial statements are not reasonably available, the corporation shall provide reasonably equivalent financial information.

(2) The latest available ~~interim~~ quarterly financial statements of such corporation, if any.

Sec. 63. Section 490.1325, subsection 1, Code 2013, is amended to read as follows:

S.F. 398

1 1. A corporation may elect to withhold payment required
2 by section 490.1324 from any shareholder who was required to,
3 but did not certify that beneficial ownership of all of the
4 shareholder's shares for which appraisal rights are asserted
5 was acquired before the date set forth in the appraisal notice
6 sent pursuant to section 490.1322, subsection 2, paragraph *"a"*.
7 Sec. 64. Section 490.1331, Code 2013, is amended to read as
8 follows:
9 **490.1331 Court costs and ~~counsel fees~~ expenses.**
10 1. The court in an appraisal proceeding commenced under
11 section 490.1330 shall determine all court costs of the
12 proceeding, including the reasonable compensation and expenses
13 of appraisers appointed by the court. The court shall assess
14 the court costs against the corporation, except that the court
15 may assess court costs against all or some of the shareholders
16 demanding appraisal, in amounts the court finds equitable, to
17 the extent the court finds such shareholders acted arbitrarily,
18 vexatiously, or not in good faith with respect to the rights
19 provided by this division.
20 2. The court in an appraisal proceeding may also assess the
21 ~~fees and~~ expenses ~~of counsel and experts~~ for the respective
22 parties, in amounts the court finds equitable, for ~~either~~ any
23 of the following:
24 *a.* Against the corporation and in favor of any or all
25 shareholders demanding appraisal if the court finds the
26 corporation did not substantially comply with the requirements
27 of section 490.1320, 490.1322, 490.1324, or 490.1325.
28 *b.* Against either the corporation or a shareholder demanding
29 appraisal, in favor of any other party, if the court finds that
30 the party against whom the ~~fees and~~ expenses are assessed acted
31 arbitrarily, vexatiously, or not in good faith with respect to
32 the rights provided by this chapter.
33 3. If the court in an appraisal proceeding finds that the
34 ~~services of counsel for~~ expenses incurred by any shareholder
35 were of substantial benefit to other shareholders similarly

S.F. 398

1 situated, and that ~~the fees for those services~~ such expenses
2 should not be assessed against the corporation, the court may
3 ~~award to such counsel reasonable fees to~~ direct that such
4 expenses be paid out of the amounts awarded the shareholders
5 who were benefited.
6 4. To the extent the corporation fails to make a required
7 payment pursuant to section 490.1324, 490.1325, or 490.1326,
8 the shareholder may sue directly for the amount owed and, to
9 the extent successful, shall be entitled to recover from the
10 corporation ~~all costs and~~ expenses of the suit~~, including~~
11 ~~counsel fees~~.
12 Sec. 65. NEW SECTION. **490.1340 Other remedies limited.**
13 1. The legality of a proposed or completed corporate
14 action described in section 490.1302, subsection 1, shall not
15 be contested, nor may the corporate action be enjoined, set
16 aside, or rescinded, in a legal or equitable proceeding by a
17 shareholder after the shareholders have approved the corporate
18 action.
19 2. Subsection 1 does not apply to a corporate action that
20 meets any of the following conditions:
21 *a.* Was not authorized and approved in accordance with the
22 applicable provisions of any of the following:
23 (1) Division X, XI, or XII of this chapter.
24 (2) The articles of incorporation or bylaws.
25 (3) The resolution of the board of directors authorizing the
26 corporate action.
27 *b.* Was procured as a result of fraud, a material
28 misrepresentation, or an omission of a material fact necessary
29 to make statements made, in light of the circumstances in which
30 they were made, not misleading.
31 *c.* Is an interested transaction, unless it has been
32 recommended by the board of directors in the same manner as
33 is provided in section 490.862 and has been approved by the
34 shareholders in the same manner as is provided in section
35 490.863 as if the interested transaction were a director's

S.F. 398

1 conflicting interest transaction.
2 *d.* Is approved by less than unanimous consent of the
3 voting shareholders pursuant to section 490.704, if all of the
4 following apply:
5 (1) The challenge to the corporate action is brought by a
6 shareholder who did not consent and as to whom notice of the
7 approval of the corporate action was not effective at least ten
8 days before the corporate action was effected.
9 (2) The proceeding challenging the corporate action is
10 commenced within ten days after notice of the approval of the
11 corporate action is effective as to the shareholder bringing
12 the proceeding.
13 Sec. 66. Section 490.1402, subsection 2, paragraph a, Code
14 2013, is amended to read as follows:
15 *a.* (1) The board of directors must recommend dissolution to
16 the shareholders unless ~~the~~ any of the following apply:
17 (a) The board of directors determines that because of
18 conflict of interest or other special circumstances it should
19 make no recommendation ~~and communicates~~.
20 (b) Section 490.826 applies.
21 (2) If paragraph *"a"*, subparagraph (1) or (2), applies,
22 it must communicate the basis for ~~its determination to the~~
23 ~~shareholders~~ so proceeding.
24 Sec. 67. Section 490.1430, Code 2013, is amended to read as
25 follows:
26 **490.1430 Grounds for judicial dissolution.**
27 1. The district court may dissolve a corporation in any of
28 the following ways:
29 ~~1.~~ *a.* A proceeding by the attorney general, if it is
30 established that ~~either~~ any of the following apply:
31 ~~*a.*~~ (1) The corporation obtained its articles of
32 incorporation through fraud.
33 ~~*b.*~~ (2) The corporation has continued to exceed or abuse the
34 authority conferred upon it by law.
35 ~~2.~~ *b.* A proceeding by a shareholder if it is established

S.F. 398

1 that any of the following conditions exist:
2 ~~a.~~ (1) The directors are deadlocked in the management of
3 the corporate affairs, the shareholders are unable to break the
4 deadlock, and either irreparable injury to the corporation is
5 threatened or being suffered, or the business and affairs of
6 the corporation can no longer be conducted to the advantage of
7 the shareholders generally, because of the deadlock.
8 ~~b.~~ (2) The directors or those in control of the corporation
9 have acted, are acting, or will act in a manner that is
10 illegal, oppressive, or fraudulent.
11 ~~c.~~ (3) The shareholders are deadlocked in voting power
12 and have failed, for a period that includes at least two
13 consecutive annual meeting dates, to elect successors to
14 directors whose terms have expired.
15 ~~d.~~ (4) The corporate assets are being misapplied or wasted.
16 ~~3.~~ *c.* A proceeding by a creditor if it is established that
17 ~~either~~ any of the following apply:
18 ~~a.~~ (1) The creditor's claim has been reduced to judgment,
19 the execution on the judgment returned unsatisfied, and the
20 corporation is insolvent.
21 ~~b.~~ (2) The corporation has admitted in writing that the
22 creditor's claim is due and owing and the corporation is
23 insolvent.
24 ~~4.~~ *d.* A proceeding by the corporation to have its voluntary
25 dissolution continued under court supervision.
26 *e.* A proceeding by a shareholder if the corporation has
27 abandoned its business and has failed within a reasonable time
28 to liquidate and distribute its assets and dissolve.
29 2. Subsection 1, paragraph "*b*", shall not apply in the
30 case of a corporation that, on the date of the filing of the
31 proceeding, has shares which are any of the following:
32 *a.* Listed on the New York stock exchange, the American stock
33 exchange, or on any exchange owned or operated by the NASDAQ
34 stock market, l.l.c., or listed or quoted on a system owned or
35 operated by the national association of securities dealers,

S.F. 398

1 inc.
2 *b.* Not so listed or quoted, but are held by at least three
3 hundred shareholders and the shares outstanding have a market
4 value of at least twenty million dollars, exclusive of the
5 value of such shares held by the corporation's subsidiaries,
6 senior executives, directors, and beneficial shareholders
7 owning more than ten percent of such shares.
8 3. As used in this section, *"beneficial shareholder"* has the
9 meaning specified in section 490.1301, subsection 2.
10 Sec. 68. Section 490.1431, subsection 4, Code 2013, is
11 amended to read as follows:
12 4. Within ten days of the commencement of a proceeding
13 ~~under section 490.1430, subsection 2,~~ to dissolve a corporation
14 ~~that has no shares listed on a national securities exchange or~~
15 ~~regularly traded in a market maintained by one or more members~~
16 ~~of a national securities exchange~~ under section 490.1430,
17 subsection 1, paragraph *"b"*, the corporation must send to all
18 shareholders, other than the petitioner, a notice stating that
19 the shareholders are entitled to avoid the dissolution of the
20 corporation by electing to purchase the petitioner's shares
21 under section 490.1434, and a copy of section 490.1434.
22 Sec. 69. Section 490.1432, subsections 1 and 5, Code 2013,
23 are amended to read as follows:
24 1. ~~A~~ Unless an election to purchase has been filed under
25 section 490.1434, a court in a judicial proceeding brought to
26 dissolve a corporation may appoint one or more receivers to
27 wind up and liquidate, or one or more custodians to manage,
28 the business and affairs of the corporation. The court shall
29 hold a hearing, after notifying all parties to the proceeding
30 and any interested persons designated by the court, before
31 appointing a receiver or custodian. The court appointing a
32 receiver or custodian has ~~exclusive~~ jurisdiction over the
33 corporation and all its property wherever located.
34 5. The court from time to time during the receivership
35 or custodianship may order compensation paid and ~~expense~~

S.F. 398

1 ~~disbursements or reimbursements made~~ expenses paid or
2 reimbursed to the receiver or custodian ~~and the receiver's~~
3 ~~or custodian's counsel~~ from the assets of the corporation or
4 proceeds from the sale of the assets.
5 Sec. 70. Section 490.1434, subsections 1, 2, 4, and 5, Code
6 2013, are amended to read as follows:
7 1. In a proceeding under section 490.1430, subsection ~~2~~ 1,
8 paragraph *"b"*, to dissolve a corporation ~~that has no shares~~
9 ~~listed on a national securities exchange or regularly traded~~
10 ~~in a market maintained by one or more members of a national or~~
11 ~~affiliated securities association~~, the corporation may elect
12 or, if it fails to elect, one or more shareholders may elect to
13 purchase all shares owned by the petitioning shareholder at the
14 fair value of the shares. An election pursuant to this section
15 shall be irrevocable unless the court determines that it is
16 equitable to set aside or modify the election.
17 2. An election to purchase pursuant to this section may
18 be filed with the court at any time within ninety days after
19 the filing of the petition under section 490.1430, subsection
20 ~~2~~ 1, paragraph *"b"*, or at such later time as the court in its
21 discretion may allow. If the election to purchase is filed
22 by one or more shareholders, the corporation shall, within
23 ten days thereafter, give written notice to all shareholders,
24 other than the petitioner. The notice must state the name
25 and number of shares owned by the petitioner and the name and
26 number of shares owned by each electing shareholder and must
27 advise the recipients of their right to join the election to
28 purchase shares in accordance with this section. Shareholders
29 who wish to participate must file notice of their intention
30 to join in the purchase no later than thirty days after
31 the effective date of the notice to them. All shareholders
32 who have filed an election or notice of their intention to
33 participate in the election to purchase thereby become parties
34 to the proceeding and shall participate in the purchase in
35 proportion to their ownership of shares as of the date the

S.F. 398

first election was filed, unless they otherwise agree or the court otherwise directs. After an election has been filed by the corporation or one or more shareholders, the proceeding under section 490.1430, subsection ~~2~~ 1, paragraph "b", shall not be discontinued or settled, nor shall the petitioning shareholder sell or otherwise dispose of the shareholder's shares, unless the court determines that it would be equitable to the corporation and the shareholders, other than the petitioner, to permit such discontinuance, settlement, sale, or other disposition.

4. If the parties are unable to reach an agreement as provided for in subsection 3, the court, upon application of any party, shall stay the section 490.1430, subsection ~~2~~ 1, paragraph "b", proceedings and determine the fair value of the petitioner's shares as of the day before the date on which the petition under section 490.1430, subsection ~~2~~ 1, paragraph "b", was filed or as of such other date as the court deems appropriate under the circumstances.

5. Upon determining the fair value of the shares, the court shall enter an order directing the purchase upon such terms and conditions as the court deems appropriate, which may include payment of the purchase price in installments, where necessary in the interests of equity, provision for security to assure payment of the purchase price and any additional costs, fees, and expenses as may have been awarded, and, if the shares are to be purchased by shareholders, the allocation of shares among them. In allocating petitioner's shares among holders of different classes of shares, the court shall attempt to preserve the existing distribution of voting rights among holders of different classes insofar as practicable and may direct that holders of a specific class or classes shall not participate in the purchase. Interest may be allowed at the rate and from the date determined by the court to be equitable, but if the court finds that the refusal of the petitioning shareholder to accept an offer of payment was arbitrary or

S.F. 398

otherwise not in good faith, no interest shall be allowed. If the court finds that the petitioning shareholder has probable grounds for relief under section 490.1430, subsection ~~2~~ 1, paragraph *"b"* ~~or *"d"*~~, subparagraph (2) or (4), it may award to the petitioning shareholder reasonable fees and expenses of counsel and of any experts employed by the shareholder.

Sec. 71. Section 490.1508, subsection 2, Code 2013, is amended to read as follows:

2. If ~~a registered agent changes~~ the street address of ~~the~~ a registered agent's business office changes, the ~~registered~~ agent may change the street address of the registered office of any foreign corporation for which the ~~agent~~ person is the registered agent by notifying the corporation in writing of the change, and signing~~, either manually or in facsimile,~~ and delivering to the secretary of state for filing a statement of change that complies with the requirements of subsection 1 and recites that the corporation has been notified of the change.

Sec. 72. NEW SECTION. **490.1523 Transfer of authority.**

1. A foreign business corporation authorized to transact business in this state that converts to a foreign nonprofit corporation or to any form of foreign unincorporated entity that is required to obtain a certificate of authority or make a similar type of filing with the secretary of state if it transacts business in this state shall file with the secretary of state an application for transfer of authority signed by any officer or other duly authorized representative. The application shall set forth all of the following:

a. The name of the corporation.

b. The type of unincorporated entity to which it has been converted and the jurisdiction whose laws govern its internal affairs.

c. Any other information that would be required in a filing under the laws of this state by an unincorporated entity of the type the corporation has become seeking authority to transact business in this state.

S.F. 398

2. The application for transfer of authority shall be delivered to the secretary of state for filing and shall take effect at the effective time provided in section 490.123.

3. Upon the effectiveness of the application for transfer of authority, the authority of the corporation under this chapter to transact business in this state shall be transferred without interruption to the converted entity which shall thereafter hold such authority subject to the provisions of the laws of this state applicable to that type of unincorporated entity.

Sec. 73. Section 490.1601, subsection 4, Code 2013, is amended to read as follows:

4. A corporation shall maintain its records in ~~written~~ the form of a document, including an electronic record, or in another form capable of conversion into ~~written~~ paper form within a reasonable time.

Sec. 74. Section 490.1602, Code 2013, is amended to read as follows:

490.1602 Inspection of records by shareholders.

1. A shareholder of a corporation is entitled to inspect and copy, during regular business hours at the corporation's principal office, any of the records of the corporation described in section 490.1601, subsection 5, if the shareholder gives the corporation signed written notice of the shareholder's demand at least five business days before the date on which the shareholder wishes to inspect and copy.

2. For any meeting of shareholders for which the record date for determining shareholders entitled to vote at the meeting is different than the record date for notice of the meeting, any person who becomes a shareholder subsequent to the record date for notice of the meeting and is entitled to vote at the meeting is entitled to obtain from the corporation upon request the notice and any other information provided by the corporation to shareholders in connection with the meeting, unless the corporation has made such information generally available to shareholders by posting it on its internet site or

S.F. 398

by other generally recognized means. Failure of a corporation to provide such information does not affect the validity of action taken at the meeting.

3. A shareholder of a corporation is entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the shareholder meets the requirements of subsection ~~3~~ 4 and gives the corporation a signed written notice of the shareholder's demand at least five business days before the date on which the shareholder wishes to inspect and copy any of the following:

a. Excerpts from minutes of any meeting of the board of directors~~, records of any action of~~ or a committee of the board of directors while acting in place of the board of directors on behalf of the corporation, minutes of any meeting of the shareholders, and records of action taken by the shareholders, ~~or~~ board of directors, or a committee of the board without a meeting, to the extent not subject to inspection under subsection 1 ~~of this section~~.

b. Accounting records of the corporation.

c. The record of shareholders.

~~3.~~ 4. A shareholder may inspect and copy the records described in subsection ~~2~~ 3 only if all of the following apply:

a. The shareholder's demand is made in good faith and for a proper purpose.

b. The shareholder describes with reasonable particularity the shareholder's purpose and the records the shareholder desires to inspect.

c. The records are directly connected with the shareholder's purpose.

~~4.~~ 5. The right of inspection granted by this section shall not be abolished or limited by a corporation's articles of incorporation or bylaws.

~~5.~~ 6. This section does not affect ~~either~~ any of the following:

S.F. 398

a. The right of a shareholder to inspect records under section 490.720 or, if the shareholder is in litigation with the corporation, to the same extent as any other litigant.

b. The power of a court, independently of this chapter, to compel the production of corporate records for examination.

7. For purposes of this section, *"shareholder"* includes a beneficial owner whose shares are held in a voting trust or by a nominee on the shareholder's behalf.

Sec. 75. Section 490.1603, subsection 3, Code 2013, is amended to read as follows:

3. The corporation may comply at its expense with a shareholder's demand to inspect the record of shareholders under section 490.1602~~, subsection 2, paragraph *"c"*,~~ by providing the shareholder with a list of shareholders that was compiled no earlier than the date of the shareholder's demand.

Sec. 76. Section 490.1604, subsection 2, Code 2013, is amended to read as follows:

2. If a corporation does not within a reasonable time allow a shareholder to inspect and copy any other records, the shareholder who complies with section 490.1602~~, subsections 2 and 3~~ may apply to the district court in the county where the corporation's principal office or, if none in this state, its registered office is located for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

Sec. 77. Section 490.1606, subsection 1, Code 2013, is amended to read as follows:

1. Whenever notice ~~is~~ would otherwise be required to be given under any provision of this chapter to ~~any~~ a shareholder, such notice ~~shall~~ need not be ~~required to be~~ given if ~~either~~ any of the following ~~applies~~ apply:

a. ~~Notice~~ Notices to the shareholders of two consecutive annual meetings, and all notices of meetings during the period between such two consecutive annual meetings, have been sent to such shareholder at such shareholder's address as shown on the

S.F. 398

1 records of the corporation and have been returned undeliverable
2 or could not be delivered.
3 *b.* All, but not less than two, payments of dividends on
4 securities during a twelve-month period, or two consecutive
5 payments of dividends on securities during a period of more
6 than twelve months, have been sent to such shareholder at
7 such shareholder's address as shown on the records of the
8 corporation and have been returned undeliverable or could not
9 be delivered.
10 Sec. 78. Section 490.1620, Code 2013, is amended by striking
11 the section and inserting in lieu thereof the following:
12 **490.1620 Financial statements for shareholders.**
13 1. A corporation shall deliver to its shareholders
14 annual financial statements, which may be consolidated or
15 combined statements of the corporation and one or more of its
16 subsidiaries, as appropriate, that include a balance sheet as
17 of the end of the fiscal year, an income statement for that
18 year, and a statement of changes in shareholders' equity for
19 the year unless that information appears elsewhere in the
20 financial statements. If financial statements are prepared for
21 the corporation on the basis of generally accepted accounting
22 principles, the annual financial statements must also be
23 prepared on that basis.
24 2. If the annual financial statements are reported upon by a
25 public accountant, the report must accompany them. If not, the
26 statements must be accompanied by a statement of the president
27 or the person responsible for the corporation's accounting
28 records which does all of the following:
29 *a.* States such person's reasonable belief whether the
30 statements were prepared on the basis of generally accepted
31 accounting principles and, if not, describing the basis of
32 preparation.
33 *b.* Describes any respects in which the statements were
34 not prepared on a basis of accounting consistent with the
35 statements prepared for the preceding year.

S.F. 398

1 3. Within one hundred twenty days after the close of each
2 fiscal year, the corporation shall send the annual financial
3 statements to each shareholder. Thereafter, on written
4 request from a shareholder to whom the statements were not
5 sent, the corporation shall send the shareholder the latest
6 financial statements. A public corporation may fulfill its
7 responsibilities under this section by delivering the specified
8 financial statements, or otherwise making them available, in
9 any manner permitted by the applicable rules and regulations of
10 the United States securities and exchange commission.
11 Sec. 79. Section 490.1703, Code 2013, is amended by adding
12 the following new subsection:
13 NEW SUBSECTION. 3. In the event that any provision of this
14 chapter is deemed to modify, limit, or supersede the federal
15 Electronic Signatures in Global and National Commerce Act, 15
16 U.S.C. § 7001 et seq., the provisions of this chapter shall
17 control to the maximum extent permitted by section 102(a)(2) of
18 that federal Act.
19 Sec. 80. REPEAL. Section 490.832, Code 2013, is repealed.
20 Sec. 81. EFFECTIVE DATE. This division of this Act takes
21 effect January 1, 2014.
22 DIVISION II
23 FUTURE PROVISIONS
24 Sec. 82. Section 490.140, subsection 21A, Code 2013, is
25 amended by striking the subsection and inserting in lieu
26 thereof the following:
27 21A. *"Public corporation"* means a corporation that
28 has a class of voting stock that is listed on a national
29 securities exchange or held of record by more than two thousand
30 shareholders.
31 Sec. 83. Section 490.732, subsection 4, Code 2013, is
32 amended by striking the subsection and inserting in lieu
33 thereof the following:
34 4. An agreement authorized by this section shall cease to be
35 effective when the corporation becomes a public corporation.

S.F. 398

1 If the agreement ceases to be effective for any reason, the
2 board of directors may, if the agreement is contained or
3 referred to in the corporation's articles of incorporation or
4 bylaws, adopt an amendment to the articles of incorporation or
5 bylaws, without shareholder action, to delete the agreement and
6 any references to it.
7 Sec. 84. EFFECTIVE DATE. This division of this Act takes
8 effect upon the repeal of 2011 Iowa Acts, chapter 2, as
9 provided in section 9, subsection 1, of that Act.
10 EXPLANATION
11 BACKGROUND. The "Iowa Business Corporation Act" (Code
12 chapter 490), a model Act adopted by the American Bar
13 Association, governs the requirements for the creation,
14 organization, and operation of corporations and the
15 relationship between shareholders, directors, and officers of
16 the corporation. Generally, the Act's provisions establish
17 default requirements and procedures which may be modified by a
18 corporation's articles of incorporation or bylaws.
19 PUBLIC CORPORATIONS. A public corporation is a corporation
20 that has a class of voting stock that is listed on a national
21 securities exchange or held of record by more than 2,000
22 shareholders (Code section 490.140). The bill amends the
23 definition to eliminate the reference to a class of shares
24 or number of shareholders. It provides that a corporation
25 is public if traded in a market maintained by a member of
26 the national securities association. The bill also amends
27 a provision regulating shareholder agreements that govern a
28 corporation's corporate affairs including by eliminating or
29 restricting the powers of its board of directors (Code section
30 490.732). Specifically, the bill provides that a shareholder
31 agreement is automatically terminated when the corporation
32 becomes public. These provisions take effect January 1, 2015.
33 NOTICES, DOCUMENTS, AND COMMUNICATION. A notice must be
34 in writing unless oral notice is reasonable (Code section
35 490.141). The bill requires that notices be in English.

S.F. 398

1 It provides for the electronic transmission and receipt
2 and acknowledgment of information. The bill replaces the
3 requirement that documents be executed with a requirement
4 that they be signed, including documents associated with
5 the adoption or abandonment of articles of merger or share
6 exchange (Code sections 490.1106 and 490.1108). The bill also
7 authorizes a corporation to keep its records in an electronic
8 form so long as it can be converted into a paper form (Code
9 section 490.1601). The corporation is required to deliver a
10 written notice, report, or statement to shareholders who share
11 a common address, complies with delivery requirements, by
12 delivering to that address, unless a shareholder makes a timely
13 objection (Code section 490.144).
14 QUALIFIED DIRECTORS. In a number of circumstances a
15 director must be considered "disinterested" when taking an
16 action affecting the welfare of the corporation. The bill
17 eliminates the term "disinterested" and replaces it with
18 "qualified" (Code section 490.143; see Code sections 490.853
19 and 490.855). The bill requires a director to be qualified
20 under different circumstances which may involve board action
21 or court proceedings. For purposes of dismissing a derivative
22 proceeding by a court based on a good-faith determination of
23 directors (Code section 490.744), directors are qualified if
24 they do not have a material interest in the outcome of the
25 proceeding or a material relationship with a person who has
26 such an interest. For purposes of advancing expenses to a
27 board member before the disposition of a case (Code section
28 490.853) or later indemnifying a director (Code section
29 490.855), the authorization must be made by directors who are
30 qualified because they are not parties to the proceeding, do
31 not have a conflicting interest in the related transaction,
32 and do not have a material relationship with a director
33 who is a party or has a conflicting interest. For purposes
34 of voting to excuse a director from a conflicting interest
35 transaction (Code section 490.862), the vote must be taken

S.F. 398

1 by directors who are qualified because they do not have a
2 conflict or have a material relationship with the director who
3 does have a conflict. For purposes of determining whether a
4 director may take advantage of a business opportunity because
5 other directors disclaimed the corporation's interest in the
6 opportunity (Code section 490.870), the directors are qualified
7 if the business opportunity was a conflicting interest
8 transaction for those directors.
9 DIRECTORS AND OFFICERS — FUNCTIONS AND DUTIES. Generally,
10 a corporation must have a board of directors, unless dispensed
11 with pursuant to a shareholder agreement (Code sections 490.801
12 and 490.732). The bill provides that the business affairs of a
13 corporation may be subject to the directors' oversight rather
14 than direct management. It authorizes a corporate officer to
15 designate recipients of compensation awards (e.g., rights,
16 options, or warrants associated with shares) (Code section
17 490.624). The bill substitutes the term "functions" in lieu
18 of "duties" in some places when referring to an officer's
19 obligations (Code section 490.841).
20 SHAREHOLDER MEETINGS — WRITTEN CONSENT IN LIEU OF HOLDING
21 MEETINGS. Shareholders are allowed to act by written consent
22 without holding a meeting if the action is taken by unanimous
23 written consent (Code section 490.704). The bill provides that
24 except for a public corporation, a corporation's articles of
25 incorporation may provide for shareholder action by less than
26 unanimous written consent, if a written consent is signed by
27 shareholders having the minimum number of votes that would
28 be required to authorize the action at a shareholder meeting
29 assuming that all shareholders entitled to vote were present.
30 It creates a corresponding exception to the requirement
31 that a corporation must hold at least one annual shareholder
32 meeting, presumably to elect directors (Code sections 490.701
33 and 490.803), by providing that the annual meeting is not
34 necessary when directors are elected by the written consent of
35 shareholders. The bill also provides a number of procedures

S.F. 398

1 for providing notice to shareholders and tabulating written
2 consents delivered to the corporation.
3 SHAREHOLDER MEETING — RECORD DATE. A corporation
4 establishes procedures for providing notice to and voting by
5 shareholders at a meeting (or by written consent) according to
6 a record date. The record date determines both shareholders
7 who are entitled to notice of the meeting and to vote at
8 the meeting. The catch-all provision states that the record
9 date is the date before notice is mailed to a voting group or
10 shareholders (Code section 490.705), although a record date
11 may be established by court order (Code section 490.703) or
12 according to the corporation's bylaws or board of directors
13 (Code section 490.707). The bill provides that there may be
14 more than one record date. According to the bill, the record
15 date for a shareholder meeting may be established by the
16 corporation's bylaws or by the board unless the board provides
17 a different date to determine shareholders entitled to vote at
18 the meeting (Code section 490.707). The bill provides that
19 the corporation may be required to provide a list of names of
20 shareholders entitled to vote at the meeting, to be available
21 for inspection (Code section 490.720). The record date is
22 also used to determine when appraisal rights of shareholders
23 apply (Code section 490.1302). The bill requires shareholders'
24 appraisal rights to be triggered on the record date by tying
25 it only to when a shareholder is entitled to receive notice
26 and not when entitled to vote on the matter. The bill also
27 provides that the board may fix a record date for determining
28 when a shareholder is entitled to vote that is different than
29 the record date for determining when a shareholder is entitled
30 to notice of the meeting. A person who becomes a shareholder
31 after the record date for the notice, and is otherwise entitled
32 to vote at the meeting, may obtain the notice and other
33 information provided to the shareholders in preparation for the
34 meeting (Code sections 490.1602 and 490.1606).
35 SHAREHOLDER MEETINGS — REMOTE PARTICIPATION. The bill

S.F. 398

1 authorizes shareholders to participate in a meeting of
2 shareholders by means of remote communication to the extent
3 approved by the board (Code section 490.709).
4 ELECTIONS AND VOTING — CUMULATIVE VOTING. Generally,
5 directors are elected by a plurality of votes cast unless the
6 corporation's articles of incorporation provide for cumulative
7 voting allowing shareholders to cast all their votes for a
8 single candidate (Code section 490.728). The bill provides
9 that shareholders otherwise entitled to vote cumulatively
10 cannot so vote unless the meeting notice authorizes it, or a
11 shareholder who has that right gives notice to the corporation
12 before the meeting.
13 LEGAL PROCEEDING — DERIVATIVE ACTIONS. As a result of a
14 derivative action, the court may order a corporation to pay
15 the plaintiff's expenses (defined in Code section 490.140)
16 if the court determines that the proceeding has resulted in
17 substantial benefit to the corporation and alternatively may
18 order the plaintiff to pay the defendant's expenses if it
19 finds the proceeding was commenced without reasonable cause
20 or for an improper purpose (Code section 490.746). The bill
21 eliminates the court's statutory authority to order the payment
22 of attorney fees.
23 PROCEEDINGS — COURT APPOINTMENT OF A CUSTODIAN OR RECEIVER.
24 The bill provides that a shareholder may obtain relief from a
25 court, due to an injury suffered by the corporation due to the
26 action or inaction of the board (through deadlock or fraud) or
27 because the corporation is insolvent (Code section 490.748).
28 The custodian or receiver appointed by the court has all
29 authority to manage the corporation as provided by court order.
30 DIRECTOR RESIGNATION. The bill provides for when a
31 director's resignation takes effect, including upon the
32 happening of a specific event (Code section 490.807). It also
33 provides that a director's resignation may be made irrevocable,
34 if it is conditioned upon the failure to receive a specified
35 vote as a director.

S.F. 398

1 ELECTIONS AND VOTING. The bill also provides that in the
2 case of a director's vacancy, where a director was elected
3 by a voting group of shareholders, and the vacancy is to be
4 filled by the remaining directors, only directors elected by
5 that voting group may vote to fill the vacancy (Code section
6 490.810).
7 RIGHT OF SHAREHOLDERS TO VOTE. The bill provides that a
8 corporation may agree to submit a matter to a vote of its
9 shareholders even if the board determines not to recommend
10 the matter (Code section 490.826). It expressly authorizes
11 such vote on an amendment to the corporation's articles of
12 incorporation (Code section 490.1003), an action on a plan of
13 merger or share exchange (Code section 490.1104), the approval
14 of a plan of merger or share exchange (Code section 490.1106),
15 and the dissolution of the corporation (Code section 490.1402).
16 PROCEEDINGS — ADVANCING FUNDS TO A DIRECTOR OR INDEMNIFYING
17 A DIRECTOR FOR EXPENSES. A corporation may advance funds to a
18 director or indemnify the director for legal expenses incurred
19 in the course of a director's defense of an act or omission
20 (Code sections 490.850, 490.853, 490.855, and 490.858). The
21 bill provides that in the case of advances, writings required
22 to be submitted to the board (e.g., an affirmation that the
23 director acted in compliance with applicable standards of
24 conduct or a promise to repay advanced funds) must be in
25 writing (Code section 490.853). It also provides that when
26 the board authorizes an advance or indemnification, the voting
27 directors must be qualified rather than disinterested (Code
28 sections 490.853 and 490.854). Finally, the bill provides that
29 the defending director's right to an advance or indemnification
30 in effect prior to the director's act or omission cannot be
31 eliminated or impaired after the conduct occurred, unless that
32 right was expressly qualified in the authorization (i.e., in
33 the articles of incorporation, bylaws, or board's resolution)
34 (Code section 490.858).
35 DIRECTOR'S CONFLICT OF INTEREST — GENERAL. Generally, a

S.F. 398

1 director is prohibited from taking action on a matter which
2 would be detrimental to the interests of the corporation. The
3 bill replaces the current provision addressing a director's
4 conflict of interest (Code section 490.832) with four
5 provisions (Code sections 490.860 through 490.863) that
6 govern conflicting interest transactions. In order to be so
7 classified, a transaction must be effectuated or proposed to
8 be effectuated by the corporation or an entity controlled
9 by the corporation. In addition, the director must be in a
10 special position to take personal advantage of the transaction,
11 as a party to the transaction or by virtue of the fact that
12 the director, or a related person, has a material financial
13 interest in the transaction. The bill provides that a director
14 is related to a person if the person is a close family member,
15 an individual who lives in the same home, or another entity
16 controlled by the director. The bill provides that in order
17 for a court to invalidate a transaction or otherwise provide a
18 legal or equitable remedy, such conduct must fall within the
19 statutory parameters (Code section 490.861). The definition
20 of "director's conflicting interest transaction" requires
21 knowledge of the transaction, except where the director is a
22 party. In addition, the transaction must occur at a relevant
23 time, meaning the time at the which the director's action is
24 required (e.g., a board vote) or when the director's action
25 somehow consummates the transaction (Code section 490.862).
26 DIRECTOR'S CONFLICT OF INTEREST —— EXCUSED TRANSACTIONS
27 (SAFE HARBOR EXCEPTION). The bill excuses a director's
28 conduct, and consequently validates the transaction, even if
29 there exists a conflicting interest transaction (Code section
30 490.861), sometimes referred to as "safe harbor", in certain
31 circumstances. First, it may be excused if a majority of
32 qualified directors (but not less than two) vote to approve
33 the transaction or the action is approved by an authorized
34 committee in which all members are qualified directors (Code
35 section 490.862). The director who has the conflict must

S.F. 398

1 disclose information regarding the conflict to the extent that
2 the information is not required to be protected under law or
3 some ethical rule of confidentiality (Code section 490.862).
4 The transaction is excused if the shareholders later ratify
5 the transaction according to specific procedural requirements
6 (Code section 490.863) after disclosure (but no provision for
7 limited disclosure). Finally, the transaction is excused if
8 the transaction is fair to the corporation, although neither
9 directors' nor shareholders' action was taken. The bill
10 provides that in any legal action attacking a director, the
11 plaintiff has the burden of proof (Code section 490.831).
12 DIRECTOR'S BUSINESS OPPORTUNITY (SAFE HARBOR EXCEPTION).
13 An analogous situation to a conflicting interest transaction
14 is when a director seeks a corporation's permission prior to
15 the director's action. The bill allows qualified directors
16 or shareholders to disclaim the corporation's interest before
17 the director proceeds in taking advantage of the business
18 opportunity (see Code section 490.870). Instead of making a
19 "required disclosure" as provided for conflicts (Code sections
20 490.860 and 490.862), the director must provide the corporation
21 material facts concerning the business opportunity then
22 known. The qualified directors or shareholders disclaiming
23 the corporation's interest must be done in the same manner
24 as if the matter concerned a director's conflicting interest
25 transaction (Code sections 490.862 and 490.863). However, a
26 director's decision not to use the procedures for disclaimer
27 does not create a negative inference or alter a burden of
28 proof in a subsequent action alleging an improper taking of a
29 corporate opportunity.
30 SHAREHOLDER APPRAISAL RIGHTS — GENERAL RULE. A number of
31 corporate actions may trigger the right of a shareholder to
32 obtain an appraisal of the corporation and obtain fair payment
33 of shares, including mergers, share exchanges, disposition
34 of assets, amendments to the articles of incorporation, and
35 conversion of the corporation to another entity (Code section

S.F. 398

1 490.1302). A corporation must pay shareholders the amount the
2 corporation estimates to be the fair value of the shares plus
3 interest (Code section 490.1324).
4 SHAREHOLDER APPRAISAL RIGHTS — LIMITATION ON THE GENERAL
5 RULE (MARKET-OUT EXCEPTION). The general rule is limited in
6 the case where there are at least 2,000 shareholders and the
7 market value of the shares equals at least $20 million (the
8 so-called "market-out" exception), presumably because the true
9 value for the shares can be obtained on the market. However,
10 the amount does not include shares held by the corporation's
11 subsidiaries, senior executives, directors, and beneficial
12 shareholders owning more than 10 percent of the shares.
13 "Beneficial ownership" refers to the control of shares by a
14 person who does not own them including the power to vote, or to
15 direct the voting of the shares (Code section 490.1302).
16 SHAREHOLDER APPRAISAL RIGHTS — NEW MARKET-OUT EXCEPTIONS.
17 The bill provides two new categories under the market-out
18 exception: (1) when the shares are classified as a covered
19 security regulated by the United States securities exchange
20 commission under the federal Securities Act of 1933, and (2)
21 when the shares are issued by an open-end management investment
22 company registered by the securities and exchange commission
23 under the federal Investment Company Act of 1940 (Code section
24 490.1302).
25 SHAREHOLDER APPRAISAL RIGHTS — LIMITATIONS ON THE
26 MARKET-OUT EXCEPTIONS. The bill eliminates a provision
27 which allows shareholder appraisal rights notwithstanding
28 the market-out exception in cases where the corporation's
29 shares or assets are being acquired or converted, whether by
30 merger, share exchange, or otherwise (Code section 490.1302).
31 Instead, the bill allows such rights in cases where the
32 corporate action involves an interested transaction, which is a
33 corporate action, other than a merger, involving an interested
34 person in which the shares or assets of the corporation are
35 being acquired or converted. A person is "interested" if

S.F. 398

1 the person is a beneficial owner of 20 percent or more of
2 the corporation's voting shares, controlled the appointment
3 or election of 25 percent or more of the directors, or was a
4 senior executive or director of the corporation entitled to
5 receive certain financial benefits (Code section 490.1301).
6 SHAREHOLDER APPRAISAL RIGHTS — NOTICE. A corporation must
7 notify shareholders of their appraisal rights when a corporate
8 action is submitted to a vote at a shareholder meeting (Code
9 section 490.1320). The bill provides for notice when approval
10 is performed by written consent in lieu of a meeting (Code
11 section 490.704). A shareholder must provide notice of an
12 intent to exercise appraisal rights before the corporate action
13 (vote) is taken (Code section 490.1321). In order to remain
14 eligible to exercise those rights, the shareholder must not
15 vote on the matter. A shareholder who plans on asserting
16 appraisal rights cannot likewise exercise rights after signing
17 a consent in favor of the proposal (Code section 490.1321).
18 If a corporate action requiring appraisal rights becomes
19 effective, the corporation must deliver a written appraisal
20 notice and form (Code section 490.1322). The bill provides for
21 the contents of the notice, including information regarding
22 an announcement to shareholders made prior to the date the
23 corporate action became effective and requires a shareholder
24 asserting appraisal rights to certify beneficial ownership.
25 The bill provides for perfecting shareholder appraisal rights
26 by signing and returning the form (Code section 490.1323). The
27 bill provides an estimated (prepaid) payment to shareholders
28 exercising their appraisal rights after the form's due date
29 (Code section 490.1324). The bill provides for a financial
30 statement required to accompany the payment (Code section
31 490.1620), and allows the corporation to substitute another
32 document in lieu of a financial statement if it is unavailable.
33 SHAREHOLDER APPRAISAL RIGHTS — COURT COSTS. As part of
34 a shareholder appraisal rights proceeding, the court must
35 determine the court costs of the proceeding, and may assess

S.F. 398

1 such costs against the corporation or shareholders demanding
2 appraisal (Code section 490.1331). The bill amends the
3 provision to eliminate a court's discretion to assess fees
4 associated with attorneys and experts.
5 SHAREHOLDER RIGHTS — LIMITATION ON OTHER REMEDIES. The
6 bill provides that a corporate action triggering a right to
7 appraisal (Code section 490.1302) cannot be enjoined, set
8 aside, or rescinded by a shareholder after the shareholder
9 has approved the corporate action (Code section 490.1340).
10 However, this limitation does not apply to four situations:
11 (1) where the process of approving the corporate action was
12 flawed (e.g., unauthorized in the corporation's articles of
13 incorporation), (2) the corporate action was procured by fraud,
14 (3) the corporate action was an interested transaction in the
15 same manner as a director's conflicting interest transaction
16 (Code section 490.860), or (4) the transaction was approved,
17 but without a meeting (Code section 490.704) and by less
18 than unanimous consent and the challenge is brought by a
19 nonconsenting director.
20 JUDICIAL DISSOLUTION — LIMITATION ON ACTIONS. A court may
21 dissolve a corporation in a proceeding brought by shareholders
22 on a number of grounds, including the directors are deadlocked,
23 the directors are acting fraudulently, the shareholders
24 are deadlocked, or there is waste of corporate assets (Code
25 section 490.1430). The bill adds a new ground, that the
26 corporation has abandoned its business and failed to liquidate
27 and distribute its assets and dissolve. The bill also
28 provides that the right of a shareholder to bring the action
29 does not apply to a corporation listed on the New York stock
30 exchange, the American stock exchange, an exchange owned or
31 controlled by NASDAQ, or listed on a system owned or controlled
32 by the national association of security dealers (NASD).
33 Alternatively, it does not apply to a corporation having 300
34 or more shareholders holding shares valued at $20 million
35 or more, again excluding shares held by the corporation's

S.F. 398

1 subsidiaries, senior executives, directors, and beneficial
2 shareholders owning more than 10 percent of the shares (Code
3 section 490.1302).
4 FOREIGN CORPORATIONS —— TRANSFER OF AUTHORITY. The bill
5 provides for the conversion of a foreign business corporation
6 authorized to do business in this state into a domestic
7 corporation by applying to the secretary of state (Code section
8 490.1523).
9 REPLACEMENT OF FUTURE REPEALED PROVISIONS. In 2011, the
10 general assembly enacted SF 325 (2011 Iowa Acts, chapter
11 2), carving out a special provision which provided for the
12 staggered terms of directors of public corporations and
13 providing for the repeal of the Act on December 31, 2014.
14 The Act took effect on March 23, 2011. The effect of the
15 repeal is to restore the provisions to their March 22, 2011
16 effective date. This bill amends two provisions affected by SF
17 325. First, it reenacts a definition of "public corporation"
18 which is repealed on December 31, 2014 (Code section 490.140).
19 Second, it rewrites a provision which provides that a
20 shareholder agreement is nullified when a corporation becomes a
21 public corporation (Code section 490.732).

Senate File 399 - Introduced

SENATE FILE 399
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 134)

A BILL FOR

1 An Act relating to maternal health care policies for inmates
2 and detainees and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1643SV (3) 85
jm/nh

S.F. 399

1 Section 1. LEGISLATIVE FINDINGS. The general assembly
2 finds all of the following:
3 1. Restraining a pregnant woman can pose undue health risks
4 to the woman and her pregnancy.
5 2. The vast majority of female inmates or detainees in this
6 state are nonviolent offenders.
7 3. Restraining pregnant prison inmates increases the
8 potential for physical harm from an accidental trip or fall.
9 4. Freedom from physical restraints is especially critical
10 during labor, delivery, and postpartum recovery after delivery,
11 because a woman often needs to move around during labor and
12 recovery.
13 5. Restraints on a pregnant woman can interfere with the
14 ability of medical staff to appropriately assist in childbirth
15 or to conduct sudden emergency procedures.
16 Sec. 2. NEW SECTION. **904.1001 Definitions.**
17 As used in this division, unless the context otherwise
18 requires:
19 1. *"Correctional institution"* means any state correctional
20 institution under this chapter, county jail or municipal
21 holding facility under chapter 356, county detention facility
22 under chapter 356A, or other detention facility that is used to
23 detain or restrain a person, including a juvenile, under the
24 laws of this state or the United States.
25 2. *"Corrections officer"* means the official who is
26 responsible for oversight of a correctional institution or the
27 official's designee.
28 3. *"Detainee"* means any adult or juvenile person detained or
29 restrained under the immigration laws of the United States at
30 any correctional institution.
31 4. *"Inmate"* means any adult or juvenile person incarcerated
32 or detained in a correctional institution who is accused
33 of, convicted or adjudicated guilty of, or sentenced for, a
34 criminal or immigration law violation including persons on
35 probation, parole, or pretrial release, or in any diversionary

S.F. 399

1 program.
2 5. *"Labor"* means the period of time before a birth during
3 which contractions are of sufficient frequency, intensity, and
4 duration to bring about effacement and progressive dilation of
5 the cervix.
6 6. *"Postpartum recovery"* means, as determined by the
7 attending physician, the period immediately following delivery,
8 including the entire period a woman is in the hospital or
9 infirmary after birth.
10 7. *"Restraint"* means any physical restraint or mechanical
11 device used to control the body or limb movement of an inmate
12 or detainee, including but not limited to flex cuffs, soft
13 restraints, hard metal handcuffs, a black box, chubb cuffs, leg
14 irons, belly chains, a security chain, or a convex shield.
15 Sec. 3. NEW SECTION. **904.1002 Restraint of pregnant inmates**
16 **or detainees.**
17 1. A correctional institution shall not use restraints on
18 an inmate or detainee known to be pregnant, including during
19 labor, delivery, or postpartum recovery, unless any of the
20 following apply:
21 *a.* The inmate or detainee refuses to undergo a urine-based
22 pregnancy test, if not visibly pregnant.
23 *b.* The inmate has been confined for less than twenty-four
24 hours at a correctional institution other than a state
25 correctional institution.
26 *c.* A corrections officer makes an individualized
27 determination that the use of a restraint on the inmate or
28 detainee is necessary due to an extraordinary medical or
29 security circumstance described under subsection 2.
30 2. A corrections officer may make an individualized
31 determination that use of a restraint is necessary for a
32 pregnant inmate or detainee because the inmate or detainee is a
33 substantial flight risk or some other extraordinary medical or
34 security circumstance dictates the use of restraints to ensure
35 the safety and security of the inmate or detainee, the staff of

S.F. 399

1 the correctional institution or medical facility, the general
2 public, or other inmates or detainees.
3 3. Notwithstanding subsections 1 and 2, restraints shall
4 not be used under the following circumstances:
5 *a.* If a physician, nurse, or other health professional
6 treating the inmate or detainee requests the restraints not be
7 used. If such a request is made pursuant to this paragraph,
8 the corrections officer accompanying the inmate or detainee
9 shall immediately remove the restraints, unless the corrections
10 officer determines that removing the restraints would pose an
11 imminent extraordinary security circumstance described under
12 subsection 2.
13 *b.* If the correctional institution has actual and
14 constructive knowledge of the pregnancy and the inmate or
15 detainee is in at least the twenty-first week of pregnancy.
16 However, in such circumstances leg or waist restraints may be
17 used under the direction of the physician, nurse, or other
18 health professional treating the inmate or detainee.
19 *c.* During labor or childbirth.
20 4. If a corrections officer is requested to be present
21 in the birthing room during the labor or childbirth, the
22 corrections officer shall be female if practicable.
23 5. *a.* If a restraint is used pursuant to this section, the
24 restraint used shall be used in the least restrictive manner.
25 *b.* A corrections officer making the determination to use a
26 restraint pursuant to this section shall make written findings
27 within ten days of the decision to use such a restraint. The
28 findings shall be kept for at least five years and are public
29 records, except no individually identifying information of an
30 inmate or detainee shall be made public without the written
31 consent of the inmate or detainee.
32 Sec. 4. NEW SECTION. **904.1003 Transportation of a pregnant**
33 **inmate or detainee.**
34 A correctional institution shall use a wheelchair to
35 transport a known pregnant inmate or detainee to or from a

S.F. 399

1 transport vehicle or to or from any appointment unless directed
2 otherwise by the physician, nurse, or other health professional
3 treating the inmate or detainee.
4 Sec. 5. NEW SECTION. **904.1004 Birth plan.**
5 1. A correctional institution shall develop a birth
6 plan with a known pregnant inmate or detainee if the inmate
7 or detainee is likely to be confined at the correctional
8 institution during the childbirth. The birth plan shall
9 include a support person designated by the inmate or detainee
10 who may be present in the birthing room with the inmate or
11 detainee during labor and childbirth.
12 2. The correctional institution may, for good cause, reject
13 the support person designated in the birth plan from being
14 present in the birthing room. If the correctional institution
15 rejects the support person, the correctional institution shall
16 specify the reasons for rejecting the support person in writing
17 to the inmate or detainee as soon as possible if practicable
18 under the circumstances, in order to allow the inmate or
19 detainee to designate a new support person to be present in the
20 birthing room.
21 Sec. 6. NEW SECTION. **904.1005 Damages.**
22 In addition to any other remedy authorized by law, a
23 correctional institution that restrains an inmate or detainee
24 in violation of this division may be liable for civil damages
25 and reasonable attorney fees and costs.
26 Sec. 7. NEW SECTION. **904.1006 Report.**
27 The department of corrections, in conjunction with the
28 other entities supervising inmates and detainees in the state,
29 shall file a report with the general assembly by August 1 of
30 each fiscal year, detailing every instance in which restraints
31 were used on a pregnant inmate or detainee pursuant to this
32 division. The report shall not contain personal identifying
33 information of any inmate or detainee.
34 Sec. 8. RULES. The department of corrections, in
35 conjunction with other entities supervising inmates and

S.F. 399

1 detainees in the state, shall commence rulemaking for the
2 implementation and administration of this Act within sixty days
3 of the effective date of this Act. The department shall not
4 adopt emergency rules under section 17A.4, subsection 3, or
5 section 17A.5, subsection 2, paragraph "b", to implement the
6 provisions of this Act.
7 Sec. 9. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
8 immediate importance, takes effect upon enactment.
9 EXPLANATION
10 This bill relates to the use of restraints on a pregnant
11 inmate or detainee.
12 The bill defines "correctional institution" to mean any
13 state correctional institution, county jail, municipal holding
14 facility, county detention facility, or other detention
15 facility that is used to detain or restrain a person, including
16 a juvenile, under the laws of this state or the United States.
17 The bill defines "inmate" to mean any adult or juvenile
18 person incarcerated or detained in a correctional institution
19 who is accused of, convicted or adjudicated guilty of, or
20 sentenced for, a criminal or immigration law violation
21 including persons on probation, parole, or pretrial release,
22 or in any diversionary program.
23 The bill defines "detainee" to mean any adult or juvenile
24 person detained or restrained under the immigration laws of the
25 United States at any correctional institution.
26 The bill prohibits a correctional institution from using
27 a restraint on an inmate or detainee known to be pregnant,
28 including during labor, delivery, or postpartum recovery,
29 unless any of the following apply: the inmate or detainee
30 refuses to undergo a urine-based pregnancy test, if not visibly
31 pregnant; the inmate has been confined for less than 24 hours
32 at a correctional institution other than a state correctional
33 institution; or a corrections officer makes an individualized
34 determination that the use of a restraint on a pregnant inmate
35 or detainee is necessary due to an extraordinary circumstance.

S.F. 399

1 A corrections officer may make an individualized
2 determination under the bill if any of the following
3 extraordinary circumstances apply: the inmate or detainee is
4 a substantial flight risk or some other medical or security
5 circumstance dictates the use of restraints to ensure the
6 safety and security of the inmate or other persons.
7 The bill prohibits the use of restraints on a pregnant
8 inmate or detainee under the following circumstances: when
9 medical personnel request the restraints not be used, unless a
10 corrections officer determines the inmate or detainee poses an
11 imminent security risk; when the correctional institution has
12 actual knowledge of the pregnancy and the inmate or detainee
13 is in at least the twenty-first week of pregnancy, except leg
14 or waist restraints may be used under the direction of medical
15 personnel; or during labor or childbirth. If a corrections
16 officer makes a determination that restraints be used because
17 the inmate poses an imminent security risk, the bill requires
18 the correctional officer to make written findings within 10
19 days of the decision to use the restraints.
20 The bill requires a correctional institution to use a
21 wheelchair to transport a known pregnant inmate or detainee
22 to or from a transport vehicle or to or from any appointment,
23 unless otherwise directed by medical personnel.
24 The bill requires the correctional institution to develop
25 a birth plan with a known pregnant inmate or detainee if the
26 inmate or detainee is likely to be confined at the institution
27 during the childbirth. The plan shall include a support person
28 designated by the inmate or detainee who may be present in the
29 birthing room with the inmate or detainee during labor and
30 childbirth. The bill permits the correctional institution to
31 reject, for good cause, the support person from being present
32 in the birthing room. If the correctional institution rejects
33 the presence of the support person in the birthing room, the
34 bill allows the inmate or detainee to designate another support
35 person if practicable under the circumstances.

S.F. 399

1 The bill specifies that in addition to any other remedy
2 authorized by law, a correctional institution that restrains an
3 inmate or detainee in violation of the bill may be liable for
4 civil damages and reasonable attorney fees.
5 The bill requires the department of corrections, in
6 conjunction with the other entities supervising inmates and
7 detainees in the state, to file a report with the general
8 assembly by August 1 of each fiscal year, detailing every
9 instance in which restraints were used on a pregnant inmate or
10 detainee pursuant to the bill. The report shall not contain
11 personal identifying information of any inmate or detainee.
12 The bill requires the department of corrections and other
13 entities supervising inmates and detainees to commence
14 rulemaking within 60 days of the effective date of the bill,
15 except specifically prohibits the adoption of emergency rules.
16 The bill takes effect upon enactment.

Senate File 400 - Introduced

SENATE FILE 400
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 1208)

A BILL FOR

1 An Act making an appropriation to support soil and water
2 conservation by the department of agriculture and land
3 stewardship.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2100SV (2) 85
da/rj

S.F. 400

1 Section 1. SOIL CONSERVATION — APPROPRIATION.
2 There is appropriated from the general fund of the state to the
3 department of agriculture and land stewardship for the fiscal
4 year beginning July 1, 2013, and ending June 30, 2014, the
5 following amount, or so much thereof as is necessary, to be
6 used for the purposes designated:
7 1. For use by the department to support soil and water
8 conservation district commissioners:
9 ..... $ 7,000,000
10 2. The department shall allocate the amount of the
11 appropriation made in subsection 1 to soil and water
12 conservation district commissioners in the same manner that the
13 department allocated moneys appropriated from the environment
14 first fund to support soil and water conservation district
15 commissioners pursuant to 2012 Iowa Acts, chapter 1135, section
16 18, subsection 6.
17 3. The entire amount of the appropriation made in subsection
18 1 shall be used to support soil conservation practices
19 established on a cost-share basis as provided in chapter 161A.
20 The soil and water conservation district commissioners shall
21 award the moneys allocated by the department to persons who
22 submitted applications to the commissioners on or after July
23 1, 2012, if such applications are pending approval on the
24 effective date of this Act, and the commissioners subsequently
25 approve the applications.
26 4. Notwithstanding section 8.33, moneys appropriated to
27 the department pursuant to this section are not subject to
28 reversion to the general fund of the state.
29 EXPLANATION
30 This bill appropriates moneys from the general fund
31 of the state to the department of agriculture and land
32 stewardship for the fiscal year beginning July 1, 2013, and
33 ending June 30, 2014, for use by soil and water conservation
34 district commissioners to support soil conservation practices
35 established on a cost-share basis. The moneys are to finance

S.F. 400

1 pending applications for the establishment of such practices
2 submitted on or after July 1, 2012. The appropriated moneys
3 are not subject to reversion as ordinarily provided under Code
4 section 8.33.

Senate File 401 - Introduced

SENATE FILE 401
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SF 235)

A BILL FOR

1 An Act requiring that motor fuel dealers comply with standards
2 and practices to assist disabled individuals obtaining motor
3 fuel from motor fuel pumps, providing for enforcement by the
4 department of agriculture and land stewardship or the office
5 of attorney general, providing for the issuance of cease
6 and desist orders, providing for penalties, and including
7 effective date provisions.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1630SV (2) 85
da/nh

S.F. 401

1 Section 1. Section 214.1, Code 2013, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 01. *"Americans with Disabilities Act"*
4 means Tit. III of the federal Americans with Disabilities
5 Act of 1990, as provided in 42 U.S.C. § 12181 et seq., its
6 implementing regulations, including 28 C.F.R. pt. 36, and the
7 2010 standards for accessible design published by the United
8 States department of justice.
9 Sec. 2. NEW SECTION. **214.12 Motor fuel pumps —**
10 **accessibility — rules.**
11 1. Retail dealers shall comply with the Americans with
12 Disabilities Act. In addition to complying with the Americans
13 with Disabilities Act a retail dealer shall maintain a retail
14 motor fuel site as provided in this section.
15 2. A retail dealer shall maintain at least one motor fuel
16 pump that complies with the Americans with Disabilities Act.
17 3. Except as otherwise provided in this subsection, a
18 retail dealer, upon the request of a disabled customer or
19 person acting on behalf of a disabled customer, shall provide
20 assistance to that customer in obtaining motor fuel from a
21 motor fuel pump in the ordinary course of the retail dealer's
22 business. The retail dealer shall not impose an extra charge
23 for providing such assistance.
24 *a.* The retail dealer is not required to provide assistance
25 at any time that the motor fuel pump is operating to dispense
26 fuel on a remote control basis and fewer than two employees of
27 the retail dealer are on duty at the retail motor fuel site.
28 *b.* The retail dealer shall post a sign in a conspicuous
29 location on the premises of the retail motor fuel site stating
30 the direct telephone number of an individual that a disabled
31 customer or person acting on behalf of the disabled customer
32 may contact for assistance, and the hours when the retail
33 dealer provides such assistance. The hours must be reasonable
34 for the retail dealer's business. The telephone number must
35 be posted in close proximity to an international symbol of

S.F. 401

1 accessibility as required in the Americans with Disabilities
2 Act.
3 *c.* The retail dealer shall post the international symbol of
4 accessibility as required in the Americans with Disabilities
5 Act on the sign located on the motor fuel site that advertises
6 the daily price for motor fuel offered for sale by the retail
7 dealer to the traveling public.
8 Sec. 3. NEW SECTION. **214.13 Motor fuel pumps — complaints**
9 **and inspections — cease and desist orders.**
10 1. The department shall immediately issue a cease and desist
11 order against a retail dealer who violates section 214.12,
12 including rules adopted by the department under that section,
13 by failing to do any of the following:
14 *a.* Comply with the Americans with Disabilities Act,
15 including maintaining at least one motor fuel pump that
16 complies with the Americans with Disabilities Act.
17 *b.* Provide assistance to a disabled customer in obtaining
18 motor fuel from a motor fuel pump upon request by the disabled
19 customer or a person acting on behalf of a disabled customer.
20 2. The department shall issue the cease and desist order as
21 part of the department's routine inspection of the retail motor
22 fuel site or after a departmental investigation of the retail
23 motor fuel site conducted by the department upon a complaint
24 filed with the department.
25 3. The cease and desist order shall prohibit the retail
26 dealer from dispensing motor fuel from one motor fuel pump
27 located at the retail motor fuel site, until the retail dealer
28 complies with section 214.12.
29 4. The department shall issue the cease and desist order
30 in a manner consistent with chapter 17A. The department or
31 the attorney general may enforce the cease and desist order by
32 petitioning the district court of Polk county or the county
33 where the retail motor fuel site is located.
34 Sec. 4. NEW SECTION. **214.14 Motor fuel pumps — complaints**
35 **and inspections — civil penalties.**

S.F. 401

1 A retail dealer who violates section 214A.12 is subject
2 to a civil penalty of two hundred fifty dollars. Each day
3 that a retail dealer fails to post a sign or the international
4 symbol of accessibility as required in section 214.12 shall be
5 considered a separate violation.
6 Sec. 5. EFFECTIVE DATE. This Act takes effect January 1,
7 2014.
8 EXPLANATION
9 GENERAL. This bill provides that a retail dealer of motor
10 fuel who sells gasoline or diesel fuel at a motor fuel pump
11 must comply with the federal Americans with Disabilities Act.
12 In addition, the bill requires the retail dealer to comply with
13 additional state requirements as provided in the bill.
14 ASSISTANCE TO CUSTOMERS WITH DISABILITIES. The bill
15 requires a retail dealer to provide assistance to a disabled
16 customer in obtaining motor fuel from a motor fuel pump
17 without charging an additional fee. The retail dealer is not
18 required to provide such assistance when the motor fuel pump
19 is operating on a remote control basis and fewer than two
20 employees are on duty.
21 SIGNS. The bill requires a retail dealer to post a sign
22 in a conspicuous location on the premises of the retail motor
23 fuel site. The sign must provide a direct telephone number to
24 contact an individual who can provide assistance and hours when
25 the retail dealer provides such assistance. The retail dealer
26 must also post the international symbol of accessibility on the
27 sign advertising the daily price for motor fuel.
28 ENFORCEMENT. The bill provides that the department is
29 required to issue a cease and desist order against a retail
30 dealer who violates the requirements of the bill by failing
31 to comply with the Americans with Disabilities Act, or by
32 providing assistance to a disabled customer in obtaining motor
33 fuel upon request. The cease and desist order prohibits the
34 retail dealer from dispensing motor fuel from one motor fuel
35 pump located at the retail motor fuel site, until the retail

S.F. 401

1 dealer complies with the requirement.
2 CIVIL PENALTY. The bill provides that a retail dealer who
3 violates a provision in the bill is subject to a $250 civil
4 penalty. Each day the dealer fails to post a sign or the
5 international symbol of accessibility is a separate violation.
6 EFFECTIVE DATE. The bill takes effect on January 1, 2014.

Senate File 402 - Introduced

SENATE FILE 402
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1078)

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 1343SV (2) 85
av/nh

S.F. 402

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. Section 514J.103, subsection 1, Code 2013, is
22 amended to read as follows:
23 1. Except as provided in subsection 2, this chapter shall
24 apply to all health carriers, including health carriers issuing
25 a policy or certificate that provides coverage for dental care.
26 Sec. 3. Section 514J.103, subsection 2, paragraph a, Code
27 2013, is amended to read as follows:
28 *a.* A policy or certificate that provides coverage only for a
29 specified disease, specified accident or accident-only, credit,
30 disability income, hospital indemnity, long-term care, ~~dental~~
31 ~~care,~~ vision care, or any other limited supplemental benefit.
32 EXPLANATION
33 This bill relates to insurance coverage for dental care
34 services.
35 New Code section 514C.3C provides that a person who owns

S.F. 402

1 rights or benefits under a policy or contract of insurance
2 which provides for coverage of dental care services must be
3 allowed to assign any or part of that person's rights and
4 privileges under the policy or contract, including the right
5 to designate a beneficiary and to have an individual policy or
6 contract issued. The assignment is without prejudice to an
7 insurer that makes a payment in good faith under the policy
8 or contract before receiving notice of the assignment. If
9 written proof of the assignment of benefits is presented to an
10 insurer, health maintenance organization, managed care plan,
11 health care plan, preferred provider organization, or other
12 third-party payor, the payment for coverage of dental care
13 services shall be made directly to the health care provider
14 providing the services. The section shall not be construed to
15 prevent reconciliation of duplicate payments.
16 Code section 514J.103 is amended to provide that decisions
17 of health carriers issuing a policy or certificate that
18 provides coverage for dental care are subject to the external
19 review provisions of Code chapter 514J, and the chapter is also
20 applicable to a policy or certificate that provides coverage
21 only for dental care.

Senate File 403 - Introduced

SENATE FILE 403
BY COMMITTEE ON LOCAL
GOVERNMENT

(SUCCESSOR TO SSB 1233)

A BILL FOR

1 An Act eliminating a restriction on a person associated with
2 a county agricultural extension district from engaging in
3 certain activities affecting legislation.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2151SV (2) 85
da/nh

S.F. 403

Section 1. Section 176A.9, subsection 2, Code 2013, is amended to read as follows:

2. *a.* The extension district, its council, or a member or an employee as a representative of either one or the other shall not engage in commercial or other private enterprises~~, legislative programs, nor attempt in any manner by the adoption of resolutions or otherwise to influence legislation, either state or national,~~ or other activities not authorized by this chapter.

b. Nothing in this chapter prohibits an extension district, its council, or an association representing such extension districts or councils, from engaging in a state or federal legislative program or becoming involved in the state or federal legislative process.

EXPLANATION

This bill amends a provision which restricts a person associated with a county agricultural extension district, organized under Code chapter 176A, from engaging in certain activities which involve commercial or other private enterprises, legislative programs, or the influence of state or federal legislation. This includes a member of the district's county agricultural extension council, or an employee or representative of either the council or the district.

The bill eliminates the restriction upon a council or an association representing extension districts or councils from engaging in a legislative program or influencing legislation.

Senate File 404 - Introduced

SENATE FILE 404
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SF 266)

A BILL FOR

1 An Act relating to supplementary weighting for limited English
2 proficient students and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2235SV (2) 85
md/sc

S.F. 404

1 Section 1. Section 257.31, subsection 5, paragraph j, Code
2 2013, is amended to read as follows:
3 *j.* Unusual need to continue providing a program or other
4 special assistance to non-English speaking pupils after
5 the expiration of the ~~four-year~~ applicable period of years
6 specified in section 280.4.
7 Sec. 2. Section 280.4, subsection 3, Code 2013, is amended
8 to read as follows:
9 3. *a.* In order to provide funds for the excess costs
10 of instruction of limited English proficient students above
11 the costs of instruction of pupils in a regular curriculum,
12 students identified as limited English proficient shall be
13 assigned an additional weighting of twenty-two hundredths, and
14 that weighting shall be included in the weighted enrollment of
15 the school district of residence for a period not exceeding
16 ~~four~~ the number of years specified in paragraph *"b"*. However,
17 the school budget review committee may grant supplemental aid
18 or modified allowable growth to a school district to continue
19 funding a program for students after the expiration of the
20 ~~four-year~~ specified period of years in paragraph *"b"*.
21 *b.* (1) For students first determined to be limited English
22 proficient for a budget year beginning before July 1, 2013,
23 the additional weighting provided under paragraph *"a"* shall be
24 included in the weighted enrollment of the school district of
25 residence for a period not exceeding four years.
26 (2) For students first determined to be limited English
27 proficient for the budget year beginning July 1, 2013, the
28 additional weighting provided under paragraph *"a"* shall be
29 included in the weighted enrollment of the school district of
30 residence for a period not exceeding five years.
31 (3) For students first determined to be limited English
32 proficient for the budget year beginning July 1, 2014, the
33 additional weighting provided under paragraph *"a"* shall be
34 included in the weighted enrollment of the school district of
35 residence for a period not exceeding six years.

S.F. 404

1 (4) For students first determined to be limited English
2 proficient for a budget year beginning on or after July 1,
3 2015, the additional weighting provided under paragraph "a"
4 shall be included in the weighted enrollment of the school
5 district of residence for a period not exceeding seven years.
6 Sec. 3. LIMITED ENGLISH PROFICIENT WEIGHTING
7 ADJUSTMENT. For the fiscal year beginning July 1, 2013,
8 and ending June 30, 2014, there shall be allocated to the
9 department of education from the amount appropriated pursuant
10 to section 257.16, subsection 1, based upon the increase
11 from four to five years in the availability of supplementary
12 weighting for instruction of limited English proficient
13 students pursuant to section 280.4, an amount to be determined
14 by the department of management in consultation with the
15 legislative services agency. The funds shall be used to adjust
16 the weighted enrollment of a school district with students
17 identified as limited English proficient on a prorated basis.
18 Sec. 4. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
19 immediate importance, takes effect upon enactment.
20 EXPLANATION
21 Current Code section 280.4 provides funds for the excess
22 costs of instruction of limited English proficient students
23 above the costs of instruction of pupils in a regular
24 curriculum. This funding is provided for a period not to
25 exceed four years through assignment of an additional weighting
26 of 22 hundredths to each student identified as limited English
27 proficient.
28 This bill increases the number of years for which a school
29 district of residence may include the additional weighting for
30 a student determined to be limited English proficient. Under
31 the bill, for students first determined to be limited English
32 proficient for a budget year beginning before July 1, 2013,
33 the additional weighting shall be included in the weighted
34 enrollment of the school district of residence for a period
35 not exceeding four years. For students first determined to

S.F. 404

be limited English proficient for the budget year beginning July 1, 2013, the additional weighting shall be included in the weighted enrollment of the school district of residence for a period not exceeding five years. For students first determined to be limited English proficient for the budget year beginning July 1, 2014, the additional weighting shall be included in the weighted enrollment of the school district of residence for a period not exceeding six years. For students first determined to be limited English proficient for a budget year beginning on or after July 1, 2015, the additional weighting shall be included in the weighted enrollment of the school district of residence for a period not exceeding seven years.

The bill allocates a certain amount of the appropriation under Code section 257.16 for the fiscal year beginning July 1, 2013, to be used to adjust weighted enrollments of districts with limited English proficient students to account for the increase in years under the bill.

The bill takes effect upon enactment.

Senate File 405 - Introduced

SENATE FILE 405
BY SENG

A BILL FOR

1 An Act making a transfer of revenue to the road use tax fund and
2 including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2454SS (2) 85
jp/rj

S.F. 405

1 Section 1. TRANSFER TO ROAD USE TAX FUND.
2 1. There is transferred from the general fund of the state
3 to the road use tax fund for the fiscal year beginning July
4 1, 2012, and ending June 30, 2013, the following amount, or
5 so much thereof as is necessary, to be used for the purposes
6 designated:
7 For allocation or appropriation from the road use tax fund
8 in accordance with law:
9 ..... $ 50,000,000
10 2. The transfer made in this section is for the purpose of
11 reducing the need to increase taxes and fees on the citizens
12 of this state in order to meet transportation needs. It is
13 the intent of the general assembly to make transfers for the
14 same purpose in future fiscal years when there are state fund
15 balances available to do so.
16 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
17 immediate importance, takes effect upon enactment.
18 EXPLANATION
19 This bill makes a transfer of revenue to the road use tax
20 fund. The bill states that the transfer is for the purpose of
21 reducing the need to increase taxes and fees on the citizens of
22 this state in order to meet transportation needs.
23 The moneys credited to the road use tax fund are subject
24 to standing and other appropriations and are allocated by
25 formula to the primary road fund, the secondary road fund of
26 the counties, the farm-to-market road fund, and the street
27 construction fund of the cities, and to related funds for
28 expenditure.
29 The bill takes effect upon enactment.

Senate File 406 - Introduced

SENATE FILE 406
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1192)

A BILL FOR

1 An Act relating to involuntary commitments for persons
2 with substance-related disorders, mental illness, and
3 intellectual disabilities, and providing for the creation
4 of an office of mental health advocate in the department of
5 human rights and including effective date provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1064SV (3) 85
jp/rj

S.F. 406

1 DIVISION I
2 DEPARTMENTAL RESPONSIBILITY FOR MENTAL HEALTH ADVOCATES
3 Section 1. NEW SECTION. **216A.171 Definitions.**
4 As used in this subchapter, unless the context otherwise
5 requires:
6 1. *"Administrator"* means the administrator of the office of
7 mental health advocate of the department of human rights.
8 2. *"Office"* means the office of mental health advocate of
9 the department of human rights.
10 Sec. 2. NEW SECTION. **216A.172 Duties of administrator.**
11 The administrator shall administer the office's conduct
12 of the mental health advocate program as provided by section
13 229.19 and other applicable law. The administrator's duties
14 may include but are not limited to all of the following:
15 1. Appointing persons to serve as mental health advocates
16 and other office staff and identifying qualifications for
17 persons serving as a mental health advocate. The minimum
18 qualifications for a mental health advocate whose initial
19 appointment commences on or after July 1, 2013, shall be a
20 bachelor's degree from an accredited school, college, or
21 university in social work, counseling, human services, health,
22 or nursing and one year of experience in the provision of
23 mental health services. A person who is a licensed registered
24 nurse pursuant to chapter 152 who is current with applicable
25 continuing education requirements shall be deemed to have met
26 the minimum experience requirement.
27 2. Training and supervising office staff.
28 3. Implementing procedures for appointing, dismissing, and
29 supervising advocates.
30 4. Administering program additions and expansions,
31 including providing advocate services for persons with a
32 substance-related disorder and persons found not guilty
33 by reason of insanity, if such additions or expansions are
34 authorized and funded.
35 5. Developing and implementing a case weight system for use

S.F. 406

1 in appointing and compensating advocates.
2 6. Administering case reviews and audits.
3 Sec. 3. TRANSITION.
4 1. The department of human rights shall commence
5 organizational activities during the fiscal year beginning July
6 1, 2013, as necessary to fully implement this division and
7 assume responsibility for mental health advocates as provided
8 in this division and division II of this Act on July 1, 2014.
9 2. If necessary for the purposes of subsection 1, the
10 department of human rights may adopt emergency rules under
11 section 17A.4, subsection 3, and section 17A.5, subsection 2,
12 paragraph "b", to implement the provisions of division II of
13 this Act on July 1, 2014, and the rules shall be effective
14 immediately upon filing unless a later date is specified in the
15 rules. Any rules adopted in accordance with this section shall
16 also be published as a notice of intended action as provided
17 in section 17A.4.
18 DIVISION II
19 IMPLEMENTATION — MENTAL HEALTH ADVOCATES
20 Sec. 4. Section 225C.4, subsection 1, paragraph m, Code
21 2013, is amended to read as follows:
22 *m.* Provide consultation and technical assistance to
23 ~~patients'~~ mental health advocates appointed pursuant to
24 section 229.19, in cooperation with the judicial branch and
25 the department of human rights, and to the resident advocate
26 committees appointed for health care facilities pursuant to
27 section 135C.25.
28 Sec. 5. Section 226.31, Code 2013, is amended to read as
29 follows:
30 **226.31 Examination by court — notice.**
31 Before granting the order authorized in section 226.30
32 the court or judge shall investigate the allegations of the
33 petition and before proceeding to a hearing on the allegations
34 shall require notice to be served on the attorney who
35 represented the patient in any prior proceedings under sections

S.F. 406

229.6 to 229.15 ~~or the~~ and to any mental health advocate appointed for the patient under section 229.19, or in the case of a patient who entered the hospital voluntarily, on any relative, friend, or guardian of the person in question of the filing of the application. At the hearing the court or judge shall appoint a guardian ad litem for the person, if the court or judge deems such action necessary to protect the rights of the person. The guardian ad litem shall be a practicing attorney.

Sec. 6. Section 229.2, subsection 1, paragraph b, subparagraph (6), Code 2013, is amended to read as follows:

(6) Upon approval of the admission of a minor over the minor's objections, the juvenile court shall notify the office of mental health advocate of the department of human rights and the office shall appoint an individual to act as ~~an~~ the mental health advocate ~~representing the interests of~~ for the minor ~~in the same manner as an advocate representing the interests of patients involuntarily hospitalized pursuant to~~ in accordance with section 229.19.

Sec. 7. Section 229.9A, Code 2013, is amended to read as follows:

229.9A ~~Advocate~~ Mental health advocate informed — hearings.

The court shall direct the clerk to furnish the office of the mental health advocate ~~of the respondent's county of legal settlement~~ designated for the court by the department of human rights with a copy of application and any order issued pursuant to section 229.8, subsection 3. The mental health advocate designated for the court may attend ~~the hospitalization~~ any court hearing ~~of any~~ involving the respondent ~~for whom the advocate has received notice of a hospitalization hearing~~.

Sec. 8. Section 229.12, subsection 2, Code 2013, is amended to read as follows:

2. All persons not necessary for the conduct of the proceeding shall be excluded, except that the court may admit persons having a legitimate interest in the proceeding and

S.F. 406

1 shall permit the mental health advocate ~~from the respondent's~~
2 ~~county of legal settlement~~ designated for the court by the
3 department of human rights to attend the hearing. Upon motion
4 of the county attorney, the judge may exclude the respondent
5 from the hearing during the testimony of any particular witness
6 if the judge determines that witness's testimony is likely to
7 cause the respondent severe emotional trauma.
8 Sec. 9. Section 229.14A, subsection 1, Code 2013, is amended
9 to read as follows:
10 1. With respect to a chief medical officer's report made
11 pursuant to section 229.14, subsection 1, paragraph *"b"*, *"c"*,
12 or *"d"*, or any other provision of this chapter related to
13 involuntary commitment for which the court issues a placement
14 order or a transfer of placement is authorized, the court shall
15 provide notice to the respondent, ~~and~~ the respondent's attorney
16 ~~or~~, and any mental health advocate appointed for the respondent
17 pursuant to section 229.19 concerning the placement order
18 and the respondent's right to request a placement hearing to
19 determine if the order for placement or transfer of placement
20 is appropriate.
21 Sec. 10. Section 229.14A, subsection 5, paragraph c, Code
22 2013, is amended to read as follows:
23 *c.* If the respondent's attorney has withdrawn ~~pursuant to~~
24 ~~section 229.19~~, the court shall appoint an attorney for the
25 respondent in the manner described in section 229.8, subsection
26 1.
27 Sec. 11. Section 229.15, subsection 6, Code 2013, is amended
28 to read as follows:
29 6. Upon receipt of any report required or authorized by
30 this section the court shall furnish a copy to the patient's
31 attorney~~, or alternatively~~ and to the mental health advocate
32 appointed ~~as required by section 229.19~~ for the patient. The
33 court shall examine the report and take the action thereon
34 which it deems appropriate. Should the court fail to receive
35 any report required by this section or section 229.14 at the

S.F. 406

1 time the report is due, the court shall investigate the reason
2 for the failure to report and take whatever action may be
3 necessary in the matter.
4 Sec. 12. Section 229.19, Code 2013, is amended to read as
5 follows:
6 **229.19 ~~Advocates~~ Mental health advocates — duties —**
7 **~~compensation — state and county liability~~.**
8 1. *a.* ~~In each county with a population of three hundred~~
9 ~~thousand or more inhabitants the board of supervisors shall~~
10 ~~appoint an individual who has demonstrated by prior activities~~
11 ~~an informed concern for the welfare and rehabilitation of~~
12 ~~persons with mental illness, and who is not an officer or~~
13 ~~employee of the department of human services nor of any agency~~
14 ~~or facility providing care or treatment to persons with mental~~
15 ~~illness, to act as an advocate representing the interests of~~
16 ~~patients involuntarily hospitalized by the court, in any matter~~
17 ~~relating to the patients' hospitalization or treatment under~~
18 ~~section 229.14 or 229.15. In each county with a population of~~
19 ~~under three hundred thousand inhabitants, the chief judge of~~
20 ~~the judicial district encompassing the county shall appoint the~~
21 ~~advocate.~~ For the purposes of this section, *"office"* means the
22 office of mental health advocate of the department of human
23 rights.
24 ~~*b.* The court or, if the advocate is appointed by the county~~
25 ~~board of supervisors, the board shall assign the advocate~~
26 ~~appointed from a patient's county of legal settlement to~~
27 ~~represent the interests of the patient. If a patient has~~
28 ~~no county of legal settlement, the court or, if the advocate~~
29 ~~is appointed by the county board of supervisors, the board~~
30 ~~shall assign the advocate appointed from the county where the~~
31 ~~hospital or facility is located to represent the interests of~~
32 ~~the patient.~~
33 ~~*c.* The advocate's responsibility with respect to any patient~~
34 ~~shall begin at whatever time the attorney employed or appointed~~
35 ~~to represent that patient as respondent in hospitalization~~

S.F. 406

1 ~~proceedings, conducted under sections 229.6 to 229.13, reports~~
2 ~~to the court that the attorney's services are no longer~~
3 ~~required and requests the court's approval to withdraw as~~
4 ~~counsel for that patient. However, if~~
5 *b.* If the patient is found to be seriously mentally impaired
6 at the hospitalization hearing, ~~the attorney representing the~~
7 ~~patient shall automatically be relieved of responsibility in~~
8 ~~the case and an~~ a mental health advocate shall be ~~assigned to~~
9 appointed for the patient at the conclusion of the hearing
10 ~~unless the attorney indicates an intent to continue the~~
11 ~~attorney's services and~~. The court shall notify the office of
12 the court's finding and the office shall appoint an advocate
13 for the patient. The advocate's responsibility with respect
14 to a patient shall begin when the advocate is appointed for
15 the patient. The attorney representing the patient shall
16 automatically be relieved of responsibility at the conclusion
17 of the hearing unless the attorney requests to continue
18 representation and the court ~~so directs~~ authorizes the attorney
19 to remain on the case. If the court directs the attorney to
20 remain on the case, the attorney shall ~~assume all the duties~~
21 ~~of an advocate~~ cooperate with the advocate appointed for the
22 patient. The clerk shall furnish the advocate with a copy of
23 the court's order approving the withdrawal or continuation of
24 the attorney and shall inform the patient of the name of the
25 patient's advocate.
26 ~~*d.*~~ *c.* With regard to each patient ~~whose interests the~~
27 for whom a mental health advocate is ~~required to represent~~
28 appointed pursuant to this section, the advocate's duties shall
29 include all of the following:
30 (1) To review each report submitted pursuant to sections
31 229.14 and 229.15.
32 (2) ~~If the advocate is not an attorney, to~~ To advise the
33 court at any time it appears that the services of an attorney
34 are required to properly safeguard the patient's interests.
35 (3) To be readily accessible to communications from the

S.F. 406

patient and to originate communications with the patient within five days of the patient's commitment.

(4) To visit the patient within fifteen days of the patient's commitment and periodically thereafter.

(5) To communicate with medical personnel treating the patient and to review the patient's medical records pursuant to section 229.25.

(6) To file with the court and the office quarterly reports, and additional reports as the advocate feels necessary or as required by the ~~court~~ office, in a form prescribed by the ~~court~~ office. The reports shall state what actions the advocate has taken with respect to each patient and the amount of time spent.

(7) To utilize the related best practices for the duties identified in this paragraph ~~"d"~~ "c" developed and promulgated by the judicial council.

~~e.~~ d. ~~An~~ Subject to the availability of funding appropriated for this purpose, a mental health advocate may also be appointed pursuant to this section for an individual who has been diagnosed with a co-occurring mental illness and ~~substance-related~~ substance-related disorder.

2. The hospital or facility to which a patient is committed shall grant all reasonable requests of the patient's mental health advocate to visit the patient, to communicate with medical personnel treating the patient, and to review the patient's medical records pursuant to section 229.25. An advocate shall not disseminate information from a patient's medical records to any other person unless done for official purposes in connection with the advocate's duties pursuant to this chapter or when required by law.

3. The ~~court or, if the advocate is appointed by the county board of supervisors, the board~~ office shall ~~prescribe~~ provide reasonable compensation for the services of the advocate in accordance with section 216A.172. ~~The compensation shall be based upon the reports filed by the advocate with the court.~~

S.F. 406

1 ~~The advocate's compensation shall be paid by the county in~~
2 ~~which the court is located, either on order of the court or, if~~
3 ~~the advocate is appointed by the county board of supervisors,~~
4 ~~on the direction of the board. If the advocate is appointed~~
5 ~~by the court, the advocate is an employee of the state for~~
6 ~~purposes of chapter 669. If the advocate is appointed by the~~
7 ~~county board of supervisors, the advocate is an employee of~~
8 ~~the county for purposes of chapter 670.~~ If the patient or
9 the person who is legally liable for the patient's support
10 is not indigent, the ~~board~~ office shall recover the costs of
11 compensating the advocate from that person. ~~If that person~~
12 ~~has an income level as determined pursuant to section 815.9~~
13 ~~greater than one hundred percent but not more than one hundred~~
14 ~~fifty percent of the poverty guidelines, at least one hundred~~
15 ~~dollars of the advocate's compensation shall be recovered in~~
16 ~~the manner prescribed by the county board of supervisors.~~
17 ~~If that person has an income level as determined pursuant~~
18 ~~to section 815.9 greater than one hundred fifty percent of~~
19 ~~the poverty guidelines, at least two hundred dollars of the~~
20 ~~advocate's compensation shall be recovered in substantially the~~
21 ~~same manner prescribed by the county board of supervisors as~~
22 ~~provided in section 815.9.~~
23 Sec. 13. Section 229.25, subsection 1, paragraph a,
24 subparagraph (1), Code 2013, is amended to read as follows:
25 (1) The information is requested by a licensed physician,
26 attorney, or the mental health advocate ~~who provides~~ appointed
27 for the person. The requester must provide the chief medical
28 officer with a written waiver signed by the person about whom
29 the information is sought.
30 Sec. 14. TRANSITION OF EMPLOYEE RIGHTS OF FORMER COUNTY
31 EMPLOYEES.
32 1. If appointed by the administrator of the office of mental
33 health advocate of the department of human rights pursuant
34 to section 216A.172, county employees paid for mental health
35 advocate services under section 229.19 shall become employees

S.F. 406

1 of the department of human rights effective July 1, 2014, and
2 the department shall assume all costs associated with the
3 functions of the employees on that date. Employees who were
4 paid salaries by the counties immediately prior to becoming
5 state employees as a result of this Act shall not forfeit
6 accrued vacation, accrued sick leave, or benefits related to
7 longevity of service, except as provided in this section.
8 2. The department of inspections and appeals, after
9 consulting with the department of administrative services,
10 shall adopt rules to provide for the following:
11 a. A person referred to in subsection 1 shall have to the
12 person's credit as a state employee commencing on the date of
13 becoming a state employee the number of accrued vacation days
14 that was credited to the person as a county employee as of the
15 end of the day prior to becoming a state employee.
16 b. Each person referred to in subsection 1 shall have to
17 the person's credit as a state employee commencing on the
18 date of becoming a state employee the number of accrued days
19 of sick leave that was credited to the person as a county
20 employee as of the end of the day prior to becoming a state
21 employee. However, the number of days of sick leave credited
22 to a person under this subsection and eligible to be taken
23 when sick or eligible to be received upon retirement shall not
24 respectively exceed the maximum number of days, if any, or the
25 maximum dollar amount as provided in section 70A.23 that state
26 employees generally are entitled to accrue or receive according
27 to rules in effect as of the date the person becomes a state
28 employee.
29 c. Commencing on the date of becoming a state employee, each
30 person referred to in subsection 1 is entitled to claim the
31 person's most recent continuous period of service in full-time
32 county employment as full-time state employment for purposes
33 of determining the number of days of vacation which the person
34 is entitled to earn each year. The actual vacation benefit,
35 including the limitation on the maximum accumulated vacation

S.F. 406

1 leave, shall be determined as provided in section 70A.1
2 according to rules in effect for state employees of comparable
3 longevity, irrespective of any greater or lesser benefit as a
4 county employee.
5 3. Persons referred to in subsection 1 who were covered
6 by county employee life insurance and accident and health
7 insurance plans prior to becoming state employees in accordance
8 with this section shall be permitted to apply prior to becoming
9 state employees for life insurance and health and accident
10 insurance plans that are available to state employees so that
11 those persons do not suffer a lapse of insurance coverage as a
12 result of this section. The department of human rights, after
13 consulting with the department of administrative services,
14 shall prescribe rules and distribute application forms and
15 take other actions as necessary to enable those persons to
16 elect to have insurance coverage that is in effect on the date
17 of becoming state employees. The actual insurance coverage
18 available to a person shall be determined by the plans that are
19 available to state employees, irrespective of any greater or
20 lesser benefits that may have been available to the person as
21 a county employee.
22 4. Commencing on the date of becoming a state employee, each
23 person referred to in subsection 1 is entitled to claim the
24 person's most recent continuous period of service in full-time
25 county employment as full-time state employment for purposes of
26 determining disability benefits as provided in section 70A.20
27 according to rules in effect for state employees of comparable
28 longevity, irrespective of any greater or lesser benefit that
29 may have been available to the person as a county employee.
30 Sec. 15. EFFECTIVE DATE. This division of this Act takes
31 effect July 1, 2014.
32 DIVISION III
33 INVOLUNTARY COMMITMENTS — PERSONS WITH INTELLECTUAL
34 DISABILITIES
35 Sec. 16. Section 48A.2, subsection 3, Code 2013, is amended

S.F. 406

1 to read as follows:
2 3. *"Person who is incompetent to vote"* means a person with an
3 intellectual disability who has been found to lack the mental
4 capacity to vote in a proceeding held pursuant to section
5 ~~222.31 or~~ 633.556.
6 Sec. 17. Section 222.6, Code 2013, is amended to read as
7 follows:
8 **222.6 State districts.**
9 The administrator shall divide the state into two districts
10 in such manner that one of the resource centers shall be
11 located within each of the districts. Such districts may
12 from time to time be changed. After such districts have
13 been established, the administrator shall notify all boards
14 of supervisors, county auditors, and clerks of the district
15 courts of the action. Thereafter, unless the administrator
16 otherwise orders, all admissions ~~or commitments~~ of persons with
17 an intellectual disability from a district shall be to the
18 resource center located within such district.
19 Sec. 18. Section 222.12, subsection 2, Code 2013, is amended
20 to read as follows:
21 2. Notice of the death of the patient, and the cause of
22 death, shall be sent to the county board of supervisors ~~and to~~
23 ~~the judge of the court that had jurisdiction over a committed~~
24 ~~patient~~. The fact of death with the time, place, and alleged
25 cause shall be entered upon the docket of the court.
26 Sec. 19. Section 222.15, subsection 3, Code 2013, is amended
27 by striking the subsection.
28 Sec. 20. Section 222.59, subsection 3, Code 2013, is amended
29 by striking the subsection.
30 Sec. 21. Section 222.60, subsection 1, unnumbered paragraph
31 1, Code 2013, is amended to read as follows:
32 All necessary and legal expenses for the cost of admission
33 ~~or commitment~~ or for the treatment, training, instruction,
34 care, habilitation, support and transportation of persons with
35 an intellectual disability, as provided for in the county

S.F. 406

1 management plan provisions implemented pursuant to section
2 331.439, subsection 1, in a state resource center, or in a
3 special unit, or any public or private facility within or
4 without the state, approved by the director of the department
5 of human services, shall be paid by either:
6 Sec. 22. Section 222.61, Code 2013, is amended to read as
7 follows:
8 **222.61 Legal settlement determined.**
9 When a county receives an application on behalf of any person
10 for admission to a resource center or a special unit ~~or when~~
11 ~~a court issues an order committing any person to a resource~~
12 ~~center or a special unit~~, the board of supervisors shall
13 utilize the central point of coordination process to determine
14 and certify that the legal settlement of the person is in one
15 of the following:
16 1. In the county in which the application is received ~~or~~
17 ~~court is located~~.
18 2. In some other county of the state.
19 3. In another state or in a foreign country.
20 4. Unknown.
21 Sec. 23. Section 222.64, Code 2013, is amended to read as
22 follows:
23 **222.64 Foreign state or country or unknown legal settlement.**
24 If the legal settlement of the person is determined by the
25 board of supervisors through the central point of coordination
26 process to be in a foreign state or country or is determined
27 to be unknown, the board of supervisors shall certify the
28 determination to the administrator. The certification shall
29 be accompanied by a copy of the evidence supporting the
30 determination. The care of the person shall be as arranged by
31 the board of supervisors or by an order as the court may enter.
32 Application for admission ~~or order of commitment~~ may be made
33 pending investigation by the administrator.
34 Sec. 24. Section 222.67, Code 2013, is amended to read as
35 follows:

S.F. 406

222.67 Charge on finding of settlement.

If a person has been received into a resource center or a special unit as a patient whose legal settlement is supposedly outside the state or is unknown and the administrator determines that the legal settlement of the patient was at the time of admission ~~or commitment~~ in a county of this state, the administrator shall certify the determination and charge all legal costs and expenses pertaining to the admission ~~or commitment~~ and support of the patient to the county of legal settlement. The certification shall be sent to the county of legal settlement. The certification shall be accompanied by a copy of the evidence supporting the determination. If the person's legal settlement status has been determined in accordance with section 225C.8, the legal costs and expenses shall be charged to the county or as a state case in accordance with that determination. The costs and expenses shall be collected as provided by law in other cases.

Sec. 25. Section 222.68, Code 2013, is amended to read as follows:

222.68 Costs paid in first instance.

All necessary and legal expenses for the cost of admission ~~or commitment~~ of a person to a resource center or a special unit when the person's legal settlement is found to be in another county of this state shall in the first instance be paid by the county from which the person was admitted ~~or committed~~. The county of legal settlement shall reimburse the county which pays for all such expenses. Where any county fails to make such reimbursement within forty-five days following submission of a properly itemized bill to the county of legal settlement, a penalty of not greater than one percent per month on and after forty-five days from submission of the bill may be added to the amount due.

Sec. 26. Section 222.69, Code 2013, is amended to read as follows:

222.69 Payment by state.

S.F. 406

1 All necessary and legal expenses for the cost of admission
2 ~~or commitment~~ of a person to a resource center or a special
3 unit when the person's legal settlement is outside this state
4 or is unknown shall be paid out of any money in the state
5 treasury not otherwise appropriated. Such payments shall be
6 made on itemized vouchers executed by the auditor of the county
7 from which the expenses have been paid and approved by the
8 administrator.
9 Sec. 27. Section 222.70, Code 2013, is amended to read as
10 follows:
11 **222.70 Legal settlement disputes.**
12 If a dispute arises between counties or between the
13 department and a county as to the legal settlement of a person
14 admitted ~~or committed~~ to a resource center, a special unit, or
15 a community-based service, the dispute shall be resolved as
16 provided in section 225C.8.
17 Sec. 28. Section 222.78, Code 2013, is amended to read as
18 follows:
19 **222.78 Parents and others liable for support.**
20 The father and mother of any patient admitted ~~or committed~~ to
21 a resource center or to a special unit, as either an inpatient
22 or an outpatient, and any person, firm, or corporation bound
23 by contract made for support of the patient are liable for the
24 support of the patient. The patient and those legally bound
25 for the support of the patient shall be liable to the county
26 for all sums advanced by the county to the state under the
27 provisions of sections 222.60 and 222.77. The liability of
28 any person, other than the patient, who is legally bound for
29 the support of a patient who is under eighteen years of age
30 in a resource center or a special unit shall not exceed the
31 average minimum cost of the care of a normally intelligent
32 minor without a disability of the same age and sex as the
33 minor patient. The administrator shall establish the scale
34 for this purpose but the scale shall not exceed the standards
35 for personal allowances established by the state division

S.F. 406

1 under the family investment program. The father or mother
2 shall incur liability only during any period when the father
3 or mother either individually or jointly receive a net income
4 from whatever source, commensurate with that upon which they
5 would be liable to make an income tax payment to this state.
6 The father or mother of a patient shall not be liable for the
7 support of the patient upon the patient attaining eighteen
8 years of age. Nothing in this section shall be construed to
9 prevent a relative or other person from voluntarily paying the
10 full actual cost as established by the administrator for caring
11 for the patient with an intellectual disability.
12 Sec. 29. Section 222.80, Code 2013, is amended to read as
13 follows:
14 **222.80 Liability to county.**
15 A person admitted ~~or committed~~ to a county institution
16 or home or admitted ~~or committed~~ at county expense to a
17 private hospital, sanitarium, or other facility for treatment,
18 training, instruction, care, habilitation, and support as a
19 patient with an intellectual disability shall be liable to the
20 county for the reasonable cost of the support as provided in
21 section 222.78.
22 Sec. 30. Section 222.91, Code 2013, is amended to read as
23 follows:
24 **222.91 Direct referral to special unit.**
25 In addition to any other manner of referral~~,~~ or admission~~, or~~
26 ~~commitment~~ to the special unit provided for by this chapter,
27 persons may be referred directly to the special unit by courts,
28 law enforcement agencies, or state penal or correctional
29 institutions for services under ~~subsection 2 of~~ section 222.88,
30 subsection 2,~~;~~ but persons so referred shall not be admitted
31 ~~or committed~~ unless a preadmission diagnostic evaluation
32 indicates that the person would benefit from such services,
33 and the admission ~~or commitment~~ of the person to the special
34 unit would not cause the special unit's patient load to exceed
35 its capacity.

S.F. 406

1 Sec. 31. Section 232.51, Code 2013, is amended to read as
2 follows:
3 **232.51 Disposition of child with mental illness ~~or an~~**
4 **~~intellectual disability~~.**
5 1. If the evidence received at an adjudicatory or a
6 dispositional hearing indicates that the child is mentally
7 ill, the court may direct the juvenile court officer or the
8 department to initiate proceedings or to assist the child's
9 parent or guardian to initiate civil commitment proceedings in
10 the juvenile court and such proceedings in the juvenile court
11 shall adhere to the requirements of chapter 229.
12 ~~2. If the evidence received at an adjudicatory or a~~
13 ~~dispositional hearing indicates that the child has an~~
14 ~~intellectual disability, the court may direct the juvenile~~
15 ~~court officer or the department to initiate proceedings~~
16 ~~or to assist the child's parent or guardian to initiate~~
17 ~~civil commitment proceedings in the juvenile court and such~~
18 ~~proceedings shall adhere to the requirements of chapter 222.~~
19 ~~3.~~ 2. *a.* If prior to the adjudicatory or dispositional
20 hearing on the pending delinquency petition, the child is
21 committed as a child with a mental illness ~~or an intellectual~~
22 ~~disability~~ and is ordered into a residential facility,
23 institution, or hospital for inpatient treatment, the
24 delinquency proceeding shall be suspended until such time as
25 the juvenile court either terminates the civil commitment
26 order or the child is released from the residential facility,
27 institution, or hospital for purposes of receiving outpatient
28 treatment.
29 *b.* During any time that the delinquency proceeding is
30 suspended pursuant to this subsection, any time limits for
31 speedy adjudicatory hearings and continuances shall be tolled.
32 *c.* This subsection shall not apply to waiver hearings held
33 pursuant to section 232.45.
34 Sec. 32. Section 331.756, subsection 42, Code 2013, is
35 amended by striking the subsection.

S.F. 406

1 Sec. 33. Section 602.8102, subsections 36 and 37, Code 2013,
2 are amended by striking the subsections.
3 Sec. 34. REPEAL. Sections 222.16 through 222.33, sections
4 222.36 through 222.49, section 222.51, and sections 222.54
5 through 222.58, Code 2013, are repealed.
6 Sec. 35. EFFECTIVE DATE. This division of this Act takes
7 effect July 1, 2014.
8 DIVISION IV
9 INVOLUNTARY COMMITMENTS —
10 SUBSTANCE-RELATED DISORDERS AND MENTAL ILLNESS
11 Sec. 36. NEW SECTION. **125.74A Preapplication screening**
12 **assessment — program.**
13 Prior to filing an application pursuant to section 125.75,
14 the clerk of the district court or the clerk's designee shall
15 inform the interested person referred to in section 125.75
16 about the option of requesting a preapplication screening
17 assessment through a preapplication screening assessment
18 program, if available. The state court administrator shall
19 prescribe practices and procedures for implementation of the
20 preapplication screening assessment program.
21 Sec. 37. Section 125.75, Code 2013, is amended to read as
22 follows:
23 **125.75 ~~Involuntary commitment or treatment — application~~**
24 **Application.**
25 1. Proceedings for the involuntary commitment or treatment
26 of a person with a substance-related disorder to a facility
27 pursuant to this chapter or for the involuntary hospitalization
28 of a person pursuant to chapter 229 may be commenced by
29 ~~the county attorney or an~~ any interested person by filing a
30 verified application with the clerk of the district court of
31 the county where the respondent is presently located or which
32 is the respondent's place of residence. The clerk or the
33 clerk's designee shall assist the applicant in completing the
34 application.
35 2. The application shall:

S.F. 406

1 ~~1.~~ *a.* State the applicant's belief that the respondent is a
2 person ~~with a substance-related disorder.~~ who presents a danger
3 to self or others and lacks judgmental capacity due to either
4 of the following:
5 (1) A substance-related disorder as defined in section
6 125.2.
7 (2) A serious mental impairment as defined in section 229.1.
8 ~~2.~~ *b.* State ~~any other pertinent~~ facts in support of each
9 belief described in paragraph *"a"*.
10 ~~3.~~ *c.* Be accompanied by one or more of the following:
11 ~~*a.*~~ (1) A written statement of a licensed physician in
12 support of the application.
13 ~~*b.*~~ (2) One or more supporting affidavits corroborating the
14 application.
15 ~~*c.*~~ (3) Corroborative information obtained and reduced to
16 writing by the clerk or the clerk's designee, but only when
17 circumstances make it infeasible to obtain, or when the clerk
18 considers it appropriate to supplement, the information under
19 either ~~paragraph *"a"*~~ subparagraph (1) or ~~paragraph *"b"*~~ (2).
20 3. Prior to the filing of an application pursuant to this
21 section, the clerk or the clerk's designee shall inform the
22 interested person referred to in subsection 1 about the option
23 of requesting a preapplication screening assessment pursuant
24 to section 125.74A.
25 4. The supreme court shall prescribe rules and establish
26 forms as necessary to carry out the provisions of this section.
27 Sec. 38. Section 125.75A, Code 2013, is amended to read as
28 follows:
29 **125.75A Involuntary ~~commitment or treatment of~~ proceedings —**
30 **minors — jurisdiction.**
31 The juvenile court has exclusive original jurisdiction in
32 proceedings concerning a minor for whom an application ~~for~~
33 ~~involuntary commitment or treatment~~ is filed under section
34 125.75. In proceedings under this division concerning a
35 minor's involuntary commitment or treatment, the term *"court"*,

S.F. 406

1 *"judge"*, or *"clerk"* means the juvenile court, judge, or clerk.
2 Sec. 39. Section 125.77, Code 2013, is amended to read as
3 follows:
4 **125.77 Service of notice.**
5 Upon the filing of an application ~~for involuntary commitment~~
6 pursuant to section 125.75, the clerk shall docket the case
7 and immediately notify a district court judge, a district
8 associate judge, or magistrate who is admitted to the practice
9 of law in this state, who shall review the application and
10 accompanying documentation. The clerk shall send copies of
11 the application and supporting documentation, together with
12 the notice informing the respondent of the procedures required
13 by this division, to the sheriff, for immediate service upon
14 the respondent. If the respondent is taken into custody under
15 section 125.81, service of the application, documentation,
16 and notice upon the respondent shall be made at the time the
17 respondent is taken into custody.
18 Sec. 40. Section 125.78, unnumbered paragraph 1, Code 2013,
19 is amended to read as follows:
20 As soon as practical after the filing of an application ~~for~~
21 ~~involuntary commitment or treatment~~ pursuant to section 125.75,
22 the court shall:
23 Sec. 41. Section 125.79, Code 2013, is amended to read as
24 follows:
25 **125.79 Respondent's attorney informed.**
26 The court shall direct the clerk to furnish at once to
27 the respondent's attorney, copies of the application ~~for~~
28 ~~involuntary commitment of the respondent~~ pursuant to section
29 125.75 and the supporting documentation, and of the court's
30 order issued pursuant to section 125.78, subsection 3. If the
31 respondent is taken into custody under section 125.81, the
32 attorney shall also be advised of that fact. The respondent's
33 attorney shall represent the respondent at all stages of the
34 proceedings and shall attend the commitment hearing.
35 Sec. 42. Section 229.5, Code 2013, is amended to read as

S.F. 406

1 follows:
2 **229.5 Departure without notice.**
3 If a voluntary patient departs from the hospital without
4 notice, and in the opinion of the chief medical officer the
5 patient is seriously mentally impaired, the chief medical
6 officer may file an application ~~for involuntary hospitalization~~
7 ~~of~~ on the departed voluntary patient pursuant to section 229.6,
8 and request that an order for immediate custody be entered by
9 the court pursuant to section 229.11.
10 Sec. 43. Section 229.5A, Code 2013, is amended to read as
11 follows:
12 **229.5A Preapplication screening assessment — program.**
13 Prior to filing an application ~~for involuntary~~
14 ~~hospitalization~~ pursuant to section 229.6, the clerk of
15 the district court or the clerk's designee shall inform the
16 interested person referred to in section 229.6, subsection
17 1, about the option of requesting a preapplication screening
18 assessment through a preapplication screening assessment
19 program, if available. The state court administrator shall
20 prescribe practices and procedures for implementation of the
21 preapplication screening assessment program.
22 Sec. 44. Section 229.6, Code 2013, is amended to read as
23 follows:
24 **229.6 Application for order of involuntary hospitalization.**
25 1. Proceedings for the involuntary hospitalization of an
26 individual pursuant to this chapter or for the involuntary
27 commitment or treatment of a person with a substance-related
28 disorder to a facility pursuant to chapter 125 may be commenced
29 by any interested person by filing a verified application
30 with the clerk of the district court of the county where the
31 respondent is presently located, or which is the respondent's
32 place of residence. The clerk, or the clerk's designee, shall
33 assist the applicant in completing the application.
34 2. The application shall:
35 *a.* State the applicant's belief that the respondent is

S.F. 406

1 ~~seriously mentally impaired.~~ a person who presents a danger to
2 self or others and lacks judgmental capacity due to either of
3 the following:
4 (1) A substance-related disorder as defined in section
5 125.2.
6 (2) A serious mental impairment as defined in section 229.1.
7 *b.* State ~~any other pertinent~~ facts in support of each belief
8 described in paragraph *"a"*.
9 *c.* Be accompanied by any of the following:
10 (1) A written statement of a licensed physician in support
11 of the application.
12 (2) One or more supporting affidavits otherwise
13 corroborating the application.
14 (3) Corroborative information obtained and reduced to
15 writing by the clerk or the clerk's designee, but only when
16 circumstances make it infeasible to comply with, or when the
17 clerk considers it appropriate to supplement the information
18 supplied pursuant to, either subparagraph (1) or (2).
19 ~~2.~~ 3. Prior to the filing of an application pursuant to
20 this section, the clerk or the clerk's designee shall inform
21 the interested person referred to in subsection 1 about the
22 option of requesting a preapplication screening assessment
23 pursuant to section 229.5A.
24 4. The supreme court shall prescribe rules and establish
25 forms as necessary to carry out the provisions of this section.
26 Sec. 45. Section 229.6A, subsection 1, Code 2013, is amended
27 to read as follows:
28 1. Notwithstanding section 229.11, the juvenile court has
29 exclusive original jurisdiction in proceedings concerning
30 a minor for whom an application ~~for involuntary admission~~
31 is filed under section 229.6 or for whom an application for
32 voluntary admission is made under section 229.2, subsection 1,
33 to which the minor objects. In proceedings under this chapter
34 concerning a minor, notwithstanding section 229.11, the term
35 *"court"*, *"judge"*, or *"clerk"* means the juvenile court, judge, or

S.F. 406

clerk.

Sec. 46. Section 229.7, Code 2013, is amended to read as follows:

229.7 Service of notice upon respondent.

Upon the filing of an application ~~for involuntary hospitalization~~ pursuant to section 229.6, the clerk shall docket the case and immediately notify a district court judge, district associate judge, or magistrate who is admitted to the practice of law in this state, who shall review the application and accompanying documentation. If the application is adequate as to form, the court may set a time and place for a hearing on the application, if feasible, but the hearing shall not be held less than forty-eight hours after notice to the respondent unless the respondent waives such minimum prior notice requirement. The court shall direct the clerk to send copies of the application and supporting documentation, together with a notice informing the respondent of the procedures required by this chapter, to the sheriff or the sheriff's deputy for immediate service upon the respondent. If the respondent is taken into custody under section 229.11, service of the application, documentation and notice upon the respondent shall be made at the time the respondent is taken into custody.

Sec. 47. Section 229.8, unnumbered paragraph 1, Code 2013, is amended to read as follows:

As soon as practicable after the filing of an application ~~for involuntary hospitalization~~ pursuant to section 229.6, the court shall:

Sec. 48. Section 229.9, Code 2013, is amended to read as follows:

229.9 Respondent's attorney informed.

The court shall direct the clerk to furnish at once to the respondent's attorney copies of the application ~~for involuntary hospitalization of the respondent~~ filed pursuant to section 229.6 and the supporting documentation, and of the court's order issued pursuant to section 229.8, subsection 3. If the

S.F. 406

respondent is taken into custody under section 229.11, the attorney shall also be advised of that fact. The respondent's attorney shall represent the respondent at all stages of the proceedings, and shall attend the hospitalization hearing.

Sec. 49. Section 229.21, subsection 2, Code 2013, is amended to read as follows:

2. When an application for involuntary hospitalization ~~under this chapter~~ or ~~an application~~ for involuntary commitment or treatment of persons with substance-related disorders under ~~sections~~ section 229.6 or 125.75 ~~to 125.94~~ is filed with the clerk of the district court in any county for which a judicial hospitalization referee has been appointed, and no district judge, district associate judge, or magistrate who is admitted to the practice of law in this state is accessible, the clerk shall immediately notify the referee in the manner required by section 229.7 or section 125.77. The referee shall discharge all of the duties imposed upon the court by sections 229.7 to 229.22 or sections 125.75 to 125.94 in the proceeding so initiated. Subject to the provisions of subsection 4, orders issued by a referee, in discharge of duties imposed under this section, shall have the same force and effect as if ordered by a district judge. However, any commitment to a facility regulated and operated under chapter 135C shall be in accordance with section 135C.23.

Sec. 50. Section 229.22, subsection 3, Code 2013, is amended to read as follows:

3. The chief medical officer of the facility or hospital shall examine and may detain and care for the person taken into custody under the magistrate's order for a period not to exceed forty-eight hours from the time such order is dated, excluding Saturdays, Sundays and holidays, unless the order is sooner dismissed by a magistrate. The facility or hospital may provide treatment which is necessary to preserve the person's life, or to appropriately control behavior by the person which is likely to result in physical injury to

S.F. 406

1 the person's self or others if allowed to continue, but may
2 not otherwise provide treatment to the person without the
3 person's consent. The person shall be discharged from the
4 facility or hospital and released from custody not later than
5 the expiration of that period, unless an application ~~for the~~
6 ~~person's involuntary hospitalization~~ is sooner filed with the
7 clerk pursuant to section 229.6. Prior to such discharge the
8 facility or hospital shall, if required by this section, notify
9 the law enforcement agency requesting such notification about
10 the discharge of the person. The law enforcement agency shall
11 retrieve the person no later than six hours after notification
12 from the facility or hospital but in no circumstances shall the
13 detention of the person exceed the period of time prescribed
14 for detention by this subsection. The detention of any
15 person by the procedure and not in excess of the period of
16 time prescribed by this section shall not render the peace
17 officer, physician, facility, or hospital so detaining that
18 person liable in a criminal or civil action for false arrest or
19 false imprisonment if the peace officer, physician, facility,
20 or hospital had reasonable grounds to believe the person so
21 detained was mentally ill and likely to physically injure
22 the person's self or others if not immediately detained, or
23 if the facility or hospital was required to notify a law
24 enforcement agency by this section, and the law enforcement
25 agency requesting notification prior to discharge retrieved the
26 person no later than six hours after the notification, and the
27 detention prior to the retrieval of the person did not exceed
28 the period of time prescribed for detention by this subsection.
29 Sec. 51. Section 229.24, subsection 1, Code 2013, is amended
30 to read as follows:
31 1. All papers and records pertaining to any involuntary
32 hospitalization or application ~~for involuntary hospitalization~~
33 pursuant to section 229.6 of any person under this chapter,
34 whether part of the permanent record of the court or of a file
35 in the department of human services, are subject to inspection

S.F. 406

1 only upon an order of the court for good cause shown.
2 Sec. 52. Section 229.27, subsection 2, Code 2013, is amended
3 to read as follows:
4 2. The applicant may, in initiating a petition ~~for~~
5 ~~involuntary hospitalization of a person~~ under section 229.6 or
6 at any subsequent time prior to conclusion of the involuntary
7 hospitalization proceeding, also petition the court for a
8 finding that the person is incompetent by reason of mental
9 illness. The test of competence for the purpose of this
10 section shall be whether the person possesses sufficient mind
11 to understand in a reasonable manner the nature and effect
12 of the act in which the person is engaged; the fact that a
13 person is mentally ill and in need of treatment for that
14 illness but because of the illness lacks sufficient judgment
15 to make responsible decisions with respect to the person's
16 hospitalization or treatment does not necessarily mean that
17 that person is incapable of transacting business on any
18 subject.
19 Sec. 53. Section 602.1209, subsection 16, Code 2013, is
20 amended to read as follows:
21 16. Prescribe practices and procedures for the
22 implementation of the preapplication screening assessment
23 program referred to in ~~section~~ sections 125.75A and 229.5A.
24 Sec. 54. REPEAL. Sections 125.75B and 229.2A, Code 2013,
25 are repealed.
26 Sec. 55. STUDY — BED AVAILABILITY TRACKING SYSTEM. The
27 department of human services shall conduct a study regarding
28 the possible development of a hospital bed tracking system in
29 order to most efficiently and effectively serve the needs of
30 persons suffering from mental illness. The department shall
31 submit a report of the study and make recommendations to the
32 governor and the general assembly by December 16, 2013.
33 EXPLANATION
34 DIVISION I — DEPARTMENTAL RESPONSIBILITY FOR MENTAL HEALTH
35 ADVOCATES. This division establishes an office of mental

S.F. 406

1 health advocate in the department of human rights and specifies
2 duties for the administrator of the office. A transition
3 provision directs the department to commence organizational
4 activities during FY 2013-2014 as necessary to fully implement
5 the new departmental office and all of the bill's division
6 II provisions on July 1, 2014. The department is granted
7 emergency rulemaking authority if necessary to achieve the
8 implementation date.
9 This division takes effect July 1, 2013.
10 DIVISION II —— IMPLEMENTATION. This division provides for
11 implementation of the change in administration of the mental
12 health advocates on July 1, 2014, including conforming changes
13 to various Code sections.
14 Code section 225C.4, relating to the duties of the
15 administrator of the mental health and disability services
16 division of the department of human services, is amended
17 to correct a reference to mental health advocates and to
18 include the department of human rights in a duty for providing
19 consultation and technical assistance to advocates.
20 Code section 226.31, relating to an application for a court
21 order for transfer of a dangerous patient from a state mental
22 health institute, is amended to correct a reference to the
23 advocate to be included in a notice of a hearing.
24 Code section 229.2, relating to admissions of juvenile
25 mental health patients, is amended to correct a reference to
26 the appointment of a mental health advocate for juveniles
27 involuntarily committed.
28 Code section 229.9A, relating to requirements for the clerk
29 of court to notify a mental health advocate of application
30 and order information, is amended to correct a reference to
31 the advocate, to eliminate a reference to county of legal
32 settlement, and to authorize the advocate to attend any court
33 hearing involving the respondent.
34 Code section 229.12, relating to the procedure for
35 hospitalization hearings, is amended to correct a reference to

S.F. 406

1 the advocate and to eliminate a reference to county of legal
2 settlement.
3 Code section 229.14A, relating to notice requirements
4 for involuntary commitment placement orders and transfers,
5 is amended to require notice to correct a reference to the
6 advocate and to eliminate a reference to a procedure for
7 withdrawal of an attorney that is revised by the bill.
8 Code section 229.15, relating to the periodic reports
9 required when hospitalization of a patient is continued by
10 court order, is amended to require the report to be provided to
11 the advocate.
12 Code section 229.19, the primary Code provision for mental
13 health advocates, is extensively revised to insert the new
14 department of human rights' office of mental health advocate
15 in place of the counties. The court is required to notify
16 the office when a patient is found to be seriously mentally
17 impaired and the office is required to appoint the advocate.
18 A procedure for continuation of the respondent's attorney
19 when a patient is found to be seriously mentally impaired is
20 revised to require the attorney to cooperate with the patient's
21 advocate instead of assuming the duties of an advocate.
22 Responsibility for compensation of the mental health advocate
23 is shifted to the office and the office is required to recover
24 the costs of the mental health advocate if the person is not
25 indigent.
26 Code section 229.25, relating to exceptions for release of
27 medical records maintained by a hospital or other treatment
28 facility, is amended to correct a reference to the advocate
29 regarding the release of the records to the advocate when the
30 patient has signed a waiver.
31 The bill includes a transition section outlining sick time,
32 vacation leave, and health, life, and disability insurance
33 rights of county employees who become employees of the
34 department of human rights in accordance with the bill.
35 This division takes effect July 1, 2014.

S.F. 406

1 DIVISION III — INVOLUNTARY COMMITMENTS — PERSONS WITH
2 INTELLECTUAL DISABILITIES. Current Code chapter 222 contains
3 both a voluntary admission process and an involuntary
4 commitment process to provide treatment, training, instruction,
5 care, habilitation, and support of persons with an intellectual
6 disability. Current law also provides that if a guardianship
7 is proposed for a person with an intellectual disability,
8 such proceedings shall be initiated and conducted pursuant
9 to Code chapter 633 (provisions under probate code). This
10 division repeals provisions in Code chapter 222 relating to
11 the involuntary commitment process and makes conforming Code
12 changes. This division takes effect July 1, 2014.
13 DIVISION IV — INVOLUNTARY COMMITMENTS — SUBSTANCE-RELATED
14 DISORDERS AND MENTAL ILLNESS.
15 PREAPPLICATION SCREENING ASSESSMENT. This division provides
16 that prior to filing an application for involuntary commitment
17 or treatment under Code chapter 125 (substance-related
18 disorder) or for involuntary hospitalization under Code chapter
19 229 (mental illness), the clerk of the district court or the
20 clerk's designee shall inform the interested person who intends
21 to file the application about the option of requesting a
22 preapplication screening assessment through a preapplication
23 screening assessment program, if available. The state court
24 administrator is required to prescribe practices and procedures
25 for implementation of the preapplication screening assessment
26 program.
27 Conforming Code changes are made relating to the duties of
28 the district court clerk and the state court administrator.
29 APPLICATION FOR INVOLUNTARY COMMITMENT OR TREATMENT OR
30 INVOLUNTARY HOSPITALIZATION. Current law provides for separate
31 applications for the involuntary commitment or treatment of a
32 person with a substance-related disorder under Code chapter
33 125 and for the involuntary hospitalization of a person with a
34 serious mental impairment under Code chapter 229. The division
35 combines both applications and allows an interested person

S.F. 406

1 to file one application under either Code chapter 125 or 229
2 with the clerk of the district court of the county where the
3 respondent is located or where the respondent resides. The
4 interested person is required to state on the application
5 the person's belief that the respondent presents a danger to
6 self or others and lacks judgmental capacity due to either a
7 substance-related disorder or a serious mental impairment. The
8 applicant must also state facts in support of each claim and,
9 consistent with current law, provide a written statement of a
10 licensed physician, one or more supporting affidavits, or any
11 other corroborative information as determined by the clerk of
12 the district court in support of the application. The division
13 requires the supreme court to adopt rules and establish forms
14 as necessary to carry out the amended provisions.
15 The bill makes conforming changes by amending certain
16 provisions in both Code chapters 125 and 229 that make
17 references to the filing of separate commitment applications
18 and repeals provisions allowing for dual filings of both
19 applications.
20 STUDY — BED AVAILABILITY TRACKING SYSTEM. This division
21 requires the department of human services to conduct a study
22 regarding the possible development of a hospital bed tracking
23 system in order to most efficiently and effectively serve
24 the needs of persons suffering from mental illness. The
25 department is required to submit a report of the study and make
26 recommendations to the governor and the general assembly by
27 December 16, 2013.

Senate File 407 - Introduced

SENATE FILE 407
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1163)

A BILL FOR

1 An Act relating to the activities and duties of the state board
2 of regents and the board's administrative office.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1877SV (3) 85
kh/sc

S.F. 407

Section 1. Section 262.1, Code 2013, is amended to read as follows:

262.1 Membership.

The state board of regents consists of nine members, ~~eight~~ seven of whom shall be selected from the state at large solely with regard to their qualifications and fitness to discharge the duties of the office. The eighth member shall be selected by the faculty of the institutions of higher learning governed by the board, and the ninth member shall be a student enrolled on a full-time basis in good standing at either the graduate or undergraduate level at one of the institutions listed in section 262.7, subsection 1, 2, or 3, at the time of the member's appointment. Not more than five members shall be of the same political party.

Sec. 2. Section 262.2, Code 2013, is amended to read as follows:

262.2 Appointment — term of office.

The members, except for the eighth member who is selected as specified in section 262.1, shall be appointed by the governor subject to confirmation by the senate. Prior to appointing the ninth member as specified in section 262.1, the governor shall consult with the appropriate student body government at the institution at which the proposed appointee is enrolled. The term of each member of the board shall be for six years, unless the ninth member, appointed in accordance with section 262.1, graduates or is no longer enrolled at an institution of higher education under the board's control, at which time the term of the ninth member shall expire one year from the date on which the member graduates or is no longer enrolled in an institution of higher education under the board's control. However, if within that year the ninth member reenrolls in any institution of higher education under the board's control on a full-time basis and is a student in good standing at either the graduate or undergraduate level, the term of the ninth member shall continue in effect. The terms of three members of the board

S.F. 407

shall begin and expire in each odd-numbered year as provided in section 69.19.

Sec. 3. NEW SECTION. **262.3 Board and board office — prohibited activities.**

1. A member of the state board of regents, the executive director of the board, and professional staff employed for the administration of the board's office shall not have any business or financial relationship with any person employed by an institution governed by the board.

2. A person who registers as a lobbyist pursuant to section 68B.36 on behalf of a person who is a member of the state board of regents or on behalf of that member's business or employer shall not, within two years after the termination of such service or employment as a lobbyist, become a lobbyist, state relations officer, or governmental liaison for any office, program, or department of an institution governed or administered by the board.

Sec. 4. Section 262.6, Code 2013, is amended to read as follows:

262.6 Vacancies.

Vacancies shall be filled in the same manner in which regular appointments are required to be made. ~~If the ninth member resigns prior to the expiration of the term, the individual appointed to fill the vacancy shall meet the requirements for the ninth member specified in section 262.1. Other vacancies occurring prior to the expiration of the ninth member's term shall be filled in the same manner as the original appointments for those vacancies.~~

Sec. 5. Section 262.8, Code 2013, is amended to read as follows:

262.8 Meetings — public forums — public readings.

1. The board shall meet four times a year. Special meetings may be called by the board, by the president of the board, or by the executive director of the board upon written request of any five members thereof.

S.F. 407

1 2. Each regular meeting of the state board of regents
2 shall begin with at least thirty minutes for public comment if
3 requested by members of the public. A member of the public
4 shall be granted up to five minutes to make comments and may be
5 granted more time by a member of the board.
6 3. At least two members of the state board of regents
7 shall hold public forums at which issues relating to the
8 activities of the board and the institutions the board governs
9 can be discussed and addressed. The forums shall provide
10 the community with opportunities to pose questions, receive
11 answers, and make comments. The board shall divide the state
12 into at least four geographic regions, including but not
13 limited to northwest, southwest, northeast, and southeast Iowa,
14 and shall hold a forum in accordance with this subsection in
15 each region at least quarterly. The forums shall be held
16 outside the metropolitan areas in which institutions of higher
17 learning governed by the state board are located and outside
18 of a metropolitan area within the state that has a population
19 of two hundred thousand or more. Notice of a forum shall be
20 prominently posted on the board's internet site at least two
21 weeks prior to the date of the forum.
22 4. The board shall hold public readings of a proposal at two
23 regular meetings of the board before the board takes action on
24 a proposal before the board if the proposal affects an academic
25 program at an institution governed by the board, or if the
26 estimated cost of the proposal is one hundred thousand dollars
27 or more. A quorum of the board must be physically present at
28 any board meeting that includes a public reading required by
29 this subsection. The affirmative vote of a majority of the
30 membership of the board is necessary for any action to be taken
31 by the board on a proposal subject to this subsection.
32 Sec. 6. Section 262.9C, subsections 2 and 5, Code 2013, are
33 amended to read as follows:
34 2. The target span of control aggregate ratio of supervisory
35 employees to other employees shall be one to ~~fifteen~~ fourteen.

S.F. 407

1 The target span of control ratio shall not apply to employees
2 involved with direct patient care, faculty, and employees in
3 other areas of the institutions that must maintain different
4 span of control ratios due to federal or state regulations.
5 5. The state board of regents shall present an interim
6 report to the governor and general assembly on or before April
7 1, 2010, ~~with~~ and annual updates thereafter, detailing the
8 effects of the policy on the composition of the workforce, cost
9 savings, efficiencies, and outcomes. In addition, the report
10 and annual updates shall identify those departments within each
11 institution ~~under the control of~~ governed by the board granted
12 an exception by the board to the policy as provided in this
13 section.
14 Sec. 7. Section 262.12, Code 2013, is amended to read as
15 follows:
16 **262.12 Committees and administrative offices under board.**
17 1. The board of regents shall also have and exercise
18 all the powers necessary and convenient for the effective
19 administration of its office and of the institutions under
20 its control, and to this end may create such committees,
21 offices and agencies from its own members or others, and employ
22 persons to staff the same, fix their compensation and tenure
23 and delegate thereto, or to the administrative officers and
24 faculty of the institutions under its control, such part of the
25 authority and duties vested by statute in the board, and shall
26 formulate and establish such rules, outline such policies and
27 prescribe such procedures therefor, all as may be desired or
28 determined by the board as recorded in their minutes.
29 2. The board of regents shall publish on its internet
30 site specific criteria, including qualification requirements
31 and preferences, for electing a president of any institution
32 of higher learning governed by the board pursuant to section
33 262.9, subsection 2.
34 EXPLANATION
35 This bill relates to activities and duties of the state

S.F. 407

1 board of regents, the executive director of the board, and
2 the professional staff employed for the administration of the
3 board's office.
4 Currently, the board consists of nine members appointed
5 by the governor, eight of whom are selected from the state
6 at large, and the ninth is a student enrolled at a regents
7 university. The bill provides that the eighth member shall be
8 selected by the faculty of the regents universities.
9 The bill prohibits a member of the board, the board's
10 executive director, and the board's professional staff from
11 having any business or financial relationship with any person
12 employed by a regents institution.
13 A person who registers as a lobbyist on behalf of a person
14 who is a member of the board or on behalf of that member's
15 business or employer shall not within two years after the
16 termination of such service or employment as a lobbyist become
17 a lobbyist, state relations officer, or governmental liaison
18 for any office, program, or department of an institution
19 governed or administered by the board.
20 Each regular board meeting shall begin with at least 30
21 minutes for public comment if requested by members of the
22 public. A member of the public shall be granted up to five
23 minutes to make comments and may be granted more time by a
24 member of the board.
25 At least two members of the board shall hold public forums
26 in each of at least four geographic regions of the state
27 quarterly. The forums must be held outside of the metropolitan
28 areas in which the regents universities are located, and
29 outside of Des Moines. Notice of a forum must be prominently
30 posted on the board's internet site at least two weeks prior to
31 the date of the forum.
32 If a proposal before the board affects an institution's
33 academic program or if its estimated cost is $100,000 or
34 more, the bill requires that the board hold public readings
35 of the proposal at two regular meetings of the board before

S.F. 407

1 taking action on the proposal. A quorum of the board must be
2 physically present at these meetings, and the proposal must
3 receive the affirmative vote of a majority of the membership
4 for any action to be taken on the proposal.
5 The bill reduces the target span of control aggregate ratio
6 of supervisory employees to other employees at the institutions
7 governed by the board from 1 to 15 to 1 to 14.
8 The board must publish on its internet site specific
9 criteria for electing a president of a regents university.
10 The bill includes conforming changes.

Senate File 408 - Introduced

SENATE FILE 408
BY COMMITTEE ON ECONOMIC GROWTH

(SUCCESSOR TO SSB 1217)

A BILL FOR

1 An Act relating to the Iowa finance authority and making an
2 appropriation.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2116SV (3) 85
ec/nh

S.F. 408

DIVISION I
IOWA JOBS BOARD

Section 1. Section 12.87, subsection 12, Code 2013, is amended to read as follows:

12. Neither the treasurer of state, the Iowa ~~jobs board~~ finance authority, nor any person acting on behalf of the treasurer of state or the Iowa ~~jobs board~~ finance authority while acting within the scope of their employment or agency, is subject to personal liability resulting from carrying out the powers and duties conferred by this section and sections 12.88 through 12.90.

Sec. 2. Section 16.193, subsection 1, Code 2013, is amended to read as follows:

~~1.~~ The ~~Iowa finance~~ authority~~, subject to approval by the Iowa jobs board,~~ shall adopt administrative rules pursuant to chapter 17A necessary to administer the Iowa jobs program and Iowa jobs II program. The authority shall ~~provide the board with assistance in implementing administrative functions,~~ be responsible for providing technical assistance and application assistance to applicants under the programs, negotiating contracts, and providing project follow up. ~~The authority, in cooperation with the board, may conduct negotiations on behalf of the board with applicants regarding terms and conditions applicable to awards under the program.~~

Sec. 3. Section 16.194, subsection 2, Code 2013, is amended to read as follows:

2. A city or county or a public organization in this state may submit an application to the ~~Iowa jobs board~~ authority for financial assistance for a local infrastructure competitive grant for an eligible project under the program, notwithstanding any limitation on the state's percentage in funding as contained in section 29C.6, subsection 17.

Sec. 4. Section 16.194, subsection 4, unnumbered paragraph 1, Code 2013, is amended to read as follows:

The ~~board~~ authority shall consider the following criteria in

S.F. 408

evaluating eligible projects to receive financial assistance under the program:

Sec. 5. Section 16.194, subsection 7, Code 2013, is amended to read as follows:

7. In order for a project to be eligible to receive financial assistance from the ~~board~~ authority, the project must be a public construction project pursuant to subsection 1 with a demonstrated substantial local, regional, or statewide economic impact.

Sec. 6. Section 16.194, subsection 8, unnumbered paragraph 1, Code 2013, is amended to read as follows:

The ~~board~~ authority shall not approve an application for assistance for any of the following purposes:

Sec. 7. Section 16.194, subsection 9, paragraph b, Code 2013, is amended to read as follows:

b. Any portion of an amount allocated for projects that remains unexpended or unencumbered one year after the allocation has been made may be reallocated to another project category, at the discretion of the ~~board~~ authority. The ~~board~~ authority shall ensure that all bond proceeds be expended within three years from when the allocation was initially made.

Sec. 8. Section 16.194, subsection 10, Code 2013, is amended to read as follows:

10. The ~~board~~ authority shall ensure that funds obligated under this section are coordinated with other federal program funds received by the state, and that projects receiving funds are located in geographically diverse areas of the state.

Sec. 9. Section 16.194A, subsections 2, 7, 9, and 10, Code 2013, are amended to read as follows:

2. A city or county in this state that applies the smart planning principles and guidelines pursuant to sections 18B.1 and 18B.2 may submit an application to the ~~Iowa jobs board~~ authority for financial assistance for a local infrastructure competitive grant for an eligible project under the program, notwithstanding any limitation on the state's percentage in

S.F. 408

1 funding as contained in section 29C.6, subsection 17.
2 7. In order for a project to be eligible to receive
3 financial assistance from the ~~board~~ authority, the project
4 must be a public construction project pursuant to subsection 1
5 with a demonstrated substantial local, regional, or statewide
6 economic impact.
7 9. Any portion of an amount allocated for projects
8 that remains unexpended or unencumbered one year after the
9 allocation has been made may be reallocated to another project
10 category, at the discretion of the ~~board~~ authority. The ~~board~~
11 authority shall ensure that all bond proceeds be expended
12 within three years from when the allocation was initially made.
13 10. The ~~board~~ authority shall ensure that funds obligated
14 under this section are coordinated with other federal program
15 funds received by the state, and that projects receiving funds
16 are located in geographically diverse areas of the state.
17 Sec. 10. Section 16.194A, subsection 4, unnumbered
18 paragraph 1, Code 2013, is amended to read as follows:
19 The ~~board~~ authority shall consider the following criteria in
20 evaluating eligible projects to receive financial assistance
21 under the program:
22 Sec. 11. Section 16.194A, subsection 8, unnumbered
23 paragraph 1, Code 2013, is amended to read as follows:
24 The ~~board~~ authority shall not approve an application for
25 assistance for any of the following purposes:
26 Sec. 12. Section 16.195, Code 2013, is amended to read as
27 follows:
28 **16.195 Iowa jobs program application review.**
29 1. Applications for assistance under the Iowa jobs program
30 and Iowa jobs II program shall be submitted to the ~~Iowa finance~~
31 authority for review and approval. ~~The authority shall provide~~
32 ~~a staff review and evaluation of applications to the Iowa jobs~~
33 ~~program review committee referred to in subsection 2 and to the~~
34 ~~Iowa jobs board.~~
35 2. ~~A review committee composed of members of the board~~

S.F. 408

1 ~~as determined by the board shall review Iowa jobs program~~
2 ~~applications submitted to the board and make recommendations~~
3 ~~regarding the applications to the board.~~ When reviewing the
4 applications, the ~~review committee and the~~ authority shall
5 consider the project criteria specified in sections 16.194 and
6 16.194A. The ~~board~~ authority shall develop the appropriate
7 level of transparency regarding project fund allocations.
8 3. Upon approval of an application for financial assistance
9 under the program, the ~~board~~ authority shall notify the
10 treasurer of state regarding the amount of moneys needed to
11 satisfy the award of financial assistance and the terms of the
12 award. The treasurer of state shall notify the ~~Iowa finance~~
13 authority any time moneys are disbursed to a recipient of
14 financial assistance under the program.
15 Sec. 13. Section 16.196, Code 2013, is amended to read as
16 follows:
17 **16.196 Iowa jobs ~~restricted capitals fund~~ — fund**
18 **appropriations.**
19 ~~1. An Iowa jobs restricted capitals fund is created and~~
20 ~~established as a separate and distinct fund in the state~~
21 ~~treasury. The fund consists of moneys appropriated from~~
22 ~~the revenue bonds capitals fund created in section 12.88.~~
23 ~~The moneys in the fund are appropriated to the Iowa jobs~~
24 ~~board for purposes of the Iowa jobs program established in~~
25 ~~section 16.194. Moneys in the fund shall not be subject to~~
26 ~~appropriation for any other purpose by the general assembly,~~
27 ~~but shall be used only for the purposes of the Iowa jobs~~
28 ~~program. The treasurer of state shall act as custodian of the~~
29 ~~fund and disburse moneys contained in the fund. The fund shall~~
30 ~~be administered by the board which shall make allocations from~~
31 ~~the fund consistent with the purposes of the Iowa jobs program.~~
32 ~~2.~~ 1. There is appropriated from the revenue bonds capitals
33 fund created in section 12.88, to the ~~Iowa jobs restricted~~
34 ~~capitals fund~~ authority, for the fiscal year beginning July 1,
35 2009, and ending June 30, 2010, one hundred sixty-five million

S.F. 408

1 dollars to be allocated as follows:
2 *a.* One hundred eighteen million five hundred thousand
3 dollars for competitive grants for local infrastructure
4 projects relating to disaster rebuilding, reconstruction
5 and replacement of local buildings, flood control and flood
6 protection, and future flood prevention public projects. An
7 applicant for a local infrastructure grant shall not receive
8 more than fifty million dollars in financial assistance from
9 the fund.
10 *b.* Forty-six million five hundred thousand dollars for
11 disaster relief and mitigation and local infrastructure
12 grants for the following renovation and construction projects,
13 notwithstanding any limitation on the state's percentage
14 participation in funding as contained in section 29C.6,
15 subsection 17:
16 (1) For grants to a county with a population between
17 one hundred eighty-nine thousand and one hundred ninety-six
18 thousand in the latest preceding certified federal census, to
19 be distributed as follows:
20 (a) Ten million dollars for the construction of a new,
21 shared facility between nonprofit human service organizations
22 serving the public, especially the needs of low-income Iowans,
23 including those displaced as a result of the disaster of 2008.
24 (b) Five million dollars for the construction or renovation
25 of a facility for a county-funded workshop program serving
26 the public and particularly persons with mental illness or
27 developmental disabilities.
28 (2) For grants to a city with a population between one
29 hundred ten thousand and one hundred twenty thousand in the
30 latest preceding certified federal census, to be distributed
31 as follows:
32 (a) Five million dollars for an economic redevelopment
33 project benefiting the public by improving energy efficiency
34 and the development of alternative and renewable energy
35 technologies.

S.F. 408

(b) Ten million dollars for a museum serving the public and dedicated to the preservation of an eastern European cultural heritage through the collection, exhibition, preservation, and interpretation of historical artifacts.

(c) Five million dollars for a theater serving the public and promoting culture, entertainment, and tourism.

(d) Five million dollars for a public library.

(e) Five million dollars for a public works building.

(3) One million five hundred thousand dollars, to be distributed as follows:

(a) Five hundred thousand dollars to a city with a population between six hundred and six hundred fifty in the latest preceding certified federal census, for a public fire station.

(b) Five hundred thousand dollars to a city with a population between one thousand four hundred and one thousand five hundred in the latest preceding certified federal census, for a public fire station.

(c) Five hundred thousand dollars for a city with a population between seven thousand eight hundred and seven thousand eight hundred fifty, for a public fire station.

~~3.~~ 2. Grant awards for a project under subsection ~~2~~ 1, paragraph *"b"*, are contingent upon submission of a plan for each project by the applicable county or city governing board or in the case of a project submitted pursuant to subsection ~~2~~ 1, paragraph *"b"*, subparagraph (2), subparagraph division (b), by the board of directors, to the ~~Iowa jobs board~~ authority, no later than September 1, 2009, detailing a description of the project, the plan to rebuild, and the amount or percentage of federal, state, local, or private matching moneys which will be or have been provided for the project. Funds not utilized in accordance with subsection ~~2, paragraph *"b"*, due to failure to file a plan by the September 1 deadline~~ 1, shall revert to the ~~Iowa jobs restricted~~ revenue bonds capitals fund ~~to be available for local infrastructure competitive grants~~. A grant

S.F. 408

1 recipient under subsection ~~2~~ 1, paragraph *"b"*, shall not be
2 precluded from applying for a local infrastructure competitive
3 grant pursuant to this section and section 16.195.
4 ~~4. Moneys in the fund are not subject to section 8.33.~~
5 ~~Notwithstanding section 12C.7, subsection 2, interest or~~
6 ~~earnings on moneys in the fund shall be credited to the fund.~~
7 ~~5.~~ 3. Annually, on or before January 15 of each year, the
8 ~~board~~ authority shall report to the legislative services agency
9 and the department of management the status of all projects
10 receiving moneys from the fund completed or in progress. The
11 report shall include a description of the project, the progress
12 of work completed, the total estimated cost of the project, a
13 list of all revenue sources being used to fund the project, the
14 amount of funds expended, the amount of funds obligated, and
15 the date the project was completed or an estimated completion
16 date of the project, where applicable.
17 ~~6.~~ 4. Payment of moneys appropriated from the fund shall be
18 made in a manner that does not adversely affect the tax-exempt
19 status of any outstanding bonds issued by the treasurer of
20 state.
21 Sec. 14. Section 16.197, Code 2013, is amended to read as
22 follows:
23 **16.197 Limitation of liability.**
24 ~~A member of the Iowa jobs board, a person acting on behalf of~~
25 ~~the board while acting within the scope of their employment or~~
26 ~~agency,~~ The authority or the treasurer of state, shall not be
27 subject to personal liability resulting from carrying out the
28 powers and duties of the ~~board~~ authority or the treasurer, as
29 applicable, in sections ~~16.192~~ 16.193 through 16.196.
30 Sec. 15. IOWA JOBS BOARD — TRANSITION PROVISIONS —
31 LIMITATION OF LIABILITY.
32 1. Any contract or agreement issued or entered into by the
33 Iowa jobs board relating to the provisions of this division
34 of this Act, in effect on the effective date of this division
35 of this Act, shall continue in full force and effect and

S.F. 408

1 any responsibility of the board relative to the contracts or
2 agreements as provided in those contracts or agreements shall
3 be transferred to the Iowa finance authority.
4 2. A member of the Iowa jobs board or a person acting on
5 behalf of the board while acting within the scope of that
6 person's employment or agency shall not be subject to personal
7 liability resulting from carrying out the powers and duties
8 of the board prior to the effective date of this division of
9 this Act, as applicable, in sections 12.87 through 12.90 and in
10 sections 16.192 through 16.196, Code 2013.
11 Sec. 16. REPEAL. Sections 16.191 and 16.192, Code 2013,
12 are repealed.
13 DIVISION II
14 TITLE GUARANTY
15 Sec. 17. Section 16.1, subsection 1, paragraph ad,
16 subparagraph (7), Code 2013, is amended to read as follows:
17 (7) The Iowa title guaranty program.
18 Sec. 18. Section 16.2A, subsection 1, Code 2013, is amended
19 to read as follows:
20 1. A title guaranty division is created within the
21 authority. The division may also be referred to as Iowa title
22 guaranty. The powers of the division relating to the issuance
23 of title guaranties are vested in and shall be exercised by
24 a division board of five members appointed by the governor
25 subject to confirmation by the senate. The membership of
26 the board shall include an attorney, an abstractor, a real
27 estate broker, a representative of a mortgage lender, and
28 a representative of the housing development industry. The
29 executive director of the authority shall appoint an attorney
30 as director of the title guaranty division, who shall serve
31 as an ex officio member of the board. The appointment of and
32 compensation for the division director are exempt from the
33 merit system provisions of chapter 8A, subchapter IV.
34 Sec. 19. Section 16.91, subsections 1, 3, and 4, Code 2013,
35 are amended to read as follows:

S.F. 408

1 1. The authority through the title guaranty division shall
2 initiate and operate a program in which the division shall
3 offer guaranties of real property titles in this state. The
4 terms, conditions, and form of the guaranty contract shall be
5 forms approved by the division board. The division shall fix
6 a charge for the guaranty in an amount sufficient to permit
7 the program to operate on a self-sustaining basis, including
8 payment of administrative costs and the maintenance of an
9 adequate reserve against claims under the Iowa title guaranty
10 program. A title guaranty fund is created in the office of
11 the treasurer of state. Funds collected under this program
12 shall be placed in the title guaranty fund and are available
13 to pay all claims, necessary reserves and all administrative
14 costs of the Iowa title guaranty program. Moneys in the fund
15 shall not revert to the general fund and interest on the
16 moneys in the fund shall be deposited in the housing trust
17 fund established in section 16.181 and shall not accrue to the
18 general fund. If the authority board in consultation with the
19 division board determines that there are surplus funds in the
20 title guaranty fund after providing for adequate reserves and
21 operating expenses of the division, the surplus funds shall be
22 transferred to the housing assistance fund created pursuant to
23 section 16.40.
24 3. With the approval of the authority board the division
25 and its board shall consult with the insurance division of
26 the department of commerce in developing a guaranty contract
27 acceptable to the secondary market and developing any other
28 feature of the program with which the insurance division may
29 have special expertise. The insurance division shall establish
30 the amount for a loss reserve fund. Except as provided in this
31 subsection, the Iowa title guaranty program is not subject to
32 the jurisdiction of or regulation by the insurance division or
33 the commissioner of insurance.
34 4. Each participating attorney and abstractor may be
35 required to pay an annual participation fee to be eligible to

S.F. 408

1 participate in the Iowa title guaranty program. The fee, if
2 any, shall be set by the division, subject to the approval of
3 the authority.
4 Sec. 20. Section 16.91, subsection 5, paragraph a,
5 subparagraph (2), Code 2013, is amended to read as follows:
6 (2) Additionally, each participating abstractor is required
7 to own or lease, and maintain and use in the preparation of
8 abstracts, an up-to-date abstract title plant including tract
9 indices for real estate for each county in which abstracts are
10 prepared for real property titles guaranteed by the division.
11 The tract indices shall contain a reference to all instruments
12 affecting the real estate which are recorded in the office of
13 the county recorder, and shall commence not less than forty
14 years prior to the date the abstractor commences participation
15 in the Iowa title guaranty program. However, a participating
16 attorney providing abstract services continuously from November
17 12, 1986, to the date of application, either personally or
18 through persons under the attorney's supervision and control is
19 exempt from the requirements of this subparagraph.
20 Sec. 21. Section 16.91, subsection 8, Code 2013, is amended
21 to read as follows:
22 8. The authority shall adopt rules pursuant to chapter 17A
23 that are necessary for the implementation of the Iowa title
24 guaranty program as established by the division and that have
25 been approved by the authority.
26 Sec. 22. Section 16.92, subsection 1, paragraph g, Code
27 2013, is amended to read as follows:
28 *g. "Participating abstractor"* means an abstractor
29 participating in the Iowa title guaranty program.
30 Sec. 23. Section 447.13, subsection 1, Code 2013, is amended
31 to read as follows:
32 1. The cost of serving the notice, including the cost of
33 sending certified mail notices, and the cost of publication
34 under section 447.10, if publication is required, shall be
35 added to the amount necessary to redeem. The cost of a record

S.F. 408

1 search shall also be added to the amount necessary to redeem.
2 However, if the certificate holder is other than a county, the
3 search must be performed by an abstractor who is an active
4 participant in the Iowa title guaranty program under section
5 16.91 or by an attorney licensed to practice law in the state
6 of Iowa, and the amount of the cost of the record search that
7 may be added to the amount necessary to redeem shall not exceed
8 three hundred dollars.
9 DIVISION III
10 IOWA FINANCE AUTHORITY
11 Sec. 24. Section 7C.4A, subsection 5, Code 2013, is amended
12 to read as follows:
13 5. Eighteen percent of the state ceiling shall be allocated
14 to bonds issued by political subdivisions to finance a
15 qualified industry or industries for the manufacturing,
16 processing, or assembly of agricultural or manufactured
17 products even though the processed products may require further
18 treatment before delivery to the ultimate consumer. A single
19 project allocated a portion of the state ceiling pursuant to
20 this subsection shall not receive an allocation in excess of
21 ~~ten~~ twenty million dollars in any calendar year.
22 Sec. 25. Section 16.5, subsection 1, paragraph o, Code 2013,
23 is amended to read as follows:
24 *o.* Contract directly with architects, engineers, attorneys,
25 accountants, housing construction and finance experts,
26 and other advisors. However, the authority may enter into
27 contracts or agreements for such services with local, state, or
28 federal governmental agencies.
29 Sec. 26. Section 16.26, Code 2013, is amended by adding the
30 following new subsections:
31 NEW SUBSECTION. 10. In connection with any financing
32 which involves an out-of-state issuer issuing bonds, notes,
33 or other obligations for facilities located in the state, the
34 authority is designated as the only governmental unit in the
35 state that may conduct the public hearing required by section

S.F. 408

147(f) of the federal Internal Revenue Code, as defined in section 422.3, and the governor of Iowa is designated as the applicable elected representative pursuant to section 147(f) of the federal Internal Revenue Code, as defined in section 422.3.

NEW SUBSECTION. 11. All bonds or notes issued by the authority in connection with its single family and multifamily programs are exempt from taxation by this state, and the interest on the bonds or notes is exempt from state income tax.

Sec. 27. Section 16.102, Code 2013, is amended to read as follows:

16.102 Establishment of bond bank program — bonds and notes — projects.

1. The authority may assist the development and expansion of family farming, soil conservation, housing, and business in the state through the establishment of the Iowa economic development bond bank program. The authority may issue its bonds or notes, or series of bonds or notes for the purpose of defraying the cost of one or more projects and make secured and unsecured loans for the acquisition and construction of projects on terms the authority determines regardless of location.

2. For purposes of this section, *"project"* includes real or personal property connected with a facility that is located outside of the state if at least fifty percent of the financing for the program shall be used in the state and if the authority has conclusively determined that the entity financing or refinancing property located outside the state, or an affiliate thereof, is also engaged in the financing or refinancing of property located within the state, or, alternatively, the entity seeking the financing or refinancing, or an affiliate thereof, maintains a presence within the state, and financing or refinancing the property located outside the state would promote the economy of the state for the benefit of the health, welfare, safety, trade, commerce, industry, or economy of the people of the state.

S.F. 408

EXPLANATION

This bill concerns the Iowa finance authority.

Division I eliminates the Iowa jobs board and provides that any duties or responsibilities of the Iowa jobs board shall become the responsibility of the Iowa finance authority. The division also provides transition provisions relative to any contracts or agreements entered into by the Iowa jobs board and provides for a limitation of personal liability for actions by a member or agent of the board taken prior to the effective date of the division relative to the duties of the board.

Division II renames the title guaranty program as the Iowa title guaranty program. The bill also allows the title guaranty division to be referred to as Iowa title guaranty.

Division III concerns bond activity and the Iowa finance authority.

Code section 7C.4A(5), concerning the allocation of the state ceiling on bonds to bonds issued by a political subdivision, is amended to increase the amount any one project may receive from private activity bonds from $10 million to $20 million.

Code section 16.5, describing the general powers of the Iowa finance authority, is amended. The bill grants the power to the authority to contract directly with architects, engineers, attorneys, and other advisors.

Code section 16.26, concerning bonds and notes, is amended. The bill provides that for certain bonds, notes, or other obligations, the authority is designated as the governmental unit that may conduct the public hearing required by the federal Internal Revenue Code and the governor of Iowa is designated as the applicable elected representative pursuant to the Internal Revenue Code. In addition, the bill allows for bonds issued for the single family and multifamily programs to be exempt from state income tax.

Code section 16.102, concerning the bond bank program, is amended to allow projects for property located outside of the

S.F. 408

1 state if at least 50 percent of the financing for the program
2 shall be used in the state and, either the entity financing
3 the property outside the state is also financing property
4 located within the state or the entity maintains a presence in
5 the state and financing the property outside the state would
6 benefit the state.

Senate File 409 - Introduced

SENATE FILE 409
BY COMMITTEE ON ECONOMIC GROWTH

(SUCCESSOR TO SSB 1075)

A BILL FOR

1 An Act relating to the economic development financial
2 assistance duties and powers of the economic development
3 authority by authorizing and creating fees, affecting the
4 aggregate tax credit limit for certain economic development
5 programs, making an appropriation, and including effective
6 date and retroactive applicability provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1207SV (3) 85
mm/rj

S.F. 409

DIVISION I
COLLECTION OF FEES

Section 1. Section 12.10, Code 2013, is amended to read as follows:

12.10 Deposits by state officers.

Except as otherwise provided, all elective and appointive state officers, boards, commissions, and departments shall, within ten days succeeding the collection, deposit with the treasurer of state, or to the credit of the treasurer of state in any depository designated by the treasurer of state, ninety percent of all fees, commissions, and moneys collected or received. The balance actually collected in cash, remaining in the hands of any officer, board, or department shall not exceed the sum of five thousand dollars and money collected shall not be held more than thirty days. This section does not apply to the state fair board, the state board of regents, the utilities board of the department of commerce, the director of the department of human services, the Iowa finance authority, the economic development authority, or to the funds received by the state racing and gaming commission under sections 99D.7 and 99D.14.

Sec. 2. Section 15.106B, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 5. *a.* The authority may charge fees to businesses or individuals who receive financial assistance under chapter 15 or 15E. The amount of such fees shall be determined based on the costs of the authority associated with its performance of contract administration and compliance duties relating to economic development programs.

b. The authority may charge businesses and individuals a fee for the use of the authority's federal EB-5 immigrant investor regional center.

Sec. 3. Section 15.330, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 12. *a.* The imposition of a one-time

S.F. 409

1 compliance cost fee of five hundred dollars to be collected
2 by the authority prior to the issuance of a tax incentive
3 certificate or the disbursement of financial assistance.
4 *b.* The imposition of a compliance cost fee equal to one-half
5 of one percent of the value of tax incentives claimed pursuant
6 to an agreement that has an aggregate tax incentive value of
7 one hundred thousand dollars or greater. The authority shall
8 collect the fee from the business after the tax incentive is
9 claimed by the business from the department of revenue.
10 Sec. 4. NEW SECTION. **15E.198 Compliance cost fees.**
11 The compliance cost fees imposed in 15.330, subsection 12,
12 shall apply to all agreements entered into under this division
13 and shall be collected by the authority in the same manner and
14 to the same extent as described in that subsection.
15 Sec. 5. EFFECTIVE UPON ENACTMENT. This division of this
16 Act, being deemed of immediate importance, takes effect upon
17 enactment.
18 Sec. 6. APPLICABILITY. This division of this Act applies to
19 agreements entered into on or after the effective date of this
20 division of this Act.
21 DIVISION II
22 AGGREGATE TAX CREDIT LIMITATION
23 Sec. 7. Section 15.119, subsection 1, Code 2013, is amended
24 to read as follows:
25 1. *a.* Notwithstanding any provision to the contrary in
26 any of the programs listed in subsection 2, the authority,
27 except as provided in paragraph *"b"*, shall not authorize for
28 any one fiscal year an amount of tax credits for the programs
29 specified in subsection 2 that is in excess of one hundred
30 ~~twenty~~ eighty-five million dollars.
31 *b.* (1) The authority may authorize an amount of tax credits
32 during a fiscal year that is in excess of the amount specified
33 in paragraph *"a"*, but the amount of such excess shall be counted
34 against the total amount of tax credits that may be authorized
35 for the next fiscal year.

S.F. 409

1 (2) Any amount of tax credits authorized and awarded during
2 a fiscal year for a program specified in subsection 2 which are
3 irrevocably declined by the awarded business on or before June
4 30 of the next fiscal year may be reallocated, authorized, and
5 awarded during the fiscal year in which the declination occurs.
6 Tax credits authorized pursuant to this subparagraph shall not
7 be considered for purposes of subparagraph (1).
8 Sec. 8. Section 15.119, subsection 2, paragraphs d and e,
9 Code 2013, are amended to read as follows:
10 *d.* The tax credits for investments in qualifying businesses
11 and community-based seed capital funds issued pursuant to
12 section 15E.43. In allocating tax credits pursuant to this
13 subsection, the authority shall allocate two million dollars
14 for purposes of this paragraph, unless the authority determines
15 that the tax credits awarded will be less than that amount.
16 *e.* The tax credits for investments in an innovation fund
17 pursuant to section 15E.52. In allocating tax credits pursuant
18 to this subsection, the authority shall allocate eight million
19 dollars for purposes of this paragraph, unless the authority
20 determines that the tax credits awarded will be less than that
21 amount.
22 Sec. 9. Section 15.119, subsection 3, Code 2013, is amended
23 to read as follows:
24 3. In allocating the amount of tax credits authorized
25 pursuant to subsection 1 among the programs specified in
26 subsection 2, the authority shall ~~not~~ allocate ~~more than five~~
27 at least ten million dollars for purposes of subsection 2,
28 paragraph *"f"*.
29 Sec. 10. EFFECTIVE UPON ENACTMENT. This division of this
30 Act, being deemed of immediate importance, takes effect upon
31 enactment.
32 Sec. 11. RETROACTIVE APPLICABILITY. This division of this
33 Act applies retroactively to July 1, 2012.
34 DIVISION III
35 CITY DEVELOPMENT BOARD FEES

S.F. 409

1 Sec. 12. Section 368.10, Code 2013, is amended to read as
2 follows:
3 **368.10 Rules — establishment of filing fees.**
4 The board may establish rules for the performance of its
5 duties and the conduct of proceedings before it. The rules
6 may include establishing filing fees for applications and
7 petitions submitted to the board. The amounts collected
8 from the establishment of such fees are appropriated to the
9 board for the purpose of reimbursing the economic development
10 authority for the budgeted costs of covering the board's
11 expenses as described in section 368.9, subsection 1. Any
12 amounts collected in a fiscal year by the board in excess of
13 such budgeted costs shall be deposited in the general fund of
14 the state. The board's rules are subject to chapter 17A, as
15 applicable.
16 EXPLANATION
17 This bill relates to the financial management of the
18 economic development authority (EDA) by authorizing and
19 creating fees, affecting the aggregate tax credit limit
20 for certain economic development programs, and by making an
21 appropriation.
22 COLLECTION OF FEES. Division I amends Code section
23 15.106B, relating to the program powers of the EDA, to allow
24 for the imposition and collection of fees from businesses or
25 individuals who receive financial assistance from the EDA under
26 Code chapter 15 or 15E. The fee amounts are to be determined
27 based on the EDA's costs of administering contracts under its
28 various economic development programs. The division also
29 allows the EDA to charge a fee for the use of its federal EB-5
30 immigrant investor regional center. Code section 12.10 is
31 amended to allow the EDA to retain the fees it collects by
32 adding the EDA to the list of departments exempted from the
33 requirement to deposit all collected fees with the treasurer of
34 state.
35 The division creates two compliance cost fees to be imposed

S.F. 409

1 on all persons or entities that enter into an agreement with
2 the EDA under its high quality jobs program or enterprise zone
3 program. First, a one-time compliance cost fee of $500 due
4 prior to the issuance of a tax incentive certificate or the
5 disbursement of financial assistance. Second, a compliance
6 cost fee equal to 0.5 percent of the value of tax incentives
7 claimed under any agreement that has an aggregate tax incentive
8 value of $100,000 or greater, which fee is due after a tax
9 incentive is claimed from the department of revenue.
10 The division takes effect upon enactment and applies to
11 agreements entered into on or after the effective date of the
12 division.
13 AGGREGATE TAX CREDIT LIMITATION. Division II increases
14 the aggregate tax credit limit on EDA programs listed in
15 Code section 15.119 from $120 million per fiscal year to
16 $185 million per fiscal year. The division allows the EDA
17 to reallocate, authorize, and award for a fiscal year any
18 amount of tax credits that were previously awarded by the EDA,
19 provided the tax credit is irrevocably declined by the awarded
20 business before the close of the fiscal year which follows the
21 fiscal year in which it was awarded. Any amount of tax credits
22 reallocated, authorized, and awarded under this provision shall
23 not be included in the calculation of the aggregate tax credit
24 limit for the fiscal year.
25 The division amends the requirement that not more than
26 $5 million in tax credits be allocated to the redevelopment
27 tax credit program for brownfields and grayfields to require
28 that at least $10 million in tax credits be allocated to the
29 program.
30 The division amends the requirements that $2 million and $8
31 million in tax credits be allocated to the qualifying business
32 and community-based seed capital funds investment tax credits
33 and the innovation fund tax credit, respectively, to allow
34 the EDA to allocate a lesser amount if it determines the tax
35 credits awarded for that fiscal year will be lower.

S.F. 409

1 The division takes effect upon enactment and applies
2 retroactively to July 1, 2012.
3 CITY DEVELOPMENT BOARD FEES. Under current law, the EDA
4 is required to provide office space and staff assistance to
5 the city development board created in Code section 368.9,
6 and to budget funds to cover expenses of the board. Also
7 under current law, the city development board is allowed to
8 impose fees upon applications and petitions submitted to the
9 board. Division III appropriates the amounts collected from
10 those fees to the city development board for the purpose of
11 reimbursing the EDA for the budgeted costs of covering the
12 board's expenses. Any fees collected in a fiscal year by the
13 city development board in excess of such budgeted costs shall
14 be deposited in the general fund of the state.

Senate File 410 - Introduced

SENATE FILE 410
BY COMMITTEE ON ECONOMIC GROWTH

(SUCCESSOR TO SSB 1112)

A BILL FOR

1 An Act modifying the innovation fund investment tax credit
2 and including effective date and retroactive applicability
3 provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1204SV (2) 85
mm/sc

S.F. 410

1 Section 1. Section 15E.52, subsection 1, paragraph c, Code
2 2013, is amended to read as follows:
3 *c. "Innovative business"* means a business applying ~~novel~~
4 ~~or original~~ innovative methods to the manufacture of a product
5 or the delivery of a service. *"Innovative business"* includes
6 but is not limited to a business engaged in the industries
7 of advanced manufacturing, biosciences, and information
8 technology.
9 Sec. 2. Section 15E.52, subsection 3, Code 2013, is amended
10 to read as follows:
11 3. The amount of a tax credit allowed under this section
12 shall equal ~~twenty~~ twenty-five percent of the taxpayer's equity
13 investment in an innovation fund.
14 Sec. 3. Section 15E.52, subsection 5, paragraph a, Code
15 2013, is amended to read as follows:
16 *a.* The board shall issue certificates under this section
17 which may be redeemed for tax credits. The board shall issue
18 such certificates so that not more than the amount allocated
19 for such tax credits under section 15.119, subsection 2, may be
20 claimed. ~~The certificates shall not be transferable.~~
21 Sec. 4. Section 15E.52, subsection 5, Code 2013, is amended
22 by adding the following new paragraph:
23 NEW PARAGRAPH. *c.* A certificate issued pursuant to this
24 section cannot pledge the credit of the state and any such
25 certificate so pledged to secure the debt of the original
26 holder or a transferee shall not constitute a contract binding
27 the state.
28 Sec. 5. Section 15E.52, subsection 6, Code 2013, is amended
29 to read as follows:
30 6. ~~A taxpayer shall not redeem a certificate and related tax~~
31 ~~credit prior to the third tax year following the tax year in~~
32 ~~which the investment is made.~~ Any tax credit in excess of the
33 taxpayer's liability for the tax year may be credited to the
34 tax liability for the following five years or until depleted,
35 whichever is earlier. A tax credit shall not be carried back

S.F. 410

1 to a tax year prior to the tax year in which the taxpayer claims
2 the tax credit.
3 Sec. 6. Section 15E.52, Code 2013, is amended by adding the
4 following new subsections:
5 NEW SUBSECTION. 8. Tax credit certificates issued pursuant
6 to this section may be transferred, in whole or in part, to any
7 person. A tax credit certificate shall only be transferred
8 once. Within ninety days of transfer, the transferee shall
9 submit the transferred tax credit certificate to the department
10 of revenue along with a statement containing the transferee's
11 name, tax identification number, and address, the denomination
12 that each replacement tax credit certificate is to carry, and
13 any other information required by the department of revenue.
14 NEW SUBSECTION. 9. Within thirty days of receiving the
15 transferred tax credit certificate and the transferee's
16 statement, the department of revenue shall issue one or
17 more replacement tax credit certificates to the transferee.
18 Each replacement tax credit certificate must contain the
19 information required for the original tax credit certificate.
20 A replacement tax credit certificate may designate a different
21 tax than the tax designated on the original tax credit
22 certificate. A tax credit shall not be claimed by a transferee
23 under this section until a replacement tax credit certificate
24 identifying the transferee as the proper holder has been
25 issued.
26 NEW SUBSECTION. 10. The transferee may use the amount of
27 the tax credit transferred against the taxes imposed in chapter
28 422, divisions II, III, and V, and in chapter 432, and against
29 the moneys and credits tax imposed in section 533.329, for
30 any tax year the original transferor could have claimed the
31 tax credit. Any consideration received for the transfer of
32 the tax credit shall not be included as income under chapter
33 422, divisions II, III, and V. Any consideration paid for the
34 transfer of the tax credit shall not be deducted from income
35 under chapter 422, divisions II, III, and V.

S.F. 410

1 Sec. 7. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
2 immediate importance, takes effect upon enactment.
3 Sec. 8. RETROACTIVE APPLICABILITY. This Act applies
4 retroactively to January 1, 2013, for tax years beginning on
5 or after that date and for equity investments in an innovation
6 fund made on or after that date.
7 EXPLANATION
8 This bill modifies the innovation fund investment tax credit
9 in Code section 15E.52. Under current law, the economic
10 development authority is required to issue nontransferable tax
11 credit certificates equal to 20 percent of a taxpayer's equity
12 investment in an innovation fund. A tax credit may not be
13 redeemed by a taxpayer until three years after an investment
14 is made. The tax credits available for issuance are under the
15 aggregate tax credit limit for certain economic development
16 programs in Code section 15.119, and are limited to a total of
17 $8 million per fiscal year.
18 The bill amends the definition of "innovative business" for
19 purposes of the innovation fund investment tax credit and, by
20 reference, the innovative business development programs in Code
21 section 15.411.
22 The bill modifies the credit by removing the requirement
23 that a taxpayer wait three years to redeem the credit,
24 by increasing the amount of the credit to 25 percent of a
25 taxpayer's equity investment, and by making the tax credit
26 certificates transferable one time and establishing procedures
27 for transferring the credit to another person.
28 The bill provides that innovation fund investment tax credit
29 certificates issued by the authority cannot pledge the credit
30 of the state and shall not constitute a contract binding the
31 state if a certificate is pledged to secure the debt of the
32 original holder or a transferee.
33 The bill is effective upon enactment and applies
34 retroactively to January 1, 2013, for tax years beginning on
35 or after that date and for equity investments in an innovation

S.F. 410

1 fund made on or after that date.

Senate File 411 - Introduced

SENATE FILE 411
BY COMMITTEE ON ECONOMIC GROWTH

(SUCCESSOR TO SF 159)

A BILL FOR

1 An Act to maintain a permanent Juneteenth exhibit in the state
2 historical building.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1312SV (2) 85
jr/sc

S.F. 411

1 Section 1. Section 303.2, subsection 2, Code 2013, is
2 amended by adding the following new paragraph:
3 NEW PARAGRAPH. *m.* Maintain a Juneteenth exhibit on display,
4 on a rotating basis, at the state historical building. The
5 exhibit shall also be provided in a digital format for online
6 access.
7 EXPLANATION
8 This bill would require a Juneteenth exhibit on display
9 at the state historical building, also available in digital
10 format.

Senate File 412 - Introduced

SENATE FILE 412
BY COMMITTEE ON ECONOMIC GROWTH

(SUCCESSOR TO SSB 1024)

A BILL FOR

1 An Act providing for a small employer health insurance tax
2 credit for individual and corporate income taxpayers and
3 including retroactive applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1223SV (2) 85
mm/sc

S.F. 412

1 Section 1. NEW SECTION. **422.11E Small employer health**
2 **insurance tax credit.**
3 1. The taxes imposed under this division, less the credits
4 allowed under section 422.12, shall be reduced by a small
5 employer health insurance tax credit equal to twenty-five
6 percent of the federal small employer health insurance tax
7 credit provided in section 45R of the Internal Revenue Code to
8 a taxpayer whose commercial domicile, as defined in section
9 422.32, is in this state.
10 2. An individual may claim the tax credit allowed to a
11 partnership, limited liability company, S corporation, estate,
12 or trust that elects to have the income taxed directly to the
13 individual. The amount claimed by the individual shall be
14 based upon the pro rata share of the individual's earnings of
15 the partnership, limited liability company, S corporation,
16 estate, or trust.
17 3. Any credit in excess of the tax liability is refundable.
18 In lieu of claiming a refund, the taxpayer may elect to have
19 the excess shown on the taxpayer's final, completed return
20 credited to the tax liability for the following tax year.
21 Sec. 2. Section 422.33, Code 2013, is amended by adding the
22 following new subsection:
23 NEW SUBSECTION. 15. The taxes imposed under this division
24 shall be reduced by a small employer health insurance tax
25 credit authorized pursuant to section 422.11E.
26 Sec. 3. RETROACTIVE APPLICABILITY. This Act applies
27 retroactively to January 1, 2013, for tax years beginning on
28 or after that date.
29 EXPLANATION
30 The federal Patient Protection and Affordable Care Act (Pub.
31 L. No. 111-148) provided for a small employer health insurance
32 income tax credit (section 45R of the Internal Revenue Code)
33 equal to a certain percentage of the cost of health insurance
34 premiums made by an eligible small employer on behalf of its
35 employees. This bill provides for an Iowa individual income

S.F. 412

1 and corporate income tax credit in an amount equal to 25
2 percent of the federal credit for a taxpayer whose commercial
3 domicile is in this state.
4 An individual may claim the tax credit allowed a
5 partnership, limited liability company, S corporation, estate,
6 or trust electing to have the income taxed directly to the
7 individual, based upon the pro rata share of the individual's
8 earnings. The tax credit is refundable or may be carried
9 forward to the next tax year.
10 The bill applies retroactively to January 1, 2013, for tax
11 years beginning on or after that date.

Senate File 413 - Introduced

SENATE FILE 413
BY COMMITTEE ON NATURAL
RESOURCES AND ENVIRONMENT

(SUCCESSOR TO SSB 1232)

A BILL FOR

1 An Act related to the liability of a land holder for the public
2 use of private lands and waters.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2490SV (2) 85
av/nh

S.F. 413

Section 1. Section 461C.1, Code 2013, is amended to read as follows:

461C.1 Purpose.

1. The purpose of this chapter is to encourage private ~~owners~~ holders of land to make land and water areas available to the public for recreational purposes and for urban deer control by limiting ~~an owner's~~ a holder's liability toward persons entering onto the ~~owner's~~ holder's property for such purposes. The provisions of this chapter shall be construed liberally and broadly in favor of private holders of land to accomplish the purposes of this chapter.

2. The general assembly declares that the holding of *Sallee v. Stewart*, (No. 11-0892) (Iowa 2013) is abrogated in its entirety as contrary to the general assembly's intent for the construction of this chapter.

Sec. 2. Section 461C.2, subsections 3 and 5, Code 2013, are amended to read as follows:

3. *"Land"* means private land located in a municipality including abandoned or inactive surface mines~~,~~; caves~~, and~~; land used for agricultural purposes~~, including~~; marshlands, timber, and grasslands; and the privately owned roads, ~~water~~ paths, trails, waters, water courses, ~~private ways~~ and exteriors and interiors of buildings, structures, ~~and~~ machinery, or equipment ~~appurtenant thereto~~ located on such land. *"Land"* includes land that is not open to the general public.

5. *"Recreational purpose"* means any activity undertaken for recreation, sport, exercise, education, relaxation, or pleasure, including but not limited to the following or any combination thereof: Hunting, trapping, horseback riding, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, motorcycling, all-terrain vehicle riding, nature study, water skiing, snowmobiling, ~~other summer and winter~~ sports or games, ~~and~~ agricultural tours, and viewing or enjoying historical, archaeological, scenic, or

S.F. 413

scientific sites ~~while going to and from or actually engaged therein~~. *"Recreational purpose"* includes the activity of accompanying another person who is engaging in such activities. *"Recreational purpose"* is not limited to active engagement in such activities, but also includes entry onto, use of, passage over, and presence on any part of the land in connection with such activities.

Sec. 3. Section 461C.3, Code 2013, is amended to read as follows:

461C.3 Liability of ~~owner~~ holder limited.

1. Except as specifically recognized by or provided in section 461C.6, ~~an owner~~ a holder of land ~~owes no~~ does not owe a duty of care to keep the premises safe for entry or use by others for recreational purposes or urban deer control, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.

2. Except as specifically recognized or provided in section 461C.6, a holder of land does not owe a duty of care to others because the holder is guiding, directing, supervising, or participating in any recreational purpose or urban deer control undertaken by others on the holder's land.

Sec. 4. Section 461C.4, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Assume a duty of care to a person because the holder is guiding, directing, supervising, or participating in any recreational purpose or urban deer control undertaken by the person on the holder's land.

Sec. 5. Section 461C.5, Code 2013, is amended to read as follows:

461C.5 Duties and liabilities of ~~owner~~ holder of leased land.

Unless otherwise agreed in writing, the provisions of sections 461C.3 and 461C.4 shall be deemed applicable to the duties and liability of ~~an owner~~ a holder of land leased, or any interest or right therein transferred to, or the

S.F. 413

subject of any agreement with, the United States or any agency thereof, or the state or any agency or subdivision thereof, for recreational purposes or urban deer control.

Sec. 6. Section 461C.6, Code 2013, is amended to read as follows:

461C.6 When liability lies against ~~owner~~ holder.

Nothing in this chapter limits in any way any liability which otherwise exists:

1. For willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.

2. For injury suffered in any case where the ~~owner~~ holder of land charges the person or persons who enter or go on the land for the recreational use thereof or for deer hunting, except that in the case of land or any interest or right therein, leased or transferred to, or the subject of any agreement with, the United States or any agency thereof or the state or any agency thereof or subdivision thereof, any consideration received by the holder for such lease, interest, right or agreement shall not be deemed a charge within the meaning of this section.

EXPLANATION

This bill relates to the public use of certain private lands and waters. The bill provides that Code chapter 461C shall be liberally and broadly construed in favor of private holders of land to encourage them to make their land and water areas available to the public for recreational purposes and for urban deer control, by limiting the land holders' liability to persons who enter onto their land to pursue such activities.

The bill specifically abrogates the recent holding rendered by the Iowa Supreme Court in Sallee v. Stewart, (No. 11-0892) (Iowa 2013). In that case the Supreme Court hold that Code chapter 461C did not limit the liability of a farmer when a chaperone was injured on a school field trip to the farm.

The bill broadens the definition of what land and water areas are included in such limitations of liability and provides that

S.F. 413

1 such land does not have to be open to the general public to be
2 subject to the protections of Code chapter 461C.
3 The bill also broadens the definition of what activities
4 constitute a "recreational purpose" by specifying additional
5 activities that are included and providing that the Code
6 chapter's protections are not limited to the activities listed.
7 In addition, the bill provides that a person engages in a
8 recreational purpose by accompanying another person who is
9 engaged in a recreational purpose. "Recreational purpose" is
10 not limited to active engagement in the activities but also
11 includes entry onto, use of, passage over, and presence on any
12 part of the land in connection with such activities.
13 The bill provides that a holder of land does not owe or
14 assume a duty of care to others because the holder is guiding,
15 directing, supervising, or participating in any recreational
16 purpose or urban deer control undertaken by others on the
17 holder's land.

Senate File 414 - Introduced

SENATE FILE 414
BY COMMITTEE ON NATURAL
RESOURCES AND ENVIRONMENT

(SUCCESSOR TO SSB 1211)

A BILL FOR

1 An Act relating to alternate energy by extending renewable
2 energy tax credit eligibility dates, expanding membership of
3 the Iowa energy center advisory council, and establishing
4 specified grant and loan funds.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2167SV (2) 85
rn/sc

S.F. 414

1 Section 1. Section 266.39C, subsection 2, paragraph a, Code
2 2013, is amended by adding the following new subparagraph:
3 NEW SUBPARAGRAPH. (13) Two representatives of the wind
4 energy manufacturing, service, and production industries, one
5 representing a large-scale wind energy producer, appointed
6 by the Iowa wind energy association, and one representing a
7 small-scale wind energy producer, appointed by the Iowa wind
8 energy association.
9 Sec. 2. NEW SECTION. **473.21 Small wind innovation zone**
10 **assistance fund.**
11 1. A small wind innovation zone assistance fund is created
12 in the state treasury under the control of the Iowa energy
13 center established in section 266.39C. All moneys deposited or
14 paid into the fund are appropriated and made available to the
15 Iowa energy center to be used for small wind innovation zone
16 grants or loans as provided in subsection 2. The fund shall
17 consist of any moneys appropriated by the general assembly
18 and payments on loans made under this section. Moneys in the
19 fund are not subject to section 8.33. Notwithstanding section
20 12C.7, subsection 2, interest or earnings on moneys deposited
21 in the fund shall be credited to the fund.
22 2. Moneys in the small wind innovation zone assistance fund
23 shall be used to provide grants and loans for the construction
24 of small wind energy systems as defined in section 476.48 for
25 the applicant´s own use of electricity within a small wind
26 innovation zone designated pursuant to section 476.48.
27 3. A minimum of fifty percent of the moneys in the fund
28 which are distributed or awarded each year to applicants shall
29 be in the form of loans.
30 4. Eligibility criteria and loan qualifications and terms
31 shall be determined by the authority by rule in coordination
32 with the Iowa energy center advisory board.
33 Sec. 3. NEW SECTION. **473.22 Homegrown wind energy and solar**
34 **energy assistance fund.**
35 1. A homegrown wind energy and solar energy assistance

S.F. 414

1 fund is created in the state treasury under the control of the
2 Iowa energy center established in section 266.39C. All moneys
3 deposited or paid into the fund are appropriated and made
4 available to the Iowa energy center to be used for wind energy
5 or solar energy grants or loans as provided in subsection
6 2. The fund shall consist of any moneys appropriated by
7 the general assembly and payments on loans made under this
8 section. Moneys in the fund are not subject to section 8.33.
9 Notwithstanding section 12C.7, subsection 2, interest or
10 earnings on moneys deposited in the fund shall be credited to
11 the fund.
12 2. Moneys in the homegrown wind energy and solar energy
13 assistance fund shall be used to provide grants or loans
14 for the construction of wind energy systems or solar energy
15 systems by a private college or university, community college,
16 institution under the control of the state board of regents,
17 public or accredited nonpublic elementary or secondary school,
18 or public hospital as defined in section 249J.3 for the
19 applicant's own use of electricity. Eligible projects shall
20 not exceed one-half megawatt of nameplate generating capacity.
21 3. A minimum of seventy-five percent of moneys in the
22 fund shall be utilized each year for wind energy projects. A
23 minimum of fifty percent of the moneys in the fund which are
24 distributed or awarded each year to applicants shall be in the
25 form of loans.
26 4. Eligibility criteria and loan qualifications and terms
27 shall be determined by the authority by rule in coordination
28 with the Iowa energy center advisory board.
29 Sec. 4. NEW SECTION. **473.23 Powering agriculture wind and**
30 **solar energy assistance fund.**
31 1. A powering agriculture wind and solar energy assistance
32 fund is created in the state treasury under the control of
33 the Iowa energy center established in section 266.39C. All
34 moneys deposited or paid into the fund are appropriated
35 and made available to the Iowa energy center to be used for

S.F. 414

1 agricultural wind energy or solar energy grants or loans as
2 provided in subsection 2. The fund shall consist of any moneys
3 appropriated by the general assembly and payments on loans
4 made under this section. Moneys in the fund are not subject
5 to section 8.33. Notwithstanding section 12C.7, subsection 2,
6 interest or earnings on moneys deposited in the fund shall be
7 credited to the fund.
8 2. Moneys in the powering agriculture wind energy and solar
9 energy assistance fund shall be used to provide grants or loans
10 for the construction of wind energy systems or solar energy
11 systems at farms located in the state for the applicant's
12 own use of electricity. Eligible projects shall not exceed
13 one-half megawatt of nameplate generating capacity.
14 3. A minimum of seventy-five percent of moneys in the
15 fund shall be utilized each year for wind energy projects. A
16 minimum of fifty percent of the moneys in the fund which are
17 distributed or awarded each year to applicants shall be in the
18 form of loans.
19 4. Eligibility criteria and loan qualifications and terms
20 shall be determined by the authority by rule in coordination
21 with the Iowa energy center advisory board.
22 Sec. 5. Section 476C.1, subsection 6, paragraph d, Code
23 2013, is amended to read as follows:
24 *d.* Was initially placed into service on or after July 1,
25 2005, and before January 1, ~~2015~~ 2018.
26 Sec. 6. Section 476C.5, Code 2013, is amended to read as
27 follows:
28 **476C.5 Certificate issuance period.**
29 A producer or purchaser of renewable energy may receive
30 renewable energy tax credit certificates for a ten-year period
31 for each eligible renewable energy facility under this chapter.
32 The ten-year period for issuance of the tax credit certificates
33 begins with the date the purchaser of renewable energy first
34 purchases electricity, hydrogen fuel, methane gas or other
35 biogas used to generate electricity, or heat for commercial

S.F. 414

1 purposes from the eligible renewable energy facility for
2 which a tax credit is issued under this chapter, or the date
3 the producer of the renewable energy first uses the energy
4 produced by the eligible renewable energy facility for on-site
5 consumption. Renewable energy tax credit certificates shall
6 not be issued for renewable energy purchased or produced for
7 on-site consumption after December 31, ~~2024~~ 2027.
8 EXPLANATION
9 This bill relates to alternate energy by extending renewable
10 energy tax credit eligibility dates, expanding membership of
11 the Iowa energy center advisory council, and establishing
12 specified grant and loan funds.
13 The bill adds two new members to the council who shall be
14 representatives of the wind energy manufacturing, service, and
15 production industries. The bill provides that one member shall
16 represent a large-scale wind energy producer, and one member
17 shall represent a small-scale wind energy producer. Both
18 members shall be appointed by the Iowa wind energy association.
19 The bill establishes three new grant and loan funds, one
20 relating exclusively to wind energy projects, and the other
21 two encompassing solar energy projects in addition to wind.
22 Each grant and loan fund is structured similarly. The funds
23 are created in the state treasury under the control of the
24 Iowa energy center established in Code section 266.39C and
25 all moneys deposited or paid into the funds are appropriated
26 and made available to the Iowa energy center to be used for
27 their specified purposes. Each fund shall consist of moneys
28 appropriated by the general assembly, if such an appropriation
29 is made, and loan repayments. The bill specifies that moneys
30 in the funds are not subject to reversion to the general fund,
31 and interest or earnings on moneys deposited in the funds
32 shall be credited to the funds. Further, the bill states that
33 eligibility criteria and loan qualifications and terms shall be
34 determined by the authority by rule in coordination with the
35 Iowa energy center advisory board.

S.F. 414

1 The bill creates a small wind innovation zone assistance
2 fund and provides that moneys in the fund shall be used to
3 provide grants and loans for the construction of small wind
4 energy systems as defined in Code section 476.48 for the
5 applicant's own use of electricity within a designated small
6 wind innovation zone, with a minimum of 50 percent of the
7 moneys in the fund which are annually distributed or awarded to
8 applicants taking the form of loans.
9 The bill creates a homegrown wind energy and solar energy
10 assistance fund and provides that moneys in the fund shall
11 be used to provide grants or loans for the construction of
12 wind energy systems or solar energy systems by a private
13 college or university, community college, institution under the
14 control of the state board of regents, public or accredited
15 nonpublic elementary or secondary school, or public hospital as
16 defined in Code section 249J.3 for the applicant's own use of
17 electricity. The bill specifies that eligible projects shall
18 not exceed one-half megawatt of nameplate generating capacity,
19 that a minimum of 75 percent of moneys in the fund shall be
20 utilized annually for wind energy projects, and that a minimum
21 of 50 percent of the moneys in the fund which are distributed
22 or awarded to applicants annually taking the form of loans.
23 The bill creates a powering agriculture wind energy and
24 solar energy assistance fund and provides that moneys in
25 the fund shall be used to provide grants or loans for the
26 construction of wind energy systems or solar energy systems
27 at farms located in the state for the applicant's own use of
28 electricity. The bill states that eligible projects shall not
29 exceed one-half megawatt of nameplate generating capacity, that
30 a minimum of 75 percent of moneys in the fund shall be utilized
31 for wind energy projects, and that a minimum of 50 percent of
32 the moneys in the fund which are distributed or awarded to
33 applicants annually taking the form of loans.
34 Additionally, the bill extends by three years the time
35 period during which an eligible renewable energy facility

S.F. 414

1 seeking to qualify for the renewable energy tax credit pursuant
2 to Code chapter 476C shall have been placed in service to
3 before January 1, 2018. The bill correspondingly extends
4 the time period after which renewable energy tax credit
5 certificates shall not be issued to December 31, 2027.

Senate File 415 - Introduced

SENATE FILE 415
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO SSB 1199)

A BILL FOR

1 An Act relating to human services involving mental health
2 and disability services and children's services, making
3 appropriations, and including effective dates.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1663SV (3) 85
jp/rj

S.F. 415

1 DIVISION I
2 SYSTEM REDESIGN — IMPLEMENTATION
3 RESEARCH-BASED PRACTICE
4 Section 1. Section 331.388, Code 2013, is amended by adding
5 the following new subsection:
6 NEW SUBSECTION. 4A. *"Research-based practice"* means a
7 service or other support in which the efficacy of the service
8 or other support is recognized as an evidence-based practice,
9 or is deemed to be an emerging and promising practice, or which
10 is part of a demonstration and will supply evidence as to the
11 effectiveness of the service or other support.
12 Sec. 2. Section 331.393, subsection 4, paragraph g,
13 unnumbered paragraph 1, Code 2013, is amended to read as
14 follows:
15 The requirements for designation of targeted case management
16 providers and for implementation of ~~evidence-based~~ models
17 of case management that apply research-based practice. The
18 requirements shall be designed to provide the person receiving
19 the case management with a choice of providers, allow a
20 service provider to be the case manager but prohibit the
21 provider from referring a person receiving the case management
22 only to services administered by the provider, and include
23 other provisions to ensure compliance with but not exceed
24 federal requirements for conflict-free case management. The
25 qualifications of targeted case managers and other persons
26 providing service coordination under the management plan shall
27 be specified in the rules. The rules shall also include but
28 are not limited to all of the following relating to targeted
29 case management and service coordination services:
30 Sec. 3. Section 331.397, subsection 5, paragraph b, Code
31 2013, is amended to read as follows:
32 *b.* Providing ~~evidence-based~~ services that apply
33 research-based practice.
34 Sec. 4. Section 331.397, subsection 6, paragraph d, Code
35 2013, is amended to read as follows:

S.F. 415

1 *d.* Advances in the use of ~~evidence-based~~ treatment applying
2 research-based practice, including but not limited to all of
3 the following:
4 (1) Positive behavior support.
5 (2) Assertive community treatment.
6 (3) Peer self-help drop-in centers.
7 Sec. 5. Section 331.397, subsection 7, paragraphs b and c,
8 Code 2013, are amended to read as follows:
9 *b.* The ~~efficacy of the~~ services or other support ~~is~~ are
10 recognized as ~~an evidence-based~~ a research-based practice~~, is~~
11 ~~deemed to be an emerging and promising practice, or providing~~
12 ~~the services is part of a demonstration and will supply~~
13 ~~evidence as to the services' effectiveness~~.
14 *c.* A determination that the services or other support
15 provides an effective alternative to existing services
16 that have been shown by the ~~evidence~~ research base to be
17 ineffective, to not yield the desired outcome, or to not
18 support the principles outlined in Olmstead v. L.C., 527 U.S.
19 581 (1999).
20 COMMUNITY CORRECTIONS SYSTEM ACCESS TO REGIONAL SERVICES
21 Sec. 6. Section 331.395, Code 2013, is amended by adding the
22 following new subsection:
23 NEW SUBSECTION. 5. If adequate funding is provided through
24 a state appropriation made for purposes of paying for services
25 authorized pursuant to this subsection, a person with an income
26 within the level specified in subsection 1 who is housed by or
27 supervised by a judicial district department of correctional
28 services established under chapter 905 shall be deemed to
29 have met the income and resource eligibility requirements for
30 services under the regional service system.
31 ELIGIBILITY MAINTENANCE
32 Sec. 7. Section 331.396, subsection 1, paragraph b, Code
33 2013, is amended to read as follows:
34 *b.* The person is at least eighteen years of age and is a
35 resident of this state. However, a person who is seventeen

S.F. 415

1 years of age, is a resident of this state, and is receiving
2 publicly funded children's services may be considered eligible
3 for services through the regional service system during the
4 three-month period preceding the person's eighteenth birthday
5 in order to provide a smooth transition from children's
6 to adult services. In addition, a person who is less than
7 eighteen years of age and a resident of this state may be
8 eligible, as determined by the region, for those mental health
9 services made available to all or a portion of the residents
10 of the region of the same age and eligibility class under the
11 county management plan of one or more counties of the region
12 applicable prior to formation of the region.
13 Sec. 8. Section 331.396, subsection 2, paragraph b, Code
14 2013, is amended to read as follows:
15 *b.* The person is at least eighteen years of age and is a
16 resident of this state. However, a person who is seventeen
17 years of age, is a resident of this state, and is receiving
18 publicly funded children's services may be considered eligible
19 for services through the regional service system during the
20 three-month period preceding the person's eighteenth birthday
21 in order to provide a smooth transition from children's
22 to adult services. In addition, a person who is less than
23 eighteen years of age and a resident of this state may be
24 eligible, as determined by the region, for those intellectual
25 disability services made available to all or a portion of the
26 residents of the region of the same age and eligibility class
27 under the county management plan of one or more counties of the
28 region applicable prior to formation of the region.
29 Sec. 9. Section 331.397, subsection 2, paragraph b, Code
30 2013, is amended to read as follows:
31 *b.* Until funding is designated for other service
32 populations, eligibility for the service domains listed in this
33 section shall be limited to such persons who are in need of
34 mental health or intellectual disability services. However, if
35 a county in a region was providing services to an ~~individual~~

S.F. 415

1 ~~person~~ eligibility class of persons with a developmental
2 disability other than intellectual disability or a brain injury
3 prior to formation of the region, the ~~individual person~~ class
4 of persons shall remain eligible for the services provided when
5 the region is formed, provided that funds are available to
6 continue such services.
7 STATE PAYMENTS TO REGION
8 Sec. 10. Section 426B.3, subsection 4, as enacted by 2012
9 Iowa Acts, chapter 1120, section 137, is amended to read as
10 follows:
11 4. *a.* For the fiscal years beginning July 1, 2013, and
12 July 1, 2014, a county with a county population expenditure
13 target amount that exceeds the amount of the county's base year
14 expenditures for mental health and disabilities services shall
15 receive an equalization payment for the difference.
16 *b.* The equalization payments determined in accordance
17 with this subsection shall be made by the department of human
18 services for each fiscal year as provided in appropriations
19 made from the property tax relief fund for this purpose. If
20 the county is part of a region that has been approved by the
21 department in accordance with section 331.389, to commence
22 partial or full operations, the county's equalization payment
23 shall be remitted to the region for expenditure as approved by
24 the region's governing board.
25 STRATEGIC PLAN REQUIREMENT FOR FY 2013-2014
26 Sec. 11. 2012 Iowa Acts, chapter 1128, section 8, is amended
27 to read as follows:
28 SEC. 8. COUNTY MENTAL HEALTH, ~~MENTAL RETARDATION~~
29 INTELLECTUAL DISABILITY, AND DEVELOPMENTAL DISABILITIES
30 SERVICES MANAGEMENT PLAN —— STRATEGIC PLAN. Notwithstanding
31 section 331.439, subsection 1, paragraph "b", subparagraph (3),
32 counties are not required to submit a three-year strategic
33 plan by April 1, 2012, to the department of human services. A
34 county's strategic plan in effect as of the effective date of
35 this section shall remain in effect until the regional service

S.F. 415

1 system management plan for the region to which the county
2 belongs is approved in accordance with section 331.393, subject
3 to modification before that date as necessary to conform with
4 statutory changes affecting the plan and any amendments to the
5 plan that are adopted in accordance with law.
6 TRANSITION FUND — SERVICES MAINTENANCE
7 Sec. 12. TRANSITION FUND — SERVICES MAINTENANCE. A county
8 receiving an allocation of funding from the mental health and
9 disability services redesign transition fund created in 2012
10 Iowa Acts, chapter 1120, section 23, shall utilize the funding
11 received by the county as necessary for the services covered
12 in accordance with the county's approved management plan in
13 effect as of June 30, 2012, for the fiscal year beginning July
14 1, 2012, and ending June 30, 2013.
15 REDESIGN EQUALIZATION PAYMENT APPROPRIATION
16 Sec. 13. MENTAL HEALTH AND DISABILITY SERVICES —
17 EQUALIZATION PAYMENTS TRANSFER AND APPROPRIATION.
18 1. There is transferred from the general fund of the
19 state to the department of human services for the fiscal year
20 beginning July 1, 2013, and ending June 30, 2014, the following
21 amount, or so much thereof as is necessary, to be used for the
22 purposes designated:
23 For deposit in the property tax relief fund created in
24 section 426B.1, for distribution as provided in this section:
25 ..... $ 29,820,478
26 2. The moneys credited to the property tax relief fund in
27 accordance with this section are appropriated to the department
28 of human services for distribution of equalization payments for
29 counties in the amounts specified in section 426B.3, subsection
30 4, as enacted by 2012 Iowa Acts, chapter 1120, section 137,
31 for the fiscal year beginning July 1, 2013. If the county is
32 part of a region that has been approved by the department in
33 accordance with section 331.389, to commence partial or full
34 operations, the county's equalization payment shall be remitted
35 to the region for expenditure as approved by the region's

S.F. 415

1 governing board. The payments shall be remitted on or before
2 July 15, 2013.
3 SUBSTANCE-RELATED DISORDER DETOXIFICATION
4 Sec. 14. MENTAL HEALTH AND DISABILITY SERVICES POLICY
5 REVIEWS. The mental health and disability services commission
6 shall review options for the mental health and disability
7 services regions to coordinate substance-related disorder
8 funding provided by counties and other such disorder funding
9 provided by counties in place of county coordination. The
10 commission shall report to the governor and general assembly
11 its findings, options, and recommendations on or before October
12 15, 2013.
13 MEDICAID OBLIGATION COST SETTLEMENT
14 Sec. 15. COUNTY MEDICAL ASSISTANCE NONFEDERAL SHARE ——
15 COST SETTLEMENT. Any county obligation for payment to the
16 department of human services of the nonfederal share of the
17 cost of services provided under the medical assistance program
18 prior to July 1, 2012, pursuant to sections 249A.12 and
19 249A.26, shall remain at the amount agreed upon as of June 30,
20 2013. Beginning July 1, 2013, other than a county payment on
21 the obligation, the department shall be responsible for any
22 adjustment that would otherwise be applied to the amount of the
23 county obligation after that date due to cost settlement of
24 charges or other reasons.
25 CONTINUATION OF STATE PAYMENT PROGRAM FUNDING
26 Sec. 16. STATE PAYMENT PROGRAM —— FY 2013-2014. Unless
27 otherwise provided by law, state payment program moneys
28 appropriated for the fiscal year beginning July 1, 2013, to pay
29 the costs of non-Medicaid mental health and disability services
30 provided by counties to persons without a county of legal
31 settlement considered in the previous fiscal year to be a state
32 case shall continue to be remitted to the county of residence
33 paying for the services. If the county of residence is part of
34 a region that has been approved by the department in accordance
35 with section 331.389, to commence partial or full operations,

S.F. 415

1 the state payment program moneys shall be remitted to the
2 region for expenditure as approved by the region's governing
3 board.
4 Sec. 17. EFFECTIVE UPON ENACTMENT. This division of this
5 Act, being deemed of immediate importance, takes effect upon
6 enactment.
7 DIVISION II
8 DATA AND STATISTICAL INFORMATION AND OUTCOME AND PERFORMANCE
9 MEASURES
10 Sec. 18. Section 225C.4, subsection 1, paragraph j, Code
11 2013, is amended to read as follows:
12 *j.* Establish and maintain a data collection and management
13 information system oriented to the needs of patients,
14 providers, the department, and other programs or facilities in
15 accordance with section 225C.6A. The system shall be used to
16 identify, collect, and analyze service outcome and performance
17 measures data in order to assess the effects of the services on
18 the persons utilizing the services. The administrator shall
19 annually submit to the commission information collected by the
20 department indicating the changes and trends in the disability
21 services system. The administrator shall make the outcome data
22 available to the public.
23 Sec. 19. Section 225C.6A, Code 2013, is amended to read as
24 follows:
25 **225C.6A Disability services system ~~redesign~~ central data**
26 **repository.**
27 1. The ~~commission~~ department shall do the following
28 relating to ~~redesign of~~ data concerning the disability services
29 system in the state:
30 ~~1. Identify sources of revenue to support statewide~~
31 ~~delivery of core disability services to eligible disability~~
32 ~~populations.~~
33 ~~2. Ensure there is a continuous improvement process for~~
34 ~~development and maintenance of the disability services system~~
35 ~~for adults and children. The process shall include but is not~~

S.F. 415

1 ~~limited to data collection and reporting provisions.~~
2 ~~3.~~ *a.* Plan, collect, and analyze data as necessary to
3 issue cost estimates for serving additional populations and
4 providing core disability services statewide. The department
5 shall maintain compliance with applicable federal and state
6 privacy laws to ensure the confidentiality and integrity of
7 individually identifiable disability services data. The
8 department ~~shall regularly~~ may periodically assess the status
9 of the compliance in order to assure that data security is
10 protected.
11 *b.* ~~In implementing~~ Implement a ~~system~~ central data
12 repository under this ~~subsection~~ section for collecting and
13 analyzing state, county and region, and private contractor
14 data~~, the~~. The department shall establish a client identifier
15 for the individuals receiving services. ~~The client identifier~~
16 ~~shall be used in lieu of the individual's name or social~~
17 ~~security number. The client identifier shall consist of the~~
18 ~~last four digits of an individual's social security number,~~
19 ~~the first three letters of the individual's last name, the~~
20 ~~individual's date of birth, and the individual's gender in an~~
21 ~~order determined by the department.~~
22 *c.* Consult on an ongoing basis with regional administrators,
23 service providers, and other stakeholders in implementing the
24 central data repository and operations of the repository. The
25 consultation shall focus on minimizing the state and local
26 costs associated with operating the repository.
27 *d.* Engage with other state and local government and
28 nongovernmental entities operating the Iowa health information
29 network under chapter 135 and other data systems that maintain
30 information relating to individuals with information in the
31 central data repository in order to integrate data concerning
32 individuals.
33 ~~e.~~ 2. A county or region shall not be required to utilize a
34 uniform data operational or transactional system. However, the
35 system utilized shall have the capacity to exchange information

S.F. 415

with the department, counties and regions, contractors, and others involved with services to persons with a disability who have authorized access to the central data repository. The information exchanged shall be labeled consistently and share the same definitions. Each ~~county~~ regional administrator shall regularly report to the department ~~annually on or before December 1, for the preceding fiscal year~~ the following information for each individual served: demographic information, expenditure data, and data concerning the services and other support provided to each individual, as specified ~~in administrative rule adopted by the commission~~ by the department.

~~4. Work with county representatives and other qualified persons to develop an implementation plan for replacing the county of legal settlement approach to determining service system funding responsibilities with an approach based upon residency. The plan shall address a statewide standard for proof of residency, outline a plan for establishing a data system for identifying residency of eligible individuals, address residency issues for individuals who began residing in a county due to a court order or criminal sentence or to obtain services in that county, recommend an approach for contesting a residency determination, and address other implementation issues.~~

3. The outcome and performance measures applied to the regional disability services system shall utilize measurement domains. The department may identify other measurement domains in consultation with system stakeholders to be utilized in addition to the following initial set of measurement domains:

a. Access to services.

b. Life in the community.

c. Person-centeredness.

d. Health and wellness.

e. Quality of life and safety.

f. Family and natural supports.

S.F. 415

1 4. *a.* The processes used for collecting outcome and
2 performance measures data shall include but are not limited
3 to direct surveys of the individuals and families receiving
4 services and the providers of the services. The department
5 shall involve a workgroup of persons who are knowledgeable
6 about both the regional service system and survey techniques
7 to implement and maintain the processes. The workgroup shall
8 conduct an ongoing evaluation for the purpose of eliminating
9 the collection of information that is not utilized. The
10 surveys shall be conducted with a conflict-free approach in
11 which someone other than a provider of services surveys an
12 individual receiving the services.
13 *b.* The outcome and performance measures data shall encompass
14 and provide a means to evaluate both the regional services and
15 the services funded by the medical assistance program provided
16 to the same service populations.
17 *c.* The department shall develop and implement an
18 internet-based approach with graphical display of information
19 to provide outcome and performance measures data to the public
20 and those engaged with the regional service system.
21 *d.* The department shall include any significant costs for
22 collecting and interpreting outcome and performance measures
23 and other data in the department's operating budget.
24 Sec. 20. REPEAL. The amendment to section 225C.4,
25 subsection 1, paragraph j, in 2012 Iowa Acts, chapter 1120,
26 section 2, is repealed.
27 Sec. 21. REPEAL. The amendments to section 225C.6A, in 2012
28 Iowa Acts, chapter 1120, sections 6, 7, and 95, are repealed.
29 DIVISION III
30 CHILDREN'S CABINET
31 Sec. 22. NEW SECTION. **242.1 Findings.**
32 The general assembly finds there is a need for a
33 state-level children's cabinet to provide guidance, oversight,
34 problem-solving, and long-term strategy development, and to
35 foster collaboration among state and local efforts to build a

S.F. 415

1 comprehensive, coordinated system of care in order to promote
2 the well-being of the children in this state. The system of
3 care should address all domains of child physical, mental,
4 intellectual, developmental, and social health and meet the
5 particular needs of children for family-centered mental health
6 and disability services and for other appropriate specialized
7 services.
8 Sec. 23. NEW SECTION. **242.2 Children's cabinet established.**
9 There is established within the department of human services
10 a children's cabinet.
11 1. The voting members of the children's cabinet shall
12 consist of the following:
13 *a.* The director of the department of education or the
14 director's designee.
15 *b.* The director of the department of human services or the
16 director's designee. This member shall be chairperson of the
17 cabinet.
18 c. The director of the department of inspections and appeals
19 or the director's designee.
20 *d.* The director of the department of public health or the
21 director's designee.
22 *e.* A parent of a child with a severe emotional disturbance
23 or a disability who is the primary caregiver for that child,
24 appointed by the governor.
25 *f.* A juvenile court judge or juvenile court officer
26 appointed by the chief justice of the supreme court.
27 *g.* A community-based provider of child welfare, health,
28 or juvenile justice services to children, appointed by the
29 director of human services.
30 *h.* A member of the early childhood Iowa state board or the
31 early childhood stakeholders alliance, appointed by the state
32 board.
33 *i.* A community stakeholder who is not affiliated with a
34 provider of services, appointed by the governor.
35 *j.* A member of a child advocacy organization approved by the

S.F. 415

1 members of the children's cabinet.
2 *k.* A member of the Iowa chapter of the American academy
3 of pediatrics who has expertise in pediatric health care and
4 addressing the needs of children with special needs, designated
5 by the Iowa chapter.
6 *l.* Not more than three other members designated by
7 the cabinet chairperson to ensure adequate representation
8 of the persons and interests who may be affected by the
9 recommendations made by the cabinet.
10 2. In addition to the voting members, there shall be four ex
11 officio, nonvoting members of the children's cabinet. These
12 members shall be two state representatives, one appointed by
13 the speaker of the house of representatives and one by the
14 minority leader of the house of representatives, and two state
15 senators, one appointed by the majority leader of the senate
16 and one by the minority leader of the senate.
17 3. *a.* The voting members, other than department directors
18 and their designees, shall be appointed for four-year terms.
19 The terms of such members begin on May 1 in the year of
20 appointment and expire on April 30 in the year of expiration.
21 *b.* Vacancies shall be filled in the same manner as original
22 appointments. A vacancy shall be filled for the unexpired
23 term.
24 *c.* The voting members shall receive actual and necessary
25 expenses incurred in the performance of their duties and
26 legislative members shall be compensated as provided in section
27 2.32A.
28 4. Staffing services for the children's cabinet shall be
29 provided by the department of human services.
30 Sec. 24. NEW SECTION. **242.3 Duties.**
31 The children's cabinet shall perform the following duties
32 in making recommendations to the agencies and organizations
33 represented on the cabinet, the governor, the general assembly,
34 and the judicial branch to address the needs of children and
35 families in this state:

S.F. 415

1. Develop operating provisions for health homes for children implemented by the department of human services. The provisions shall include but are not limited to all of the following:

a. Identification of quality metrics.

b. Identification of performance criteria.

c. Provisions for monitoring the implementation of specialized health homes.

d. Identification of system of care principles and values based on the recommendations of the workgroup for redesign of publicly funded children's disability services implemented by the department of human services in accordance with 2011 Iowa Acts, chapter 121, section 1, subsection 4, paragraph "*i*".

2. Gather information and improve the understanding of policymakers and the public of how the various service systems intended to meet the needs of children and families operate at the local level.

3. Address areas of overlap, gaps, and conflict between service systems.

4. Support the evolution of service systems in implementing new services and enhancing existing services to address the needs of children and families through process improvement methodologies.

5. Assist policymakers and service system users in understanding and effectively managing system costs.

6. Ensure services offered are evidence-based.

7. Issue guidelines to enable the services and other support which is provided by or under the control of state entities and delivered at the local level to have sufficient flexibility to engage local resources and meet unique needs of children and families.

8. Integrate efforts of policymakers and service providers to improve the well-being of community members in addition to children and families.

9. Implement strategies so that the children and families

S.F. 415

1 engaged with the service systems avoid the need for higher
2 level services and other support.
3 10. Oversee the practices utilized by accountable care
4 organizations and other care management entities operating on
5 behalf of the state in the provision of government supported
6 children's services and systems of care.
7 11. Identify and promote evidence-based practices that may
8 be creatively applied in appropriate settings for prevention
9 and early identification of social, emotional, behavioral, and
10 developmental risk factors for children from birth through age
11 eight.
12 12. Making periodic recommendations to the agencies
13 and organizations represented on the cabinet. An agency or
14 organization receiving such a recommendation shall respond
15 in writing to the children's cabinet detailing how the
16 recommendation was addressed. The response shall be submitted
17 not later than sixty business days following the date of the
18 receipt of the recommendation.
19 13. Submit a report annually by December 15 to the governor,
20 general assembly, and supreme court providing findings and
21 recommendations and issue other reports as deemed necessary by
22 the cabinet.
23 Sec. 25. INITIAL TERMS. Notwithstanding section 242.2,
24 subsection 3, paragraph "a", as enacted by this division of
25 this Act, the appointing authorities for the members of the
26 children's cabinet created by this division of this Act who are
27 subject to terms of service shall be coordinated so that the
28 initial terms of approximately half of such members are two
29 years and the remainder are for four years and remain staggered
30 thereafter.
31 DIVISION IV
32 CENTER FOR CHILD HEALTH INNOVATION AND EXCELLENCE
33 Sec. 26. Section 135.11, Code 2013, is amended by adding the
34 following new subsection:
35 NEW SUBSECTION. 32. Create and operate, subject to

S.F. 415

1 appropriation of funding by the general assembly, a center for
2 child health excellence and innovation. The purpose of the
3 center is to provide a policy forum for efforts to improve
4 child health, including but not limited to improving health
5 quality, demonstrating better health outcomes, and reducing
6 long-term health care costs.
7 *a.* The center shall engage major providers of child health
8 services and associated groups, including but not limited to
9 representatives of the department, the medical assistance
10 program administrator, child health specialty clinics, the
11 association representing community health centers, the state
12 council created by the department for the department's project
13 LAUNCH initiative, staff of institutions of higher education
14 with expertise in pediatric health and child health care, and
15 others.
16 *b.* The center shall lead the review and analysis of public
17 policy efforts that are directed toward the purpose of the
18 center.
19 *c.* The center shall develop community-based initiatives
20 to promote healthy child development, leveraging medical
21 assistance program funding where possible. The initiatives
22 of Iowa shall include but are not limited to the promotion of
23 demonstration programs within the behavioral health managed
24 care contract and the development of a grant application for
25 federal and foundation funding opportunities that focus upon
26 improving child health through innovation and the diffusion of
27 innovation.
28 *d.* The center shall develop an early childhood mental health
29 certification for professionals and others engaged in working
30 with young children.
31 *e.* The center shall draw upon national and state
32 expertise in the field of child health, including experts
33 from Iowa's institutions of higher education, health provider
34 organizations, and health policy and advocacy organizations.
35 The center shall seek support from the Iowa research

S.F. 415

1 community in data report development and analysis of available
2 information from Iowa child health data sources.
3 *f.* The center shall work with the departments of human
4 services and public health and with the governor and members
5 of the general assembly in child health public policy efforts
6 such as providing medical assistance funding as necessary to
7 expand the department's initiative to provide for adequate
8 developmental surveillance and screening during a child's first
9 five years to be available statewide and enabling child care
10 resource and referral service agencies to facilitate provision
11 of child mental health consultation for child care providers.
12 *g.* The center shall submit a report of its activities and
13 policy recommendations to the general assembly by December 15
14 annually.
15 EXPLANATION
16 This bill relates to mental health and disability services
17 (MH/DS) administered by counties and the regions being formed
18 by counties to provide adult MH/DS that are not covered by the
19 medical assistance (Medicaid) program, children's services, and
20 makes appropriations. The bill addresses recommendations made
21 to the mental health and disability services redesign fiscal
22 viability study committee by various committees and workgroups
23 created or continued by the MH/DS redesign legislation enacted
24 in 2012 Iowa Acts, chapter 1120 (SF 2315) and chapter 1133 (SF
25 2336). The bill also includes other provisions. The bill is
26 organized into divisions.
27 Under current law, certain MH/DS redesign requirements
28 for regions specify the use of evidence-based practices
29 or approaches. The bill defines the term, "research-based
30 practice" in Code section 331.388, relating to definitions for
31 the redesign, to mean a service or other support in which the
32 efficacy of the service or other support is recognized as an
33 evidence-based practice, or is deemed to be an emerging or
34 promising practice, or which is part of a demonstration and
35 will supply evidence as to effectiveness. The redesign-related

S.F. 415

1 Code requirements for evidence-based practice are changed by
2 the bill to research-based practice in Code section 331.393,
3 relating to the service management plans that must be adopted
4 by regions and requirements for designating targeted case
5 managers, and in Code section 331.397, relating to the core
6 services that must be provided by regions.
7 Code section 331.395, relating to financial eligibility
8 requirements for the regional service system, is amended to
9 provide eligibility for the regional service system for persons
10 who meet income requirements and are housed by or supervised by
11 community-based correctional services, if a state appropriation
12 is made to cover the service costs.
13 Code section 331.396, relating to diagnosis and functional
14 assessment requirements for eligibility for the regional
15 service system, is amended to allow a child to be eligible,
16 as determined by the region, for those mental health or
17 intellectual disability services provided to residents of
18 the same age and eligibility class under an approved county
19 management plan of one or more counties of the region prior
20 to formation of the region. The person's eligibility for
21 individualized services is subject to determination in
22 accordance with a functional assessment.
23 Code section 331.397, relating to the requirements
24 for regional core services, is amended to provide that an
25 eligibility class of persons with a developmental disability or
26 a brain injury who was receiving services prior to formation of
27 a region remains eligible for the services after formation of
28 the region, subject to the availability of funding.
29 Code section 426B.3, as amended by SF 2315, relates to
30 eligibility for equalization payments from the state in fiscal
31 years 2013-2014 and 2014-2015 for those counties with a base
32 year levy which is less than a target amount computed by
33 multiplying the county's general population times a statewide
34 per capita expenditure target amount of $47.28. The bill
35 provides that if the county is part of a region approved by

S.F. 415

1 DHS to commence partial or full operations, the county's
2 equalization payment is remitted to the region for expenditure
3 as approved by the region's governing board.
4 Under Code section 331.439, counties are required to submit
5 a three-year strategic plan for MH/DS and the latest plan was
6 due by April 1, 2012. In accordance with 2012 Iowa Acts,
7 chapter 1128, the strategic plan submission was not required
8 and the existing strategic plan remained in effect. The bill
9 provides that a county's strategic plan remains in effect,
10 unless modified pursuant to statute or amended by the county,
11 until it is replaced by approval of the regional service system
12 management plan for the region to which the county belongs.
13 If a county receives an allocation of funding from the
14 mental health and disability services redesign transition fund
15 created in SF 2315, the county is required to utilize the
16 funding provided as necessary for the services provided to an
17 individual child or other individual person receiving services
18 in accordance with the county's approved service management
19 plan in effect as of June 30, 2012.
20 A transfer of approximately $30 million is made from
21 the general fund of the state to DHS to be credited to the
22 property tax relief fund and is appropriated for DHS to make
23 equalization payments to eligible counties for FY 2013-2014.
24 The MH/DS commission is required to review options for
25 the MH/DS regions to coordinate the county substance-related
26 disorder funding for detoxification and other such
27 county-provided disorder funding in place of county
28 coordination. The commission is required to report to the
29 governor and general assembly its findings, options, and
30 recommendations on or before October 15, 2013.
31 Any county obligation for payment to DHS of the nonfederal
32 share of the cost of services provided under the Medicaid
33 program prior to July 1, 2012, is required to remain at the
34 amount agreed upon as of June 30, 2013. Beginning July 1,
35 2013, other than a county payment on the obligation, DHS is

S.F. 415

1 responsible for any adjustment that would otherwise be applied
2 to the amount of the county obligation after that date due to
3 cost settlement of charges or other reasons.
4 Unless otherwise provided by law, state payment program
5 moneys appropriated to DHS for FY 2013-2014, to pay the costs
6 of non-Medicaid mental health and disability services provided
7 by counties to persons without a county of legal settlement
8 considered in the previous fiscal year to be a state case,
9 shall continue to be remitted to the county of residence paying
10 for the services. If the county of residence is part of a
11 region that has been approved by DHS to commence partial or
12 full operations, the state payment program moneys shall be
13 remitted to the region for expenditure as approved by the
14 region's governing board.
15 This division takes effect upon enactment.
16 DATA AND STATISTICAL INFORMATION AND OUTCOME AND PERFORMANCE
17 MEASURES. This division addresses recommendations submitted by
18 the data and statistical information integration workgroup and
19 the outcomes and performance measures committee.
20 Current law is amended in Code section 225C.4, relating
21 to the duties of the DHS MH/DS division administrator, and
22 in Code section 225C.6A, relating to disability services
23 system redesign, to delineate requirements pertaining to
24 MH/DS state collection and management information systems
25 and outcome and performance data. These Code provisions
26 were previously amended by SF 2315. The bill incorporates
27 the SF 2315 amendments and adds new language and repeals
28 the SF 2315 amendments that would otherwise take effect on
29 July 1, 2013. For Code section 225C.4, the bill references
30 in the administrator's duties the specific new requirements
31 established by the bill in Code section 225C.6A. The new
32 requirements pertain to DHS implementation of a central data
33 repository, information exchange capacity, regular reporting
34 of individual information, data security, consultation with
35 regional staff, providers, and other stakeholders, engaging

S.F. 415

1 with other data systems, outcome and performance measure
2 domains, use of surveys, evaluation of both regional and
3 Medicaid services, provision of data to the public via an
4 internet-based approach with graphical information, and
5 inclusion of significant costs associated with the data and
6 measures in the DHS budget.
7 CHILDREN´S CABINET. This division addresses recommendations
8 submitted by the children´s disability workgroup to create a
9 children´s cabinet.
10 New Code section 242.1 lists legislative findings as to the
11 need for a children´s cabinet.
12 New Code section 242.2 provides for appointment of members
13 to the children´s cabinet. The director of the department of
14 human services (DHS) or the director´s designee is to be the
15 chairperson of the cabinet and appoint up to three additional
16 members to the cabinet, and DHS is required to staff the
17 cabinet. Various state agencies are identified for membership
18 along with community stakeholders. Four members of the
19 general assembly are required to be appointed to serve in an
20 ex officio, nonvoting capacity.
21 New Code section 242.3 delineates the duties of the
22 children´s cabinet in making recommendations to the agencies
23 represented on the cabinet and to the governor, general
24 assembly, and judicial branch. The areas of recommendation
25 include the development of operating provisions for health
26 homes for children and the practices utilized by other aspects
27 of the service systems for children. If the cabinet makes
28 a recommendation to an agency or organization represented on
29 the cabinet, the agency or organization must respond within 60
30 business days detailing how the recommendation was addressed.
31 The children´s cabinet is required to report annually by
32 December 15 to the governor, general assembly, and supreme
33 court providing findings and recommendations and issue other
34 reports as deemed necessary by the cabinet.
35 A temporary provision provides for appointment of

S.F. 415

1 approximately half of the initial voting members of the
2 children's cabinet other than department heads to two-year
3 terms in order to stagger the terms.
4 CENTER FOR CHILD HEALTH INNOVATION AND EXCELLENCE. This
5 division requires the department of public health to create a
6 center for child health excellence and innovation. The purpose
7 of the center is to provide a policy forum for efforts to
8 improve child health, including but not limited to improving
9 health quality, demonstrating better health outcomes, and
10 reducing long-term health care costs. The creation and
11 operation of the center is subject to provision of funding by
12 the general assembly.
13 The center is required to engage other departments of state
14 government and child health providers and to perform various
15 duties to further the purpose of the center.

Senate File 416 - Introduced

SENATE FILE 416
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1031)

A BILL FOR

1 An Act relating to authorization procedures for certain county
2 projects involving real property.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1162SV (4) 85
jm/sc

S.F. 416

Section 1. Section 331.301, subsection 10, paragraph e, subparagraph (1), subparagraph division (a), Code 2013, is amended to read as follows:

(a) The board must follow substantially the authorization procedures of section 331.443 to authorize a lease or lease-purchase contract for personal property which is payable from the general fund. The board must follow substantially the authorization procedures of section 331.443 to authorize a lease or lease-purchase contract for real property which is payable from the general fund if the principal amount of the lease-purchase contract does not exceed the following limits:

(i) ~~Four~~ Six hundred thousand dollars in a county having a population of twenty-five thousand or less.

(ii) ~~Five~~ Seven hundred fifty thousand dollars in a county having a population of more than twenty-five thousand but not more than fifty thousand.

(iii) ~~Six~~ Nine hundred thousand dollars in a county having a population of more than fifty thousand but not more than one hundred thousand.

(iv) ~~Eight~~ One million two hundred thousand dollars in a county having a population of more than one hundred thousand but not more than two hundred thousand.

(v) One million five hundred thousand dollars in a county having a population of more than two hundred thousand.

Sec. 2. Section 331.441, subsection 2, paragraph b, subparagraph (5), unnumbered paragraph 1, Code 2013, is amended to read as follows:

Public buildings, including the site or grounds of, and the erection, equipment, remodeling, or reconstruction of, and additions or extensions to the buildings, and including the provision and maintenance of juvenile detention or shelter care facilities, when the ~~cost~~ principal amount of the bonds does not exceed the following limits:

Sec. 3. Section 331.441, subsection 2, paragraph c, subparagraph (9), Code 2013, is amended to read as follows:

S.F. 416

1 (9) Public buildings, including the site or grounds of,
2 the erection, equipment, remodeling, or reconstruction of, and
3 additions or extensions to the buildings, and including the
4 provision and maintenance of juvenile detention or shelter care
5 facilities, when the ~~cost~~ principal amount of the bonds exceeds
6 the limits stated in subsection 2, paragraph *"b"*, subparagraph
7 (5).
8 EXPLANATION
9 This bill relates to the authorization procedures for county
10 projects involving real property by raising certain limitation
11 amounts.
12 The bill increases the threshold amounts that determine
13 whether a project can be undertaken using the procedures for
14 essential county purpose bonds when the project involves
15 a lease contract or a lease-purchase contract. The bill
16 increases the threshold amounts in the following manner: For
17 counties with a population of 25,000 or less, the threshold
18 amount is increased from $400,000 to $600,000; for counties
19 with a population of more than 25,000 but not more than 50,000,
20 the threshold amount is increased from $500,000 to $750,000;
21 for counties with a population of more than 50,000 but not
22 more than 100,000, the threshold amount is increased from
23 $600,000 to $900,000; for counties with a population of more
24 than 100,000 but not more than 200,000, the threshold amount
25 is increased from $800,000 to $1.2 million; and for counties
26 with a population of more than 200,000, the threshold amount is
27 increased from $1 million to $1.5 million.
28 The bill modifies the definition of "essential county
29 purpose" to specify that public building projects meet the
30 definition of "essential county purpose" if the principal
31 amount of the bonds does not exceed certain threshold amounts
32 based upon the population of the county. Current law specifies
33 that a public building project meets the definition of an
34 "essential county purpose" if the costs of the project do not
35 exceed certain threshold amounts based upon the population of

S.F. 416

the county.

The bill modifies the definition of "general county purpose" to specify that public building projects meet the definition of "general county purpose" if the principal amount of the bonds exceeds certain threshold amounts based upon the population of the county. Current law specifies that a public building project meets the definition of "general county purpose" if the costs of the project exceed certain threshold amounts based upon the population of the county.

Generally, an essential county purpose bond issuance does not require approval of the voters and a general county purpose bond issuance requires approval of the voters.

Senate Study Bill 1238 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON BOLKCOM)

A BILL FOR

1 An Act exempting from the state sales tax certain private
2 security and detective services furnished by peace officers.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1852XC (1) 85
mm/sc

S.F. _____

1 Section 1. Section 423.2, subsection 6, paragraph a, Code
2 2013, is amended to read as follows:
3 *a.* The sales price of any of the following enumerated
4 services is subject to the tax imposed by subsection
5 5: alteration and garment repair; armored car; vehicle repair;
6 battery, tire, and allied; investment counseling; service
7 charges of all financial institutions; barber and beauty;
8 boat repair; vehicle wash and wax; campgrounds; carpentry;
9 roof, shingle, and glass repair; dance schools and dance
10 studios; dating services; dry cleaning, pressing, dyeing, and
11 laundering; electrical and electronic repair and installation;
12 excavating and grading; farm implement repair of all kinds;
13 flying service; furniture, rug, carpet, and upholstery
14 repair and cleaning; fur storage and repair; golf and country
15 clubs and all commercial recreation; gun and camera repair;
16 house and building moving; household appliance, television,
17 and radio repair; janitorial and building maintenance or
18 cleaning; jewelry and watch repair; lawn care, landscaping,
19 and tree trimming and removal; limousine service, including
20 driver; machine operator; machine repair of all kinds; motor
21 repair; motorcycle, scooter, and bicycle repair; oilers and
22 lubricators; office and business machine repair; painting,
23 papering, and interior decorating; parking facilities; pay
24 television; pet grooming; pipe fitting and plumbing; wood
25 preparation; executive search agencies; private employment
26 agencies, excluding services for placing a person in employment
27 where the principal place of employment of that person is to
28 be located outside of the state; reflexology; security and
29 detective services, excluding private security and detective
30 services furnished by a peace officer with the knowledge and
31 consent of the chief executive officer of the peace officer's
32 law enforcement agency; sewage services for nonresidential
33 commercial operations; sewing and stitching; shoe repair
34 and shoeshine; sign construction and installation; storage
35 of household goods, mini-storage, and warehousing of raw

S.F. _____

1 agricultural products; swimming pool cleaning and maintenance;
2 tanning beds or salons; taxidermy services; telephone
3 answering service; test laboratories, including mobile testing
4 laboratories and field testing by testing laboratories, and
5 excluding tests on humans or animals; termite, bug, roach, and
6 pest eradicators; tin and sheet metal repair; transportation
7 service consisting of the rental of recreational vehicles or
8 recreational boats, or the rental of motor vehicles subject
9 to registration which are registered for a gross weight of
10 thirteen tons or less for a period of sixty days or less, or
11 the rental of aircraft for a period of sixty days or less;
12 Turkish baths, massage, and reducing salons, excluding services
13 provided by massage therapists licensed under chapter 152C;
14 water conditioning and softening; weighing; welding; well
15 drilling; wrapping, packing, and packaging of merchandise other
16 than processed meat, fish, fowl, and vegetables; wrecking
17 service; wrecker and towing.
18 EXPLANATION
19 This bill exempts from the state sales tax private security
20 and detective services furnished by a peace officer with the
21 knowledge and consent of the chief executive officer of the
22 peace officer´s law enforcement agency.
23 By operation of Code section 423.6, an item exempt from the
24 imposition of the sales tax is also exempt from the use tax
25 imposed in Code section 423.5.

Senate Study Bill 1239 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON BOLKCOM)

A BILL FOR

1 An Act relating to an exemption from sales tax for the sales
2 price from furnishing certain environmental testing
3 services.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2200XC (1) 85
mm/sc

S.F. _____

1 Section 1. Section 423.2, subsection 6, paragraph a, Code
2 2013, is amended to read as follows:
3 *a.* The sales price of any of the following enumerated
4 services is subject to the tax imposed by subsection
5 5: alteration and garment repair; armored car; vehicle
6 repair; battery, tire, and allied; investment counseling;
7 service charges of all financial institutions; barber and
8 beauty; boat repair; vehicle wash and wax; campgrounds;
9 carpentry; roof, shingle, and glass repair; dance schools
10 and dance studios; dating services; dry cleaning, pressing,
11 dyeing, and laundering; electrical and electronic repair
12 and installation; excavating and grading; farm implement
13 repair of all kinds; flying service; furniture, rug, carpet,
14 and upholstery repair and cleaning; fur storage and repair;
15 golf and country clubs and all commercial recreation; gun
16 and camera repair; house and building moving; household
17 appliance, television, and radio repair; janitorial and
18 building maintenance or cleaning; jewelry and watch repair;
19 lawn care, landscaping, and tree trimming and removal;
20 limousine service, including driver; machine operator; machine
21 repair of all kinds; motor repair; motorcycle, scooter, and
22 bicycle repair; oilers and lubricators; office and business
23 machine repair; painting, papering, and interior decorating;
24 parking facilities; pay television; pet grooming; pipe
25 fitting and plumbing; wood preparation; executive search
26 agencies; private employment agencies, excluding services
27 for placing a person in employment where the principal place
28 of employment of that person is to be located outside of the
29 state; reflexology; security and detective services; sewage
30 services for nonresidential commercial operations; sewing
31 and stitching; shoe repair and shoeshine; sign construction
32 and installation; storage of household goods, mini-storage,
33 and warehousing of raw agricultural products; swimming pool
34 cleaning and maintenance; tanning beds or salons; taxidermy
35 services; telephone answering service; test laboratories,

S.F. _____

1 including mobile testing laboratories and field testing by
2 testing laboratories, and excluding tests on humans or animals
3 and excluding environmental testing services; termite, bug,
4 roach, and pest eradicators; tin and sheet metal repair;
5 transportation service consisting of the rental of recreational
6 vehicles or recreational boats, or the rental of motor vehicles
7 subject to registration which are registered for a gross
8 weight of thirteen tons or less for a period of sixty days or
9 less, or the rental of aircraft for a period of sixty days or
10 less; Turkish baths, massage, and reducing salons, excluding
11 services provided by massage therapists licensed under chapter
12 152C; water conditioning and softening; weighing; welding;
13 well drilling; wrapping, packing, and packaging of merchandise
14 other than processed meat, fish, fowl, and vegetables; wrecking
15 service; wrecker and towing.
16 Sec. 2. Section 423.3, Code 2013, is amended by adding the
17 following new subsection:
18 NEW SUBSECTION. 99. The sales price from the furnishing
19 of environmental testing services performed at a laboratory,
20 in the field, or by a mobile testing service. For purposes
21 of this subsection, *"environmental testing"* means the physical
22 or chemical analysis of soil, water, wastewater, air, or
23 solid waste performed in order to ascertain the presence of
24 environmental contamination or degradation.
25 EXPLANATION
26 This bill provides a sales tax exemption for the furnishing
27 of environmental testing services performed at a laboratory,
28 in the field, or by a mobile testing service. "Environmental
29 testing" means the physical or chemical analysis of soil,
30 water, wastewater, air, or solid waste performed in order
31 to ascertain the presence of environmental contamination or
32 degradation.
33 By operation of Code section 423.6, an item exempt from the
34 imposition of the sales tax is also exempt from the use tax
35 imposed in Code section 423.5.

Senate Study Bill 1240 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON BOLKCOM)

A BILL FOR

1 An Act increasing the total amount of historic preservation and
2 cultural and entertainment district tax credits that may be
3 issued.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2374XC (2) 85
mm/sc

S.F. _____

1 Section 1. Section 404A.4, subsection 2, paragraph d, Code
2 2013, is amended to read as follows:
3 *d.* For the fiscal year beginning July 1, 2012, ~~and for each~~
4 ~~fiscal year thereafter,~~ the office shall reserve not more than
5 forty-five million dollars worth of tax credits for any one
6 taxable year.
7 Sec. 2. Section 404A.4, subsection 2, Code 2013, is amended
8 by adding the following new paragraph:
9 NEW PARAGRAPH. *e.* For the fiscal year beginning July 1,
10 2013, and for each fiscal year thereafter, the office shall
11 reserve not more than fifty million dollars worth of tax
12 credits for any one taxable year.
13 Sec. 3. Section 404A.4, subsection 4, paragraph a, Code
14 2013, is amended to read as follows:
15 *a.* The total amount of tax credits that may be approved for
16 a fiscal year prior to the fiscal year beginning July 1, 2012,
17 under this chapter shall not exceed fifty million dollars.
18 The total amount of tax credits that may be approved for ~~a~~
19 the fiscal year beginning on ~~or after~~ July 1, 2012, shall not
20 exceed forty-five million dollars. The total amount of tax
21 credits that may be approved for a fiscal year beginning on or
22 after July 1, 2013, shall not exceed fifty million dollars.
23 EXPLANATION
24 This bill increases to $50 million from $45 million the
25 amount of historic preservation and cultural and entertainment
26 district tax credits that may be approved for a fiscal year and
27 reserved for any one taxable year.

Senate Study Bill 1241 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON BOLKCOM)

A BILL FOR

1 An Act providing a sales tax exemption for hydroelectricity
2 conversion property.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2270XC (4) 85
rn/sc

S.F. _____

1 Section 1. Section 423.3, subsection 54, Code 2013, is
2 amended to read as follows:
3 54. *a.* The sales price from the sale of wind energy
4 conversion property or hydroelectricity conversion property
5 to be used as an electric power source and the sale of the
6 materials used to manufacture, install, or construct wind
7 energy conversion property or hydroelectricity conversion
8 property used or to be used as an electric power source.
9 *b.* For purposes of this subsection~~, "*wind*~~:
10 (1) *"Wind energy conversion property"* means any device,
11 including but not limited to a wind charger, windmill,
12 wind turbine, tower and electrical equipment, pad mount
13 transformers, power lines, and substation, which converts wind
14 energy to a form of usable energy.
15 (2) *"Hydroelectricity conversion property"* means any device,
16 including but not limited to a generator, turbine, powerhouse,
17 intake, coffer dam, walls, water conduit, tailrace, any other
18 concrete components, electrical equipment substation, poles,
19 wires, transformers, breakers, and switches used to convert
20 water, water power, or hydroelectricity to a form of usable
21 energy.
22 EXPLANATION
23 This bill exempts hydroelectricity conversion property from
24 sales tax.
25 Currently, Code section 423.3, subsection 54, provides
26 a sales tax exemption for the sales price of wind energy
27 conversion property to be used as an electric power source and
28 the sale of the materials used to manufacture, install, or
29 construct wind energy conversion property used or to be used
30 as an electric power source. The bill makes this provision
31 equally applicable to hydroelectricity conversion property, as
32 defined in the bill.
33 By operation of Code section 423.6, an item exempt from the
34 imposition of the sales tax is also exempt from the use tax
35 imposed in Code section 423.5.