Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 07, 2012

H8005 3
H8006 4
HF2237 5
HF2238 12
HF2239 15
HF2240 33
HF2241 38
HF2242 47
HF2243 50
HF2244 53
HF2245 55
HJR2006 58
HSB610 66
HSB611 70
HSB612 79
HSB613 86
HSB614 88
HSB615 92
HSB616 130
HSB617 138
HSB618 146
HSB619 148
HSB620 176
SCR101 180
SF2132 184
SF2133 186
SF2134 188
SF2135 190
SF2136 192
SF2137 194
SF2138 199
SF2139 202
SF2140 213
SF2141 218
SSB3132 220
SSB3133 224

SSB3134 257
SSB3135 387
SSB3136 394
SSB3137 462
SSB3138 473
SSB3139 483
SSB3140 564
SSB3141 625

House File 2227

H-8005

1 Amend House File 2227 as follows:
2 1. Page 2, by striking lines 5 through 7 and
3 inserting:
4 <~~2.~~ 3. The requirements of section 92.10 shall not
5 apply to a person, firm, or corporation employing a
6 person engaged in ~~street occupations~~ the distribution
7 or sale of newspapers, magazines, periodicals, or
8 circulars pursuant to this section.>

HORBACH of Tama

House File 2227

H-8006

1 Amend House File 2227 as follows:
2 1. Page 4, by striking lines 20 through 23 and
3 inserting:
4 <5. *a.* The employer shall file the completed
5 child labor work permit electronically with the labor
6 commissioner.>

RUNNING-MARQUARDT of Linn

House File 2237 - Introduced

HOUSE FILE 2237
BY LUKAN

A BILL FOR

1 An Act relating to the rebate of state sales tax to the owner or
2 operator of a baseball and softball tournament facility and
3 movie site.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5471YH (7) 84
mm/sc

H.F. 2237

Section 1. FINDINGS. The general assembly finds that a baseball and softball tournament facility and movie site in Iowa would result in a substantial economic benefit to the state and would offer thousands of competitors and visitors the opportunity to experience and discover Iowa.

The general assembly further finds that the development of the baseball and softball tournament facility and movie site, including a year-round training facility, would enhance the economic development of the area through an increase in tourism.

The general assembly further finds that the rebate of state sales tax collected at the baseball and softball tournament facility and movie site to assist in the development of such facility and complex would further tourism and is a public purpose for which state funds may be used.

The general assembly further finds that the rebate of state sales tax to the baseball and softball tournament facility and movie site should be considered a program to be used as a means to increase tourism into the state.

Sec. 2. Section 423.4, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 10. *a.* For purposes of this subsection:

(1) *"Baseball and softball tournament facility and movie site"* means a baseball and softball tournament complex and tourist destination, which facility is located on a maximum of two hundred seventy-nine acres, located inside or within three miles of the city limits of a city with a population of at least four thousand but not more than five thousand five hundred residents, which city is located in a county with a population of at least ninety-three thousand but not more than one hundred thousand residents and where the construction on the baseball and softball tournament facility commenced not later than one year following the enactment of this Act, and the cost of the construction upon completion was at least thirty-eight million dollars.

H.F. 2237

(2) *"Change of control"* means any of the following:
(a) Any change in the ownership of the original or any subsequent legal entity that is the owner or operator of the baseball and softball tournament facility and movie site such that more than fifty percent of the equity interests in the legal entity cease to be owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both.
(b) The original owners of the legal entity that is the owner or operator of the baseball and softball tournament facility and movie site shall collectively cease to own more than fifty percent of the voting equity interests of such legal entity or shall otherwise cease to have effective control of such legal entity.
(3) *"Iowa corporation"* means a corporation incorporated under the laws of Iowa where at least fifty percent of the corporation's equity interests are owned by individuals who are residents of Iowa.
(4) *"Owner or operator"* means a for-profit legal entity where at least fifty percent of its equity interests are owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both and that is the owner or operator of a baseball and softball tournament facility and movie site and is primarily a promoter of baseball and softball tournaments.
(5) *"Population"* means the population based upon the 2010 certified federal census.
b. The owner or operator of a baseball and softball tournament facility and movie site may apply to the department for a rebate of sales tax imposed and collected by retailers upon sales of any goods, wares, merchandise, admission tickets, or services furnished to purchasers at the baseball and softball tournament facility and movie site.
c. The rebate may be obtained only in the following amounts and manner and only under the following conditions:
(1) On forms furnished by the department within the time period provided by the department by rule, which time period

H.F. 2237

1 shall not be longer than quarterly.
2 (2) The owner or operator shall provide information as
3 deemed necessary by the department.
4 (3) The transactions for which sales tax was collected and
5 the rebate is sought occurred on or after January 1, 2014,
6 but before January 1, 2024. However, not more than sixteen
7 million five hundred thousand dollars in total rebates shall be
8 provided pursuant to this subsection.
9 (4) Notwithstanding subparagraph (3), the rebate of sales
10 tax shall cease for transactions occurring on or after the
11 date of the change of control of the baseball and softball
12 tournament facility and movie site.
13 *d.* To assist the department in determining the amount
14 of the rebate, the owner or operator shall identify to the
15 department retailers located at the baseball and softball
16 tournament facility and movie site who will be collecting sales
17 tax. The department shall verify such identity and ensure
18 that all proper permits have been issued. For purposes of
19 this subsection, advance ticket and admissions sales shall be
20 considered occurring at the baseball and softball tournament
21 facility and movie site regardless of where the transactions
22 actually occur.
23 *e.* There is established within the state treasury under the
24 control of the department a baseball and softball tournament
25 facility and movie site sales tax rebate fund consisting of
26 the amount of state sales tax revenues transferred pursuant
27 to section 423.2, subsection 11, paragraph *"b"*, subparagraph
28 (4). An account is created within the fund for each baseball
29 and softball tournament facility and movie site meeting the
30 qualifications of this subsection. Moneys in the fund shall
31 only be used to provide rebates of state sales tax pursuant
32 to this subsection, and only the state sales tax revenues in
33 the baseball and softball tournament facility and movie site
34 rebate fund are subject to rebate under this subsection. Not
35 more than sixteen million five hundred thousand dollars in

H.F. 2237

total rebates shall be paid from the fund. Any moneys in the fund which represent state sales tax revenue for which the time period in paragraph *"c"* for receiving a rebate has expired, or which otherwise represent state sales tax revenue that has become ineligible for rebate pursuant to this subsection, shall immediately revert to the general fund of this state.

f. Upon determining that the conditions and requirements of this subsection and the department are met, the department shall issue a warrant from the applicable account within the baseball and softball tournament facility and movie site rebate fund to the owner or operator in the amount equal to the amount claimed and verified by the department.

g. This subsection is repealed June 30, 2024, or thirty days following the date on which sixteen million five hundred thousand dollars in total rebates have been provided, or thirty days following the date on which rebates cease as provided in paragraph *"c"*, subparagraph (4), whichever is the earliest.

Sec. 3. Section 423.2, subsection 11, Code Supplement 2011, is amended to read as follows:

11. *a.* (1) All revenues arising under the operation of the provisions of this section shall be deposited into the general fund of the state.

(2) Subsequent to the deposit into the general fund of the state, the director shall credit an amount equal to the product of the sales tax rate imposed in this section times the sales price of the tangible personal property or services furnished to purchasers at a baseball and softball tournament facility and movie site meeting the qualifications of section 423.4, subsection 10, into the baseball and softball tournament facility and movie site sales tax rebate fund created under section 423.4, subsection 10, paragraph *"e"*. The director shall credit the moneys beginning the first day of the quarter following the effective date of this Act. This subparagraph is repealed June 30, 2024, or thirty days following the date on which sixteen million five hundred thousand dollars in total

H.F. 2237

rebates have been provided under section 423.4, subsection 10, or thirty days following the date on which rebates cease as provided in section 423.4, subsection 10, paragraph *"c"*, subparagraph (4), whichever is earliest.

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

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

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

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

(4) Transfer to the baseball and softball tournament facility and movie site sales tax rebate fund that portion of the sales tax receipts described in paragraph *"a"*, subparagraph (2), remaining after the transfers required under subparagraphs (1), (2), and (3) of this paragraph *"b"*. This subparagraph is repealed June 30, 2024, or thirty days following the date on which sixteen million five hundred thousand dollars in total rebates have been provided under section 423.4, subsection 10, or thirty days following the date on which rebates cease as provided in section 423.4, subsection 10, paragraph *"c"*, subparagraph (4), whichever is earliest.

EXPLANATION

This bill authorizes the department of revenue to rebate sales tax collected by retailers on purchases made at a baseball and softball tournament facility and movie site. To be eligible for the rebate the baseball and softball tournament facility and movie site must be located on a maximum of 279 acres and located inside or within three miles of the city

H.F. 2237

limits of a city with a population between 4,000 and 5,500, which is located in a county with a population between 93,000 and 100,000. In addition, construction on the facility must commence not later than one year following the enactment of the bill, and the cost of the construction must be at least $38 million.

The person eligible to receive the rebate is the owner or operator of the baseball and softball tournament facility and movie site. The rebate of sales tax only applies to the sales tax collected on transactions occurring on or after January 1, 2014, and before January 1, 2024, and shall only be paid from the baseball and softball tournament facility and movie site sales tax rebate fund created in the bill.

The bill creates the baseball and softball tournament facility and movie site sales tax rebate fund consisting of the remaining amount of state sales tax revenue collected upon tangible personal property or services furnished to purchasers at the baseball and softball tournament facility and movie site after subtracting the local option sales tax under Code chapter 423B, the natural resources and outdoor recreation trust fund transfer pursuant to Article VII, section 10, of the Constitution of the State of Iowa if applicable, and the secure an advanced vision for education fund transfer pursuant to Code section 423F.2. Rebates are paid only from this rebate fund and are limited to the amounts in the fund. The total amount that may be rebated from the fund and under the bill is $16.5 million.

The rebate ceases if control of the facility changes. The rebate provision is repealed June 30, 2024, or 30 days after a total of $16.5 million has been rebated, whichever occurs earlier.

House File 2238 - Introduced

HOUSE FILE 2238
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 627)

A BILL FOR

1 An Act relating to termination of parental rights and
2 identification information and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2552HV (4) 84
jp/nh

H.F. 2238

1 Section 1. Section 232.2, subsection 4, paragraph f,
2 subparagraph (7), Code 2011, is amended to read as follows:
3 (7) Provision for the department or a designee of the
4 department on or before the date the child reaches age eighteen
5 or upon entry of an order under this chapter for termination
6 of parental rights to provide to the child or the child's
7 guardian a certified copy of the child's birth certificate and
8 to facilitate securing a federal social security card. The
9 fee for the certified copy that is otherwise chargeable under
10 section 144.13A, 144.46, or 331.605 shall be waived by the
11 state or county registrar.
12 Sec. 2. Section 715A.8, Code 2011, is amended by adding the
13 following new subsection:
14 NEW SUBSECTION. 9. A person whose parental rights with
15 respect to a child have been terminated under section 232.117
16 who at any time fraudulently uses or attempts to fraudulently
17 use the child's identification information with the intent to
18 obtain credit, property, services, or other benefit, commits
19 the offense of identity theft.
20 EXPLANATION
21 This bill relates to termination of parental rights and
22 identification information by requiring certain identity
23 documents to be provided to children or their guardians upon
24 entry of a court order for termination of parental rights and
25 establishing an identity theft crime for persons whose parental
26 rights have been terminated.
27 The identity documents requirement is inserted as part of
28 the definition of "case permanency plan" in Code section 232.2,
29 that is required by federal law and applicable to children in
30 a court-ordered out-of-home placement. Under current law,
31 on or before a child in such a placement reaches age 18,
32 the department of human services or a departmental designee
33 is required to provide to the child a certified copy of the
34 child's birth certificate and to facilitate securing a federal
35 social security card.

H.F. 2238

1 Code section 715A.8, relating to the crime of identity
2 theft, is amended to provide that a person whose parental
3 rights with respect to a child have been terminated under Code
4 section 232.117 who at any time fraudulently uses or attempts
5 to fraudulently use the child's identification information
6 with the intent to obtain credit, property, services, or other
7 benefit, commits the offense of identity theft. This crime
8 is an unlawful practice under Code section 714.16, relating
9 to consumer frauds, and may be punished with civil penalties
10 ordered by the court. The victim of the identity theft may
11 also bring a civil action under Code section 714.16B for
12 damages, recovery of costs, and punitive damages.

House File 2239 - Introduced

HOUSE FILE 2239
BY WINDSCHITL

A BILL FOR

1 An Act relating to abortions, providing civil and criminal
2 penalties, and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5192YH (6) 84
pf/rj

H.F. 2239

1 DIVISION I
2 WOMAN'S RIGHT TO KNOW ACT
3 Section 1. NEW SECTION. **146A.1 Title.**
4 This chapter shall be known and may be cited as the *"Woman's*
5 *Right to Know Act"*.
6 Sec. 2. NEW SECTION. **146A.2 Definitions.**
7 As used in this chapter, unless the context otherwise
8 requires:
9 1. *"Abortion"* means abortion as defined in section 146.1.
10 2. *"Attempt to perform an unlawful abortion"* means an act,
11 or an omission of an act required by law, that constitutes a
12 substantial step in a course of conduct intended to culminate
13 in the performance of an abortion in violation of this chapter.
14 3. *"Department"* means the department of public health.
15 4. *"Fetus"* means a human pregnancy in the postembryonic
16 state.
17 5. *"Medical emergency"* means any condition which, on
18 the basis of a physician's good faith clinical judgment,
19 so complicates the medical condition of a pregnant woman
20 as to necessitate the immediate performance of an abortion
21 to avert the pregnant woman's death, or to necessitate the
22 immediate performance of an abortion to avert a serious risk
23 of substantial and irreversible impairment of a major bodily
24 function if the performance of the abortion is delayed.
25 6. *"Physician"* means a person licensed to practice medicine
26 and surgery or osteopathic medicine and surgery pursuant to
27 chapter 148.
28 Sec. 3. NEW SECTION. **146A.3 Voluntary and informed consent.**
29 1. An abortion shall not be performed in this state without
30 the voluntary and informed consent of the woman upon whom the
31 abortion is to be performed. Except in the case of a medical
32 emergency, consent to an abortion is voluntary and informed
33 only if the requirements of this section are met.
34 2. The referring physician, the physician who will perform
35 the abortion, or an agent of either physician shall provide

H.F. 2239

1 all of the following information to the woman by telephone,
2 by audiotape, or in person, at the time the woman initially
3 contacts the physician's private office or a facility
4 that provides abortions to inquire about or to schedule an
5 appointment for an abortion:
6 *a.* Information that medical assistance benefits may be
7 available to the woman for prenatal care, childbirth, and
8 neonatal care.
9 *b.* Information that the putative father is liable to assist
10 in the support of the child and that efforts to collect support
11 may result in, but are not guaranteed to result in, financial
12 support of the child, even if the putative father has offered
13 to pay for the abortion.
14 *c.* Information that the woman has the right to review the
15 printed materials described in subsection 3.
16 *d.* Information that the woman has the right to be given
17 the opportunity to undergo an ultrasound imaging of the fetus
18 prior to the performance of an abortion, to view the ultrasound
19 image, and to hear a description of the ultrasound image and
20 hear the heartbeat of the fetus at least twenty-four hours
21 before the abortion is performed.
22 3. *a.* After being informed of the woman's right to review
23 printed materials pursuant to subsection 2, if the woman wishes
24 to review the materials, all of the following shall apply:
25 (1) If the department establishes an internet site, the
26 woman shall be informed that the materials are available
27 through a state-sponsored internet site and shall be informed
28 of the internet site address.
29 (2) If the woman initially contacts the physician's private
30 office or a facility that provides abortions in person, the
31 materials shall be provided to the woman at that time.
32 (3) If the woman initially contacts the physician's private
33 office or a facility that provides abortions by telephone and
34 wishes to review the materials, the materials shall be mailed
35 to the woman by regular mail or by restricted certified mail,

H.F. 2239

1 as defined in section 618.15, as requested by the woman.
2 (4) The woman shall be informed that the materials have been
3 provided by the state and that they describe the fetus and list
4 agencies that offer alternatives to abortion.
5 *b.* The printed materials shall include all of the following:
6 (1) Geographically indexed materials designed to inform
7 the woman of public and private agencies and services
8 available to assist a woman through pregnancy, at the time
9 of childbirth, and while the child is dependent, including
10 adoption agencies. The materials shall include a comprehensive
11 list of the agencies available, categorized by the type of
12 services offered, and a description of the manner, including
13 telephone numbers, by which the agencies may be contacted. The
14 department may also provide a toll-free, twenty-four-hour-a-day
15 telephone number which may be called to obtain, orally, a list
16 and description of agencies in the locality of the caller and
17 of the services offered.
18 (2) Materials that encourage consideration of placement for
19 adoption. The materials shall inform the woman of the benefits
20 of adoption, including the requirements of confidentiality in
21 the adoption process, the importance of adoption to individuals
22 and society, and the state's interest in promoting adoption by
23 preferring childbirth over abortion.
24 (3) Materials designed to inform the woman of the probable
25 anatomical and physiological characteristics of the fetus
26 at two-week gestational increments from the time that it is
27 medically possible to make a determination of pregnancy to full
28 term. The materials shall include any relevant information
29 regarding the possibility of the survival of the fetus and
30 pictures or drawings representing the development of the fetus
31 at two-week gestational increments, provided that any pictures
32 or drawings shall contain the dimensions of the fetus and
33 shall be realistic and appropriate for the state of pregnancy
34 depicted. The materials shall be objective, nonjudgmental, and
35 designed to convey only accurate scientific information about

H.F. 2239

1 the fetus at various gestational stages. The materials shall
2 also contain objective information describing the methods of
3 abortion procedures commonly used, the medical risks commonly
4 associated with each such procedure, the possible detrimental
5 psychological effects of abortion, and the medical risks
6 commonly associated with carrying a fetus to term.
7 4. A physician shall not perform an abortion on a woman
8 unless both of the following conditions are met:
9 *a.* The physician obtains written certification that the
10 information required pursuant to subsection 2 was provided
11 to the woman. The physician shall retain a copy of the
12 certification and shall provide a copy of the certification to
13 the woman.
14 *b.* The physician certifies that the woman has been offered
15 the opportunity to undergo an ultrasound of the fetus, to view
16 the ultrasound, to hear a description of the image, and to
17 hear the heartbeat of the fetus at least twenty-four hours
18 before an abortion is performed. In order to comply with
19 this requirement, the ultrasound image must be of a quality
20 consistent with standard medical practice in the community,
21 must contain the dimensions of the fetus, and must accurately
22 portray the presence of external members and internal organs,
23 including the heartbeat, if present or viewable, of the fetus.
24 The auscultation of the fetal heart tone also must be of a
25 quality consistent with standard medical practice in the
26 community. The physician shall document that the woman has
27 been offered the opportunity to undergo the ultrasound and the
28 woman´s response to the offers, including the date and time of
29 the offers and the woman´s signature attesting to the woman´s
30 informed decision.
31 5. *a.* By October 1, 2012, the department shall cause
32 the information described in subsection 3 to be published in
33 printed format. The information shall be provided in an easily
34 comprehensible manner. The information shall be published in
35 a typeface large enough to be clearly legible. The printed

H.F. 2239

1 information shall be available from the department at no cost,
2 upon request, and in an appropriate number, to any person.
3 *b.* The department may establish and maintain an internet
4 site to provide the information described in subsection 3. The
5 internet site shall provide for confidentiality of individuals
6 who access the site and no information identifying the
7 individual shall be collected or maintained. The department
8 shall monitor the internet site to ensure that the site is
9 secure and to prevent and correct any tampering with the site.
10 Sec. 4. NEW SECTION. **146A.4 Procedure in case of medical**
11 **emergency.**
12 If a medical emergency necessitates the performance of
13 an abortion, the physician shall inform the woman, prior to
14 the performance of the abortion, if possible, of the medical
15 indications supporting the physician's judgment that the
16 immediate performance of an abortion is necessary to avert the
17 woman's death or that a delay in the performance of an abortion
18 will create a serious risk of substantial and irreversible
19 impairment of a major bodily function.
20 Sec. 5. NEW SECTION. **146A.5 Criminal penalties.**
21 1. A person who knowingly or recklessly performs or attempts
22 to perform an abortion in violation of this chapter is guilty
23 of a class "C" felony.
24 2. A criminal penalty shall not be imposed under this
25 chapter on a woman upon whom an abortion is performed or
26 attempted to be performed. A criminal penalty shall not be
27 imposed for failure of a woman to comply with the requirement
28 of written certification pursuant to section 146A.3, if the
29 department has not made the information available at the time
30 the physician or the physician's agent is required to inform
31 the woman of the woman's right to review the information.
32 Sec. 6. NEW SECTION. **146A.6 Protection of privacy in court**
33 **proceedings — penalty.**
34 1. In every criminal proceeding brought pursuant to this
35 chapter, the court proceedings shall be conducted in a manner

H.F. 2239

which protects the confidentiality of the woman, and all court documents pertaining to the proceedings shall remain confidential and shall be sealed. The court shall direct the exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard the woman's identity from public disclosure.

2. This section shall not be construed to conceal the identity of witnesses from the defendant.

3. A person who knowingly violates the confidentiality requirements of this section relating to court proceedings and documents is guilty of a simple misdemeanor.

Sec. 7. EFFECTIVE DATES.

1. The provisions of this division of this Act requiring the department of public health to publish information described in section 146A.3, subsection 3, as enacted in this Act, by October 1, 2012, being deemed of immediate importance, take effect upon enactment.

2. The remainder of this division of this Act takes effect October 1, 2012.

DIVISION II

APPLICATION OF AMBULATORY SURGICAL CENTER REGULATIONS TO FACILITIES THAT PROVIDE ABORTIONS

Sec. 8. Section 135.61, subsection 21, Code 2011, is amended to read as follows:

21. *"Outpatient surgical facility"* means ~~a~~ any of the following:

a. A facility which as its primary function provides, through an organized medical staff and on an outpatient basis to patients who are generally ambulatory, surgical procedures not ordinarily performed in a private physician's office, but not requiring twenty-four hour hospitalization, and which is ~~neither~~ not a part of a hospital ~~nor~~ and is not owned wholly or in part by a hospital. *"Outpatient surgical facility"* also does not include the private office of a health care provider who there engages in the lawful practice of surgery. ~~*"Outpatient*~~

H.F. 2239

1 ~~*surgical facility"* includes a~~
2 *b.* A facility certified or seeking certification as an
3 ambulatory surgical center, under the federal Medicare program
4 or under the medical assistance program established pursuant to
5 chapter 249A.
6 *c.* A facility that provides for the performing or inducing
7 of any abortions.
8 Sec. 9. NEW SECTION. **135P.1 Definitions.**
9 As used in this chapter, unless the context otherwise
10 requires:
11 1. *"Ambulatory surgical center"* means an outpatient surgical
12 facility as defined in section 135.61 or an ambulatory surgical
13 facility as defined in section 514.5.
14 2. *"Department"* means the department of inspections and
15 appeals.
16 Sec. 10. NEW SECTION. **135P.2 Licenses — fees — criteria.**
17 1. A person shall not operate an ambulatory surgical center
18 in this state without first obtaining a license from the
19 department after meeting the requirements of this chapter. The
20 application shall be on a form prescribed by the department and
21 shall require information the department deems necessary. Each
22 application for license shall be accompanied by a nonrefundable
23 biennial license fee determined by the department.
24 2. The ambulatory surgical center shall meet the
25 requirements of 42 C.F.R. pt. 416 before a license is issued.
26 The department shall provide the necessary personnel to inspect
27 the ambulatory surgical center to determine if the ambulatory
28 surgical center complies with necessary requirements before
29 a license is issued. An ambulatory surgical center that is
30 certified under the federal Medicare program and thereby meets
31 the requirements of 42 C.F.R. pt. 416 shall be licensed without
32 inspection by the department.
33 Sec. 11. NEW SECTION. **135P.3 Denial, suspension, or**
34 **revocation of license.**
35 The department may deny, suspend, or revoke a license if

H.F. 2239

1 the department determines an ambulatory surgical center fails
2 to comply with this chapter or the rules adopted pursuant
3 to this chapter. A denial, suspension, or revocation may
4 be appealed under chapter 17A. The department may reissue
5 a license following a suspension or revocation after the
6 ambulatory surgical center corrects the conditions upon which
7 the suspension or revocation was based.
8 Sec. 12. NEW SECTION. **135P.4 Limitation, expiration, and**
9 **renewal of license.**
10 A license for an ambulatory surgical center shall be issued
11 only for the premises, person, or facility named in the
12 application and is not transferable or assignable. A license,
13 unless sooner suspended or revoked, shall expire two years
14 after the date of issuance and shall be renewed biennially
15 upon an application by the licensee. Application for renewal
16 shall be made in writing to the department at least thirty days
17 prior to the expiration of the license. The fee for a license
18 renewal shall be determined by the department.
19 Sec. 13. NEW SECTION. **135P.5 Rules.**
20 Except as otherwise provided in this chapter, the department
21 shall adopt rules pursuant to chapter 17A necessary to
22 administer this chapter, subject to approval of the state board
23 of health. Formulation of the rules shall include consultation
24 with persons affected by this chapter.
25 Sec. 14. Section 514.5, Code 2011, is amended to read as
26 follows:
27 **514.5 Contracts for service.**
28 1. A hospital service corporation organized under
29 chapter 504, Code 1989, or current chapter 504 may enter
30 into contracts for the rendering of hospital service to any
31 of its subscribers with hospitals maintained and operated by
32 the state or any of its political subdivisions, or by any
33 corporation, association, or individual. Such hospital service
34 corporation may also contract with an ambulatory surgical
35 facility to provide surgical services to the corporation's

H.F. 2239

1 subscribers. Hospital service is meant to include bed and
2 board, general nursing care, use of the operating room, use of
3 the delivery room, ordinary medications and dressings and other
4 customary routine care. *"Ambulatory surgical facility"* means
5 a facility constructed and operated for the specific purpose
6 of providing surgery to patients admitted to and discharged
7 from the facility within the same day or an *"outpatient surgical*
8 *facility"* as defined in section 135.61.
9 2. A medical service corporation organized under this
10 chapter may enter into contracts with subscribers to furnish
11 health care service through physicians and surgeons, dentists,
12 podiatric physicians, osteopathic physicians, osteopathic
13 physicians and surgeons, or chiropractors.
14 3. Any pharmaceutical or optometric service corporation
15 organized under ~~the provisions of said~~ this chapter may
16 enter into contracts for the rendering of pharmaceutical or
17 optometric service to any of its subscribers. Membership in
18 any pharmaceutical service corporation shall be open to all
19 pharmacies licensed under chapter 155A.
20 4. A hospital service corporation or medical service
21 corporation organized under this chapter may enter into
22 contracts with subscribers and providers to furnish health care
23 services not otherwise allocated by this section.
24 DIVISION III
25 MEDICAL ABORTIONS
26 Sec. 15. NEW SECTION. **146B.1 Medical abortions —**
27 **restrictions — in-person administration — penalties.**
28 1. For the purpose of this section:
29 *a. "Medical abortion"* means the use of a medication
30 including but not limited to mifepristone or ulipristal acetate
31 to terminate a pregnancy.
32 *b. "Physician"* means a person licensed to practice medicine
33 and surgery or osteopathic medicine and surgery pursuant to
34 chapter 148.
35 2. *a.* Only a physician shall prescribe, dispense, or

H.F. 2239

1 administer any medication for the purpose of inducing a medical
2 abortion.
3 *b.* Any physician prescribing, dispensing, or administering
4 a medication for the purpose of inducing a medical abortion
5 shall also comply with all federal regulations relating to the
6 prescribing, dispensing, and administering of such medication.
7 *c.* A physician shall only administer a medication for
8 the purpose of inducing a medical abortion in person and in
9 a clinic or hospital with the capacity to provide surgical
10 intervention in cases resulting in an incomplete abortion or
11 severe bleeding.
12 3. A physician who knowingly performs a medical abortion in
13 violation of this section is guilty of a serious misdemeanor
14 and is subject to revocation of licensure pursuant to chapter
15 148.
16 DIVISION IV
17 PREVENTION OF COERCED ABORTIONS
18 Sec. 16. NEW SECTION. **146C.1 Prevention of coerced abortion**
19 **— signage.**
20 1. *a.* Any facility in which abortions are performed shall
21 conspicuously post a sign in each patient admission area,
22 waiting room, and patient consultation room used by patients on
23 whom abortions are performed which state:
24 It is against the law for anyone, regardless of the
25 individual's relationship to you, to force you to have an
26 abortion. You have the right to contact any local or state law
27 enforcement or social services agency to receive protection
28 from any actual or threatened physical, emotional, or
29 psychological abuse. It is against the law to perform, induce,
30 prescribe for, or provide you with the means for an abortion
31 without your voluntary consent.
32 *b.* In addition to the posting of the signs required under
33 this subsection, a pregnant woman shall be informed orally in
34 a private room in the facility of the prohibition against a
35 coerced abortion by a physician or an agent of the physician

H.F. 2239

1 who performs abortions at the facility.
2 2. The department of public health shall make the signs
3 required under this section available for download in a
4 printable format on its internet site.
5 Sec. 17. NEW SECTION. **707.8B Coerced abortion — prohibited**
6 **— penalty.**
7 1. For the purposes of this section, *"coerces"* means any act
8 or attempted act including a threat of physical harm intended
9 to compel a pregnant woman to have an abortion performed in
10 otherwise lawful circumstances but performed against the
11 pregnant woman's will.
12 2. A person who coerces a pregnant woman to have an abortion
13 is guilty of a class "C" felony.
14 DIVISION V
15 ABORTION PROVISIONS RELATING TO MINORS
16 Sec. 18. NEW SECTION. **135L.6A Causing, aiding, or assisting**
17 **a minor in obtaining abortion — noncompliance with requirements**
18 **— civil liability.**
19 1. A person shall not intentionally cause a minor to obtain
20 or aid or assist a minor in obtaining an abortion without
21 complying with this chapter.
22 2. A person who violates subsection 1 shall be civilly
23 liable to the minor and to the person to whom notification is
24 required to be given under this chapter. Appropriate relief
25 under this subsection may include compensatory damages for all
26 injuries, psychological and physical, resulting from violation
27 of subsection 1.
28 3. It shall not be a defense to a claim brought under this
29 section that the abortion was performed pursuant to consent to
30 the abortion provided in a manner that is otherwise lawful in
31 the state or jurisdiction where the abortion was performed if
32 not otherwise in compliance with this chapter.
33 Sec. 19. NEW SECTION. **146D.1 Definition.**
34 For the purpose of this chapter, unless the context
35 otherwise requires, *"minor"* means a person under eighteen years

H.F. 2239

1 of age who has not been and is not married.
2 Sec. 20. NEW SECTION. **146D.2 Persons providing abortions**
3 **for minors — required reporting of sexual abuse — penalty.**
4 1. An individual who is a physician or an agent of a
5 physician and who performs abortions on minors shall report
6 any suspected sexual abuse, as defined in section 709.1, of
7 a minor no later than forty-eight hours after the suspected
8 sexual abuse has been brought to the individual's attention.
9 The individual shall not delegate the responsibility to report
10 suspected sexual abuse to any other person but shall make the
11 report personally. The individual shall make the report to the
12 local law enforcement agency, the department of public safety,
13 or the department of human services.
14 2. The individual making the report shall identify the name
15 and address of the minor as well as the name and address of the
16 parent or legal guardian of the minor. The individual making
17 the report shall provide any information the individual may
18 possess relating to the suspected sexual abuse as specified by
19 the agency or department receiving the report.
20 3. A physician or an agent of a physician who performs
21 abortions on minors who has reason to believe that a minor's
22 physical or mental health or welfare has been adversely
23 affected due to suspected sexual abuse and who knowingly does
24 not report such suspected sexual abuse as required under this
25 section, is guilty of a serious misdemeanor.
26 Sec. 21. NEW SECTION. **146D.3 Maintenance of forensic**
27 **samples from abortions performed on certain minors — penalties.**
28 1. A physician who performs an abortion on a minor shall
29 preserve fetal tissue extracted during the abortion in
30 accordance with rules adopted by the department of public
31 health in cooperation with the department of public safety
32 pursuant to this section. The physician shall submit the
33 tissue to the department of public safety.
34 2. The department of public health in cooperation with
35 the department of public safety shall adopt rules pursuant to

H.F. 2239

chapter 17A prescribing all of the following:

a. The amount and type of fetal tissue to be preserved and submitted by a physician pursuant to this section.

b. The procedures for the proper preservation of such tissue for the purpose of deoxyribonucleic acid testing and examination.

c. The procedures for documenting the chain of custody of such tissue for use as evidence.

d. The procedures for proper disposal of fetal tissue preserved pursuant to this section.

e. A uniform reporting instrument to be utilized by physicians when submitting fetal tissue under this section which shall include the name of the physician submitting the fetal tissue and the complete residential address and name of the parent or legal guardian of the minor upon whom the abortion was performed.

f. The procedures for communication with law enforcement agencies regarding evidence and information obtained pursuant to this section.

3. Failure of a physician to comply with any provision of this section or any rule adopted pursuant to this section constitutes a serious misdemeanor and a basis for license discipline under section 148.6.

EXPLANATION

Division I of this bill establishes new Code chapter 146A, relating to informed consent prior to an abortion. The Code chapter is known and cited as the "Woman's Right to Know Act".

Division I specifies the required informed consent provisions, including provision of certain information to a woman by the physician or an agent of the physician, and required certification by the woman of provision to the woman of the required information, receipt of the certification by the physician prior to the performance of an abortion, and receipt of documentation by the physician regarding the woman's response to offers of undergoing of an ultrasound prior to the

H.F. 2239

1 performance of an abortion. Division I requires the department
2 of public health to publish information by October 1, 2012,
3 relating to options for managing a pregnancy. Division I
4 authorizes the department to establish and maintain an internet
5 site to provide the information.
6 Division I also provides for alternatives to providing
7 informed consent in the case of a medical emergency.
8 Division I establishes a criminal penalty of a class "C"
9 felony for a person who knowingly or recklessly performs or
10 attempts to perform an abortion in violation of the new Code
11 chapter. A class "C" felony is punishable by confinement
12 for no more than 10 years and a fine of at least $1,000 but
13 not more than $10,000. Division I prohibits the imposition
14 of a criminal penalty against a woman upon whom an abortion
15 is performed or attempted to be performed, and prohibits the
16 imposition of a criminal penalty against a woman for failure to
17 comply with certification requirements if the department has
18 not made the printed materials available as required. Division
19 I also provides for protection of confidentiality of a woman
20 with regard to criminal court proceedings relating to an action
21 under the new Code chapter.
22 The provisions of division I relating to the department of
23 public health publishing information as prescribed in the bill
24 take effect upon enactment. The remainder of division I takes
25 effect October 1, 2012.
26 Division II of the bill defines an outpatient surgical
27 facility or ambulatory surgical center to include any
28 facility that provides for performing or inducing abortions,
29 thereby making these establishments subject to certificate of
30 need requirements and other regulatory provisions to which
31 outpatient surgical facilities or ambulatory surgical centers
32 are subject. Division II also amends the definition of an
33 outpatient surgical facility to exclude facilities that are
34 owned wholly or in part by a hospital.
35 Division II also requires that ambulatory surgical centers

H.F. 2239

1 be licensed and meet the requirements of the centers for
2 Medicare and Medicaid services of the United States department
3 of health and human services for ambulatory surgical services.
4 Division III of the bill relates to restrictions for medical
5 abortions. The bill defines "medical abortion" as the use
6 of a medication including but not limited to mifepristone or
7 ulipristal acetate to terminate a pregnancy. Division III
8 provides that only a physician shall prescribe, dispense,
9 or administer any medication for the purpose of inducing a
10 medical abortion. Additionally, division III requires that
11 any physician prescribing, dispensing, or administering a
12 medication for the purpose of inducing a medical abortion
13 shall comply with all federal regulations relating to such
14 medication; and a physician shall only administer a medication
15 for the purpose of inducing a medical abortion in person and
16 in a clinic or hospital with the capacity to provide surgical
17 intervention in cases resulting in an incomplete abortion or
18 severe bleeding.
19 A physician who knowingly performs a medical abortion in
20 violation of division III of the bill is guilty of a serious
21 misdemeanor and is subject to revocation of licensure pursuant
22 to Code chapter 148. A serious misdemeanor is punishable by
23 confinement for no more than one year or a fine of at least $315
24 but not more than $1,875, or by both.
25 Division IV of the bill relates to prevention of coerced
26 abortions. The division requires any facility in which
27 abortions are performed to conspicuously post a sign in each
28 patient admission area, waiting room, and patient consultation
29 room used by patients on whom abortions are performed which
30 state specific language regarding the prohibition against
31 forcing a pregnant woman to have an abortion. In addition to
32 the posting of the signs, division IV requires that a pregnant
33 woman be informed orally in a private room in the facility of
34 the prohibition against a coerced abortion by a physician or an
35 agent of the physician who performs abortions at the facility.

H.F. 2239

1 The division directs the department of public health to make
2 the signs required available for download in a printable format
3 on its internet site.
4 Division IV of the bill also provides that a person who
5 coerces a pregnant woman to have an abortion is guilty of a
6 class "C" felony. Division IV defines "coerces" as any act
7 or attempted act including a threat of physical harm intended
8 to compel a pregnant woman to have an abortion performed in
9 otherwise lawful circumstances but performed against the
10 pregnant woman's will.
11 Division V of the bill includes abortion provisions relating
12 to minors. Division V provides a new provision under Code
13 chapter 135L, (notification requirements regarding pregnant
14 minors) to prohibit a person from intentionally causing a
15 minor to obtain or aiding or assisting a minor in obtaining an
16 abortion without complying with the Code chapter. A person
17 who violates the prohibition is civilly liable to the minor
18 and to the person to whom notification is required to be given
19 under the Code chapter. The division provides that appropriate
20 relief may include compensatory damages for all injuries,
21 psychological and physical, resulting from the violation.
22 Additionally, the division provides that it is not a defense to
23 a claim that the abortion was performed pursuant to consent to
24 the abortion provided in a manner that is otherwise lawful in
25 the state or jurisdiction where the abortion was performed if
26 not otherwise in compliance with the Code chapter.
27 Division V also includes provisions requiring that a
28 physician or an agent of a physician who performs abortions on
29 minors shall report any suspected sexual abuse of a minor no
30 later than 48 hours after the abuse has been brought to the
31 individual's attention. The division prohibits the individual
32 from delegating the responsibility to report sexual abuse to
33 any other person and requires the individual to make the report
34 personally. The individual is required to make the report to
35 the local law enforcement agency, the department of public

H.F. 2239

1 safety, or the department of human services. The division
2 prescribes the information to be included in the report. The
3 division provides that a physician or an agent of a physician
4 who performs abortions on minors who has reason to believe
5 that a minor's physical or mental health or welfare has been
6 adversely affected due to sexual abuse and who knowingly does
7 not report such sexual abuse as required, is guilty of a
8 serious misdemeanor. A serious misdemeanor is punishable by
9 confinement for no more than one year and a fine of at least
10 $315 but not more than $1,875.
11 Division V also requires that a physician, who performs an
12 abortion on minors, preserve fetal tissue extracted during the
13 abortion in accordance with rules adopted by the department
14 of public health in cooperation with the department of public
15 safety pursuant to this Code section. The division requires
16 the physician to submit the tissue to the department of
17 public safety. The bill specifies the rules to be adopted
18 and provides that failure of a physician to comply with the
19 requirements relating to preserving of fetal tissue constitutes
20 a basis for license discipline and is a serious misdemeanor. A
21 serious misdemeanor is punishable by confinement for no more
22 than one year and a fine of at least $315 but not more than
23 $1,875.

House File 2240 - Introduced

HOUSE FILE 2240
BY SHAW

(COMPANION TO SF 251 BY KIBBIE)

A BILL FOR

1 An Act relating to the duty of care owed to certain persons
2 operating a snowmobile, establishing the criminal offense
3 of dangerous condition manslaughter, and providing criminal
4 penalties.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2295YH (2) 84
md/sc

H.F. 2240

Section 1. Section 321G.22, Code 2011, is amended to read as follows:

321G.22 Limitation of liability by public bodies and adjoining owners.

1. The state, its political subdivisions, and the owners or tenants of property adjoining public lands or the right-of-way of a public highway and their agents and employees owe no duty of care to keep the public lands, ditches, or land contiguous to a highway or roadway under the control of the state or a political subdivision safe for entry or use by persons operating a snowmobile, or to give any warning of a dangerous condition, use, structure, or activity on the premises to persons entering for such purposes, except in the case of ~~willful or malicious~~ failure to guard or warn against a dangerous condition, use, structure, or activity of which the owner of the property or the person responsible for care or operation of the property, upon which the dangerous condition, use, structure, or activity is located, had actual knowledge or actual notice. The state, its political subdivisions, and the owners or tenants of property adjoining public lands or the right-of-way of a public highway and their agents and employees are not liable for actions taken to allow or facilitate the use of public lands, ditches, or land contiguous to a highway or roadway except in the case of a ~~willful or malicious~~ failure to guard or warn against a dangerous condition, use, structure, or activity of which the owner of the property or the person responsible for care or operation of the property, upon which the dangerous condition, use, structure, or activity is located, had actual knowledge or actual notice.

2. ~~This section~~ Except as otherwise provided in subsection 1, this section does not create a duty of care or ground of liability on behalf of the state, its political subdivisions, or the owners or tenants of property adjoining public lands or the right-of-way of a public highway and their agents and employees for injury to persons or property in the operation

H.F. 2240

of snowmobiles in a ditch or on land contiguous to a highway or roadway under the control of the state or a political subdivision. The state, its political subdivisions, and the owners or tenants of property adjoining public lands or the right-of-way of a public highway and their agents and employees are not liable for the operation of a snowmobile in violation of this chapter.

Sec. 2. Section 331.802, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. Except as provided in section 218.64 or as otherwise provided by law, for each preliminary investigation and the preparation and submission of the required reports, the county medical examiner shall receive from the county of appointment a fee determined by the board plus the examiner's actual expenses. The fee and expenses paid by the county of appointment shall be reimbursed to the county of appointment by the county of the person's residence. However, if the person's death is caused by a defendant for whom a judgment of conviction and sentence is rendered under section 707.2, 707.3, 707.4, 707.5, ~~or~~ 707.6A, or 707.6B, the county of the person's residence may recover from the defendant the fee and expenses.

Sec. 3. NEW SECTION. **707.6B Dangerous condition manslaughter.**

1. A person commits dangerous condition manslaughter when all of the following conditions are met:

a. The death of another person operating a snowmobile is caused by a dangerous condition, use, structure, or activity.

b. The dangerous condition, use, structure, or activity is located on property adjoining public lands or the right-of-way of a public highway or roadway.

c. The property upon which the dangerous condition, use, structure, or activity is located is owned by the person or is located on the property for which the person is responsible for care or operation.

d. The person had actual knowledge or actual notice of the

H.F. 2240

regular use of the property upon which the dangerous condition, use, structure, or activity is located as an area for the operation of snowmobiles.

e. The person had actual knowledge or actual notice of the dangerous condition, use, structure, or activity.

f. The person failed to guard or warn against the dangerous condition, use, structure, or activity.

2. Dangerous condition manslaughter is a class "C" felony.

Sec. 4. Section 910.3A, Code 2011, is amended to read as follows:

910.3A Notification of a homicide victim's county of residence.

The county attorney of a county in which a judgment of conviction and sentence under section 707.2, 707.3, 707.4, 707.5, ~~or~~ 707.6A, or 707.6B is rendered against a defendant relating to a person's death shall notify in writing the clerk of the district court of the county of the person's residence. Such notification shall be for the purpose of the county of the person's residence recovering from the defendant the fee and expenses incurred investigating the person's death pursuant to section 331.802, subsection 2.

EXPLANATION

This bill amends Code section 321G.22 relating to liability and the duty of care owed by certain governmental bodies, property owners, and tenants to certain snowmobile operators. The bill amends the general exception from liability and duty of care by providing that an owner may have a duty of care and may be subject to certain liability if the owner of the property or the person responsible for care or operation of the property, upon which a dangerous condition, use, structure, or activity is located, had actual knowledge or actual notice and failed to guard or warn against the dangerous condition, use, structure, or activity.

The bill establishes the offense of dangerous condition manslaughter. Under the bill, a person commits the offense

H.F. 2240

of dangerous condition manslaughter when the death of another person operating a snowmobile is caused by a dangerous condition, use, structure, or activity located on property owned or under the care or operation of the person, the property adjoins public lands or the right-of-way of a public highway or roadway, the person had actual knowledge or actual notice of the regular use of the property as an area for the operation of snowmobiles, the person had actual knowledge or actual notice of the dangerous condition, use, structure, or activity, and the person failed to guard or warn against the dangerous condition, use, structure, or activity.

The bill provides that dangerous condition manslaughter is a class "C" felony. A class "C" felony is punishable by confinement for no more than 10 years and a fine of at least $1,000 but not more than $10,000.

The bill makes corresponding changes to provisions of the Code relating to the recovery of certain fees and expenses relating to the investigation of a death.

House File 2241 - Introduced

HOUSE FILE 2241
BY BYRNES

A BILL FOR

1 An Act establishing requirements for school districts,
2 area education agencies, postsecondary institutions, and
3 the department of education relating to student testing
4 and remediation services at the secondary level and the
5 alignment of the secondary curricula with the curricula
6 requirements of accredited postsecondary institutions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5901YH (2) 84
kh/rj

H.F. 2241

1 Section 1. Section 256.7, subsection 26, paragraph a,
2 subparagraph (1), Code Supplement 2011, is amended to read as
3 follows:
4 (1) The rules establishing high school graduation
5 requirements shall authorize a school district or
6 accredited nonpublic school to consider that any student
7 who satisfactorily completes a high school-level unit of
8 English or language arts, mathematics, science, or social
9 studies has satisfactorily completed a unit of the high school
10 graduation requirements for that area as specified in this
11 lettered paragraph, and shall authorize the school district
12 or accredited nonpublic school to issue high school credit
13 for the unit to the student. By July 1, 2013, these rules
14 shall also require school districts to administer compass, a
15 computer-adaptive college placement test published by ACT,
16 inc., to all students enrolled in grade eleven. The state
17 board shall establish by rule English or language arts and
18 mathematics proficiency scoring thresholds on the placement
19 test for identifying students in need of academic remediation
20 in English and mathematics. The scoring thresholds shall also
21 be used by area education agencies and school districts to
22 design and implement curriculum alignment activities that lead
23 to better prepared high school graduates.
24 Sec. 2. Section 256.9, subsection 48, Code Supplement 2011,
25 is amended to read as follows:
26 48. *a.* Develop and implement a comprehensive management
27 information system designed for the purpose of establishing
28 standardized electronic data collections and reporting
29 protocols that facilitate compliance with state and federal
30 reporting requirements, improve school-to-school and
31 district-to-district information exchanges, and maintain the
32 confidentiality of individual student and staff data. The
33 system shall provide for the electronic transfer of individual
34 student records between schools, districts, postsecondary
35 institutions, and the department. The director may establish,

H.F. 2241

to the extent practicable, a uniform coding and reporting system, including a statewide uniform student identification system.

b. By July 1, 2013, collect, utilizing the statewide longitudinal data system and unique student identifiers, test data from school districts pursuant to section 279.60, subsection 2. Each institution of higher education governed by the state board of regents and each accredited private institution as defined in section 261.9 shall, by July 1, 2013, submit student academic performance data to the department if a student enrolled in the institution has a unique student identifier provided by the department. Data collected shall be shared with the student's school district and the area education agencies in which the school districts are located. With regard to students who have unique student identifiers provided by the department, the director shall collaborate with the postsecondary institutions, area education agencies, and school districts to reach the goal of decreasing the number of students who require postsecondary remediation services in the 2012 academic year by twenty-five percent by the 2017 academic year.

Sec. 3. Section 273.2, subsection 8, Code Supplement 2011, is amended to read as follows:

8. The area education agency board shall collaborate with the department of education to provide a statewide infrastructure for educational data to create cost efficiencies, provide storage and disaster mitigation, and improve interconnectivity between schools, ~~and~~ school districts, and, by July 1, 2013, accredited postsecondary institutions. Efforts to improve interconnectivity after July 1, 2013, shall include but not be limited to the identification of deficiencies in school districts' English and mathematics coursework and curricula based on the assessment results submitted to the department of education's statewide longitudinal data system. In addition, the area education

H.F. 2241

1 agency boards shall work with the department to provide
2 systemwide coordination in the implementation of the statewide
3 longitudinal data system consistent with the federal American
4 Recovery and Reinvestment Act of 2009. The area education
5 agencies shall provide support to school districts' information
6 technology infrastructure that is consistent with the statewide
7 infrastructure for the educational data collaborative.
8 Sec. 4. Section 273.7A, Code 2011, is amended to read as
9 follows:
10 **273.7A Services to school districts.**
11 1. The board of an area education agency may provide
12 services to school districts located in the area education
13 agency under contract with the school districts. These
14 services may include, but are not limited to, superintendency
15 services, personnel services, business management services,
16 specialized maintenance services, curricula alignment and
17 remediation services, and transportation services. In
18 addition, the board of the area education agency may provide
19 for furnishing expensive and specialized equipment for school
20 districts. School districts shall pay to area education
21 agencies the cost of providing the services.
22 2. The board of an area education agency may also provide
23 services authorized to be performed by area education agencies
24 to other area education agencies in this state and to provide a
25 method of payment for these services.
26 3. *a.* Beginning July 1, 2012, area education agency 267
27 shall establish a remediation services and curricula alignment
28 pilot project designed to meet the requirements of paragraph
29 *"b"*. The services and curricula alignment strategies developed
30 under the pilot project shall be implemented statewide by area
31 education agencies by July 1, 2013. This paragraph is repealed
32 July 1, 2015.
33 *b.* By July 1, 2013, the board of an area education agency
34 shall make available to school districts located in the
35 area education agency remediation services for students in

H.F. 2241

1 grades eleven and twelve, as well as activities and services
2 designed to align school district curricula with postsecondary
3 English and mathematics requirements and decrease the need
4 for remedial coursework at the postsecondary level. The area
5 education agency shall facilitate meetings and the delivery of
6 information between the department of education, postsecondary
7 public institutions, and school districts. The area education
8 agency shall comply with all state and federal privacy laws in
9 order to ensure the confidentiality and appropriate uses of
10 information delivered pursuant to this subsection.
11 Sec. 5. Section 279.60, Code 2011, is amended to read as
12 follows:
13 **279.60 Kindergarten assessment — access to data — reports.**
14 1. Each school district shall administer the dynamic
15 indicators of basic early literacy skills kindergarten
16 benchmark assessment or other kindergarten benchmark assessment
17 adopted by the department of education in consultation with
18 the early childhood Iowa state board to every kindergarten
19 student enrolled in the district not later than the date
20 specified in section 257.6, subsection 1. The school district
21 shall also collect information from each parent, guardian,
22 or legal custodian of a kindergarten student enrolled in the
23 district, including but not limited to whether the student
24 attended preschool, factors identified by the early childhood
25 Iowa office pursuant to section 256I.5, and other demographic
26 factors. Each school district shall report the results of
27 the assessment and the preschool information collected to
28 the department of education in the manner prescribed by the
29 department not later than January 1 of that school year. The
30 early childhood Iowa office in the department of management
31 shall have access to the raw data. The department shall review
32 the information submitted pursuant to this section and shall
33 submit its findings and recommendations annually in a report to
34 the governor, the general assembly, the early childhood Iowa
35 state board, and the early childhood Iowa area boards.

H.F. 2241

2. By July 1, 2013, each school district shall administer compass, a computer-adaptive college placement test published by ACT, inc., to all students enrolled in grade eleven, and shall submit student test results to the statewide longitudinal data system. Each student's test results shall be included in the annual report submitted in accordance with section 279.61, subsection 2, and shall provide a comparison between the student's scores and the scoring thresholds established by the state board of education pursuant to section 256.7, subsection 26. Each school district shall use the test results to identify students in need of academic remediation in English and mathematics and to design and implement curriculum alignment activities that lead to better prepared high school graduates.

Sec. 6. STATE MANDATE FUNDING SPECIFIED. In accordance with section 25B.2, subsection 3, the state cost of requiring compliance with any state mandate included in this Act shall be paid by a school district from state school foundation aid received by the school district under section 257.16. This specification of the payment of the state cost shall be deemed to meet all of the state funding-related requirements of section 25B.2, subsection 3, and no additional state funding shall be necessary for the full implementation of this Act by and enforcement of this Act against all affected school districts.

EXPLANATION

This bill establishes requirements for school districts, area education agencies (AEAs), postsecondary institutions, and the department of education relating to student testing and remediation at the secondary level and alignment of the secondary curricula with the curricula requirements of accredited postsecondary institutions.

The bill directs the state board of education to adopt high school graduation-related rules which by July 1, 2013, require school districts to administer compass, a computer-adaptive

H.F. 2241

1 college placement test published by ACT, inc., to all students
2 enrolled in grade 11. The state board must also establish
3 by rule English or language arts and mathematics proficiency
4 scoring thresholds on the placement test for identifying
5 students in need of academic remediation in English and
6 mathematics. The scoring thresholds shall be used by AEAs and
7 school districts to design and implement curriculum alignment
8 activities that lead to better prepared high school graduates.
9 By July 1, 2013, the director of the department of education
10 must collect, utilizing the statewide longitudinal data
11 system and unique student identifiers, the compass test data
12 from school districts. Each public and private accredited
13 postsecondary institution must submit, by July 1, 2013, student
14 academic performance data to the department if a student
15 enrolled in the institution has a unique student identifier
16 provided by the department. Data collected shall be shared
17 with the student's school district and the AEAs in which the
18 school districts are located. The director shall collaborate
19 with postsecondary institutions and school districts to reach
20 the goal of decreasing the number of students who require
21 postsecondary remediation services in the 2012 academic year by
22 25 percent by the 2017 academic year.
23 Area education agency boards are directed by statute
24 to improve interconnectivity between schools and school
25 districts, and the bill adds to this list, effective July 1,
26 2013, accredited postsecondary education institutions. Such
27 efforts, under the bill, must include but not be limited to the
28 identification of deficiencies in school districts' English and
29 mathematics coursework and curricula based on the assessment
30 results submitted to the department's statewide longitudinal
31 data system. The bill adds curricula alignment and remediation
32 services to the list of services which AEAs may provide to the
33 school districts located within their boundaries.
34 Beginning July 1, 2012, AEA 267 must establish a remediation
35 services and curricula alignment pilot project designed to meet

H.F. 2241

1 the requirements of the bill. These services and curricula
2 alignment strategies developed under the pilot project shall be
3 implemented statewide by AEAs by July 1, 2013.
4 By July 1, 2013, each AEA board shall make available to
5 school districts remediation services for students in grades
6 11 and 12, as well as activities and services designed to
7 align school district curricula with postsecondary English
8 and mathematics requirements and decrease the need for
9 remedial coursework at the postsecondary level. The AEA
10 shall facilitate meetings and the delivery of information
11 between the department, postsecondary public institutions,
12 and school districts. The AEA must comply with all state and
13 federal privacy laws in order to ensure the confidentiality and
14 appropriate uses of student-related information.
15 By July 1, 2013, each school district shall include a
16 student's compass test results in the annual report submitted
17 to the student or the student's parent or guardian documenting
18 the student's progress toward meeting the goal of successfully
19 completing the core curriculum and high school graduation
20 requirements, and shall provide a comparison between the
21 student's scores and the scoring thresholds established by
22 the state board. Each school district shall use the test
23 results to identify students in need of academic remediation in
24 English and mathematics and to design and implement curriculum
25 alignment activities that lead to better prepared high school
26 graduates.
27 This bill may include a state mandate as defined in Code
28 section 25B.3. The bill requires that the state cost of
29 any state mandate included in the bill be paid by a school
30 district from state school foundation aid received by the
31 school district under Code section 257.16. The specification
32 is deemed to constitute state compliance with any state mandate
33 funding-related requirements of Code section 25B.2. The
34 inclusion of this specification is intended to reinstate the
35 requirement of political subdivisions to comply with any state

H.F. 2241

1 mandates included in the bill.

House File 2242 - Introduced

HOUSE FILE 2242
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 556)

A BILL FOR

1 An Act creating an exception to the statutory rule against
2 perpetuities and making related changes.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5708HV (1) 84
rh/sc

H.F. 2242

Section 1. Section 557.7, Code 2011, is amended to read as follows:

557.7 Contingent remainders.

~~A~~ Except as provided in section 558.68A, a contingent remainder shall take effect, notwithstanding any determination of the particular estate, in the same manner in which it would have taken effect if it had been an executory devise or a springing or shifting use, and shall, as well as such limitations, be subject to the rule respecting remoteness known as the rule against perpetuities~~, exclusive of any other supposed rule respecting limitations to successive generations or double possibilities~~.

Sec. 2. NEW SECTION. **558.68A Exception to rule against perpetuities.**

1. Notwithstanding section 558.68, a rule of law against perpetuities, a suspension of the power of alienation of the title to property, or a law restricting or limiting the duration of trusts shall not apply with respect to any interest in real or personal property held in trust if the instrument creating the trust specifically states that such rule or the provisions of section 558.68 shall not apply to the trust and if either the trustee of the trust has unlimited power to sell all trust assets or if one or more persons, one of whom may be the trustee, has unlimited power to terminate the entire trust.

2. A trust of real or personal property created by an employer as part of a stock bonus plan, pension plan, disability or death benefit plan, or profit sharing plan, for the benefit of some or all the employer's employees, to which contributions are made by the employer or employees, or both, for the purposes of distributing to the employees or their beneficiaries the earnings or the principal, or both, of such trust is not invalid as violating the rule against perpetuities or any other law restricting or limiting the duration of trusts; but the trust may continue for the time that is necessary to accomplish the purposes for which it was created.

H.F. 2242

3. Subsection 1 shall be effective for interests in real or personal property in trust created by an inter vivos or testamentary trust or will executed on or after July 1, 2012, or pursuant to the exercise of a general power of appointment created on or after July 1, 2012. For the purposes of this subsection, *"general power of appointment"* means a power that is exercisable in favor of the individual possessing the power, the person's estate, the person's creditors, or the creditors of the person's estate.

EXPLANATION

This bill creates an exception to the statutory rule against perpetuities codified in Code section 558.68, which is a legal rule related to invalidating interests in property that are intended to belong to a person at some point in the future, but for which the actual determination of ownership cannot or will not be accomplished within a specified period of time. The purpose of the rule is to keep property from being frozen in trust beyond a certain period of years.

The bill allows a creator of a trust to suspend, explicitly in the trust document, the rule from applying to a particular trust, but only if the trustee has the power to sell all trust assets or if one or more people, including the trustee, has the power to terminate the trust.

The bill further allows suspension of the rule in situations where an employer creates a stock bonus plan, pension plan, disability or death benefit plan, or profit sharing plan, in trust, for the benefit of the employer's employees, for the purpose of distributing to the employees or their beneficiaries earnings or principal or both.

The bill applies to all interests in real or personal property created by testamentary or inter vivos trust or will be executed on or after July 1, 2012, or to the exercise of a general power of appointment created on or after July 1, 2012.

House File 2243 - Introduced

HOUSE FILE 2243
BY BERRY, KRESSIG, and
KAJTAZOVIC

A BILL FOR

1 An Act relating to directives to the department of human
2 services regarding changes in the IowaCare and Medicaid
3 programs.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5350HH (3) 84
pf/nh

H.F. 2243

1 Section 1. IOWACARE AND MEDICAID PROGRAM — DIRECTIVES TO
2 DEPARTMENT OF HUMAN SERVICES. The department of human services
3 shall submit any waiver or state plan amendments under the
4 medical assistance program to the centers for Medicare and
5 Medicaid services of the United States department of health
6 and human services as necessary to implement the following
7 directives:
8 1. Amend the specifications for utilization of funds
9 appropriated from the IowaCare account created in section
10 249J.24 to the department of human services for a laboratory
11 test and radiology pool to allow federally qualified health
12 centers, designated by the department as part of the IowaCare
13 regional provider network that do not have the capability
14 to provide such services on site, to utilize laboratory and
15 radiology providers selected by the individual federally
16 qualified health center and approved by the department in
17 addition to any laboratory and radiology providers designated
18 for that federally qualified health center by the department.
19 Notwithstanding any provision to the contrary, the department
20 shall amend specifications for utilization of the funds
21 to restrict expenditures to payment for routine screening
22 and basic diagnostic testing and to allow adjustment of
23 reimbursement for covered services to provide reimbursement in
24 an amount that is no greater than the Medicaid reimbursement
25 rate.
26 2. Allow federally qualified health centers that are not
27 participating regional provider network providers to refer
28 patients directly to the university of Iowa hospitals and
29 clinics or to the publicly owned acute care teaching hospital
30 located in a county with a population over 350,000 that is a
31 participating provider for specialty services.
32 3. Reimburse federally qualified health centers for all
33 medical, oral, and behavioral health care services provided to
34 a Medicaid program recipient on the same day at the federally
35 qualified health center.

H.F. 2243

EXPLANATION

This bill directs the department of human services (DHS) to submit any waiver or state plan amendments under the medical assistance program to the centers for Medicare and Medicaid services of the United States department of health and human services as necessary to implement three directives:

1. Amend the specifications for utilization of funds appropriated to DHS for a laboratory test and radiology pool to allow federally qualified health centers (FQHCs) that are regional providers under the IowaCare program to utilize laboratory and radiology providers selected by the individual FQHC in addition to those laboratory and radiology providers designated by the department. The bill also provides for restriction of expenditures of funds under the pool for routine screening and basic diagnostic testing and provides for adjustment of reimbursement for covered services to provide reimbursement that is not greater than the Medicaid reimbursement rate.

2. Allow FQHCs that are not participating regional providers under the IowaCare program to refer patients directly to the university of Iowa hospitals and clinics or to Broadlawns medical center in Des Moines for specialty services.

3. Reimburse FQHCs for all medical, oral, and behavioral health care services provided to a Medicaid program recipient on the same day at the FQHC.

House File 2244 - Introduced

HOUSE FILE 2244
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HSB 560)

A BILL FOR

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

TLSB 5272HV (1) 84
ad/nh

H.F. 2244

1 Section 1. REPEAL. 2011 Iowa Acts, chapter 127, sections
2 16 and 74, are repealed.
3 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
4 immediate importance, takes effect upon enactment.
5 Sec. 3. RETROACTIVE APPLICABILITY. This Act applies
6 retroactively to October 24, 2011.
7 EXPLANATION
8 This bill repeals the moratorium on regular
9 state-licensed-only health care facility inspections.
10 The bill is effective upon enactment and applies retroactively
11 to October 24, 2011.

House File 2245 - Introduced

HOUSE FILE 2245
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO HSB 588)

A BILL FOR

1 An Act relating to requirements for the enactment of the state
2 percent of growth and the categorical state percent of
3 growth and including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 6029HV (2) 84
md/sc

H.F. 2245

Section 1. Section 257.8, subsections 1 and 2, Code Supplement 2011, are amended to read as follows:

1. *State percent of growth.* The state percent of growth for the budget year beginning July 1, 2010, is two percent. The state percent of growth for the budget year beginning July 1, 2012, is two percent. The state percent of growth for ~~each~~ subsequent budget ~~year~~ years shall be established by statute which shall be enacted in each odd-numbered year and shall include the state percent of growth for the budget year beginning July 1 of the calendar year in which the statute is enacted and the state percent of growth for the budget year beginning July 1 of the calendar year following the calendar year in which the statute is enacted. The statute establishing the state percent of growth for both such years shall be enacted within thirty days of the submission ~~in the year preceding the base year~~ of the governor's budget under section 8.21 in each odd-numbered year. The establishment of the state percent of growth for ~~a budget year~~ both such years pursuant to this subsection shall be the only subject matter of the bill which enacts the state percent of growth ~~for a budget year~~.

2. *Categorical state percent of growth.* The categorical state percent of growth for the budget year beginning July 1, 2010, is two percent. The categorical state percent of growth for the budget year beginning July 1, 2012, is two percent. The categorical state percent of growth for ~~each~~ subsequent budget ~~year~~ years shall be established by statute which shall be enacted in each odd-numbered year and shall include the categorical state percent of growth for the budget year beginning July 1 of the calendar year in which the statute is enacted and the categorical state percent of growth for the budget year beginning July 1 of the calendar year following the calendar year in which the statute is enacted. The statute establishing the state percent of growth for both such years shall be enacted within thirty days of the submission ~~in the year preceding the base year~~ of the governor's budget under

H.F. 2245

1 section 8.21 in each odd-numbered year. The establishment
2 of the categorical state percent of growth for ~~a budget year~~
3 both such years pursuant to this subsection shall be the only
4 subject matter of the bill which enacts the categorical state
5 percent of growth ~~for a budget year~~. The categorical state
6 percent of growth may include state percents of growth for
7 the teacher salary supplement, the professional development
8 supplement, and the early intervention supplement.
9 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
10 immediate importance, takes effect upon enactment.
11 EXPLANATION
12 This bill modifies the requirements for enacting the state
13 percent of growth and the categorical state percent of growth
14 under Code section 257.8.
15 Current law requires the state percent of growth and the
16 categorical state percent of growth to be established by
17 statute within 30 days of the submission of the governor's
18 budget in the year preceding the base year.
19 The bill requires the state percent of growth and the
20 categorical state percent of growth to be established by
21 statute in each odd-numbered year for the budget year beginning
22 July 1 of the calendar year in which the statute is enacted
23 and for the budget year beginning July 1 of the calendar year
24 following the calendar year in which the statute is enacted.
25 The bill also requires that the statute establishing such
26 percents of growth be enacted within 30 days of the submission
27 of the governor's budget in each odd-numbered year.
28 The bill takes effect upon enactment.

House Joint Resolution 2006 - Introduced

HOUSE JOINT RESOLUTION 2006
BY PAULSEN, UPMEYER, ALONS, ANDERSON, ARNOLD, BALTIMORE, BAUDLER, BRANDENBURG, BYRNES, CHAMBERS, COWNIE, DE BOEF, DEYOE, DOLECHECK, DRAKE, FORRISTALL, FRY, GARRETT, GRASSLEY, HAGENOW, HAGER, HANUSA, HEATON, HEIN, HELLAND, HORBACH, HUSEMAN, IVERSON, JORGENSEN, KAUFMANN, KLEIN, KOESTER, LOFGREN, LUKAN, MASSIE, L. MILLER, MOORE, S. OLSON, PAUSTIAN, PEARSON, PETTENGILL, RAECKER, RASMUSSEN, RAYHONS, ROGERS, SANDS, SCHULTE, SCHULTZ, SHAW, J. SMITH, SODERBERG, SWEENEY, J. TAYLOR, TJEPKES, VAN ENGELENHOVEN, VANDER LINDEN, WAGNER, WATTS, WINDSCHITL, and WORTHAN

HOUSE JOINT RESOLUTION

1 A Joint Resolution proposing amendments to the Constitution of
2 the State of Iowa relating to state budgeting by creating a
3 state general fund expenditure limitation, providing for a
4 taxpayers relief fund, requiring authorization for certain
5 bonds, and restricting certain state revenue changes.
6 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5334YH (10) 84
jp/sc

H.J.R. 2006

1 Section 1. The following amendment to the Constitution of
2 the State of Iowa is proposed:
3 The Constitution of the State of Iowa is amended by adding
4 the following new section to new Article XIII:
5 ARTICLE XIII.
6 EXPENDITURE LIMITATION.
7 **General fund expenditure limitation.** SECTION 1.
8 1. For the purposes of this section:
9 *a. "Adjusted revenue estimate"* means the most recent revenue
10 estimate determined before January 1, or a later and lesser
11 revenue estimate determined before adjournment of the regular
12 session of the general assembly, for the general fund for the
13 following fiscal year as determined by a revenue estimating
14 conference which shall be established by the general assembly
15 by law, adjusted by subtracting estimated refunds payable from
16 that estimated revenue and adding any available surplus in
17 accordance with subsection 6. However, if the general assembly
18 holds an extraordinary session prior to the commencement of the
19 fiscal year to which the revenue estimate applies and before
20 or during the extraordinary session the revenue estimating
21 conference determines a lesser revenue estimate, the lesser
22 estimate shall be used for the adjusted revenue estimate.
23 *b. "General fund"* means the principal operating fund of the
24 state which shall be established by the general assembly by
25 law.
26 *c. "New revenues"* means moneys which are received by the
27 state due to increased tax rates or fees or newly created
28 taxes or fees over and above those moneys which are received
29 due to state taxes or fees which are in effect as of January
30 1 following the most recent meeting of the state revenue
31 estimating conference. *"New revenues"* also includes moneys
32 received by the general fund due to new transfers over
33 and above those moneys received by the general fund due to
34 transfers which are in effect as of January 1 following the
35 most recent meeting of the state revenue estimating conference.

H.J.R. 2006

1 The state revenue estimating conference shall determine the
2 eligibility of transfers to the general fund which are to be
3 considered as new revenue in determining the state general fund
4 expenditure limitation.
5 *d.* *"Surplus"* means the cumulative excess of revenues and
6 other financing sources over expenditures and other financing
7 uses for the general fund at the end of a fiscal year.
8 2. A state general fund expenditure limitation is created
9 and calculated in subsection 3, for each fiscal year beginning
10 on or after July 1 following the effective date of this
11 section.
12 3. Except as otherwise provided in this section, the state
13 general fund expenditure limitation for a fiscal year shall be
14 ninety-nine percent of the adjusted revenue estimate.
15 4. The state general fund expenditure limitation shall be
16 used by the governor in the preparation and approval of the
17 budget and by the general assembly in the budget process.
18 5. If a new revenue source is proposed, the budget revenue
19 projection used for that new revenue source for the period
20 beginning on the effective date of the new revenue source and
21 ending in the fiscal year in which the source is included in
22 the adjusted revenue estimate shall be ninety-five percent
23 of the amount remaining after subtracting estimated refunds
24 payable from the projected revenue from that source. If a new
25 revenue source is established and implemented, the original
26 state general fund expenditure limitation amount provided for
27 in subsection 3 shall be readjusted to include ninety-five
28 percent of the estimated revenue from that source.
29 6. *a.* (1) If there is a surplus existing at the end of a
30 fiscal year which exceeds ten percent of the adjusted revenue
31 estimate of that fiscal year and the actual net revenue for the
32 general fund exceeds the adjusted revenue estimate for that
33 fiscal year, a portion of such surplus shall be transferred
34 to a taxpayers trust fund. The maximum amount subject to
35 transfer to the taxpayers trust fund shall be established by

H.J.R. 2006

1 statute enacted for this purpose and shall not be less than
2 one percent of the adjusted revenue estimate for the fiscal
3 year in which the surplus exists. Except for temporary cash
4 flow purposes, moneys in the taxpayers trust fund shall only
5 be used in accordance with appropriations made for purposes of
6 providing tax relief.
7 (2) After taking into account any transfer anticipated
8 pursuant to subparagraph (1), the remaining surplus anticipated
9 at the end of a fiscal year which exceeds ten percent of the
10 adjusted revenue estimate of that fiscal year shall be included
11 in the adjusted revenue estimate for the following fiscal year.
12 *b.* Any surplus equal to ten percent or less of the adjusted
13 revenue estimate of the fiscal year may be included in the
14 adjusted revenue estimate for the following fiscal year if
15 approved in a bill receiving the affirmative votes of at least
16 three-fifths of the members elected to each house of the
17 general assembly.
18 7. If a bill or joint resolution provides for new revenue or
19 appropriations bonding authority, or an expansion of existing
20 revenue or appropriations bonding authority, which bonds are
21 funded in whole or in part from revenues from the general
22 fund or from another portion of the state treasury, the bill
23 or joint resolution shall not become law unless approved by
24 the affirmative votes of at least two-thirds of the members
25 elected to each house of the general assembly. In addition,
26 the state general fund expenditure limitation for the initial
27 or subsequent fiscal year to which the bill or joint resolution
28 applies shall include any appropriations of such revenues for
29 the fiscal year.
30 8. The scope of the state general fund expenditure
31 limitation under subsection 3 shall not include federal funds,
32 donations, constitutionally dedicated moneys, and moneys
33 expended from a state retirement system.
34 9. The governor shall submit and the general assembly shall
35 pass a budget which does not exceed the state general fund

H.J.R. 2006

1 expenditure limitation. The governor shall not approve or
2 disapprove appropriation bills or items of appropriation bills
3 passed by the general assembly in a manner that would cause
4 the final budget approved by the governor to exceed the state
5 general fund expenditure limitation.
6 10. The governor shall not submit and the general assembly
7 shall not pass a budget which in order to balance assumes
8 reversion of any part of the total of the appropriations
9 included in the budget.
10 11. The state shall use consistent standards, in accordance
11 with generally accepted accounting principles, for all state
12 budgeting and accounting purposes.
13 12. The general assembly shall enact laws to implement this
14 section.
15 Sec. 2. The following amendment to the Constitution of the
16 State of Iowa is proposed:
17 The Constitution of the State of Iowa is amended by adding
18 the following new sections to new Article XIII:
19 ARTICLE XIII.
20 THREE-FIFTHS MAJORITY FOR TAX LAW CHANGES.
21 **Three-fifths majority to increase taxes.** SECTION 1. A
22 bill containing provisions enacting, amending, or repealing
23 the state income tax or enacting, amending, or repealing the
24 state sales and use taxes, in which the aggregate fiscal
25 impact of those provisions relating to those taxes results in
26 a net increase in state tax revenues, as determined by the
27 general assembly, shall require the affirmative votes of at
28 least three-fifths of the members elected to each house of the
29 general assembly for passage. This section does not apply to
30 income tax or sales and use taxes imposed at the option of a
31 local government.
32 **Three-fifths majority to enact new state tax.** SEC. 2. A bill
33 that establishes a new state tax to be imposed by the state
34 shall require the affirmative votes of at least three-fifths
35 of the members elected to each house of the general assembly

H.J.R. 2006

1 for passage.
2 **Enforcement of three-fifths majority requirement.** SEC. 3. A
3 lawsuit challenging the proper enactment of a bill pursuant to
4 section 1 or 2 shall be filed no later than one year following
5 the enactment. Failure to file such a lawsuit within the
6 one-year time limit shall negate the three-fifths majority
7 requirement as it applies to the bill.
8 Each bill to which section 1 or 2 applies shall include a
9 separate provision describing the requirements for enactment
10 prescribed by section 1 or 2.
11 **Implementation.** SEC. 4. The general assembly shall enact
12 laws to implement sections 1 through 3.
13 Sec. 3. The foregoing proposed amendments to the
14 Constitution of the State of Iowa are referred to the general
15 assembly to be chosen at the next general election for members
16 of the general assembly, and the Secretary of State is directed
17 to cause them to be published for three consecutive months
18 previous to the date of that election as provided by law.
19 EXPLANATION
20 This resolution proposes two amendments within a new Article
21 XIII to the Constitution of the State of Iowa which relates to
22 state budgets and state revenues.
23 The first amendment creates a state general fund expenditure
24 limitation. The amount of the limitation is 99 percent of the
25 adjusted revenue estimate. The amendment defines adjusted
26 revenue estimate and requires that that estimate be determined
27 by a revenue estimating conference which is to be created by
28 the general assembly by law. The amendment requires that the
29 expenditure limitation be used by the governor in preparation
30 of the governor's budget and by the general assembly in the
31 budget process. The governor is prohibited from approving or
32 disapproving of appropriations in a manner that would cause the
33 final budget approved by the governor to exceed the expenditure
34 limitation.
35 The first amendment also provides that if a new revenue

H.J.R. 2006

1 source is established and implemented, 95 percent of the
2 estimate of that new revenue shall be included in the
3 expenditure limitation.
4 The first amendment provides that if there is a surplus
5 existing at the end of a fiscal year which exceeds 10 percent
6 of the adjusted revenue for the fiscal year and the actual
7 net revenue for the general fund for the fiscal year exceeds
8 the adjusted revenue estimate for the fiscal year, a portion
9 of the surplus is required to be transferred to a taxpayers
10 trust fund. The maximum transfer amount is required to be
11 established by statute but cannot be less than 1 percent of the
12 adjusted revenue estimate for the fiscal year. After taking
13 into account any anticipated transfer to the taxpayers trust
14 fund, the remaining amount of any surplus anticipated to exceed
15 10 percent of the adjusted revenue estimate is required to be
16 included in the adjusted revenue estimate for the following
17 fiscal year. Any surplus which is equal to 10 percent or less
18 of the amount of the adjusted revenue estimate may be included
19 in the following year's adjusted revenue estimate if inclusion
20 is approved in a bill by at least three-fifths of the members
21 elected to each house of the general assembly.
22 The first amendment requires that enactment of a bill or
23 joint resolution providing for new or expanded authority to
24 issue revenue or appropriations bonds funded in whole or in
25 part from revenues from the general fund or from another
26 portion of the state treasury requires a vote of at least
27 two-thirds of the members elected to each house of the general
28 assembly. In addition, the appropriations of such revenues are
29 required to be included in the state general fund expenditure
30 limitation for each applicable fiscal year.
31 The first amendment also requires the state to use generally
32 accepted accounting principles for state budgeting and
33 accounting purposes. The amendment provides that the general
34 assembly shall enact laws to implement the amendment.
35 The second amendment contained in the resolution requires

H.J.R. 2006

1 a three-fifths majority vote of the members elected to each
2 house of the general assembly for certain tax law changes.
3 The amendment provides that any bill that enacts, amends,
4 or repeals the state income tax or the state sales and use
5 tax, and which causes, in the aggregate, an increase in state
6 tax revenues, as determined by the general assembly, must be
7 adopted by at least three-fifths of the members elected to each
8 house of the general assembly. The amendment also requires
9 a three-fifths majority vote of the members elected to each
10 house of the general assembly in order to enact a new state tax
11 to be imposed by the state. A lawsuit challenging enactment
12 of a bill subject to either three-fifths majority passage
13 requirement must be filed no later than one year from the date
14 of enactment of the bill. Finally, the amendment provides
15 that the general assembly shall enact laws to implement the
16 amendment.
17 The resolution, if adopted, will be referred to the next
18 general assembly. If the next general assembly adopts this
19 resolution, the amendments will be submitted to the voters for
20 their decision on ratification.

House Study Bill 610 - Introduced

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

A BILL FOR

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

TLSB 5312YC (1) 84
pf/nh

H.F. _____

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

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

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

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

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

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

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

H.F. _____

1 Sec. 2. REVOKING OF DESIGNATION AND DESIGNATION OF AREA
2 AGENCIES ON AGING —— EMERGENCY RULES.
3 1. Based upon the plan for reduction in the number of
4 area agencies on aging submitted pursuant to 2011 Iowa Acts,
5 chapter 122, section 20, and pursuant to procedures established
6 by the department on aging in accordance with the federal
7 Older Americans Act, the commission on aging shall revoke the
8 designation of the existing area agencies on aging on June 30,
9 2012, and shall designate an area agency on aging to represent
10 each planning and service area effective July 1, 2012.
11 2. The department on aging may adopt emergency rules under
12 section 17A.4, subsection 3, and section 17A.5, subsection 2,
13 paragraph "b", to implement the provisions of this section and
14 the rules shall be effective immediately upon filing unless
15 a later date is specified in the rules. Any rules adopted
16 in accordance with this section shall also be published as a
17 notice of intended action as provided in section 17A.4.
18 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
19 immediate importance, takes effect upon enactment.
20 EXPLANATION
21 This bill provides for the revoking of the designation of
22 existing area agencies on aging and the designation of new area
23 agencies on aging.
24 The bill eliminates the requirement that the commission on
25 aging designate 13 area agencies on aging and instead directs
26 the commission to designate an area agency on aging for each
27 planning and service area in the state, and to continue the
28 designation until certain criteria are met. In addition to
29 the existing criteria for revoking of the designation of an
30 area agency on aging, the bill includes the new criterion for
31 an area agency on aging to continue until a change in the
32 designation of planning and service areas or area agencies on
33 aging is required by state or federal law.
34 The bill provides that the entities specified under the law
35 to function as an area agency on aging are to function only for

H.F. _____

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

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

The bill takes effect upon enactment.

House Study Bill 611 - Introduced

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

A BILL FOR

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

TLSB 5327HC (1) 84
pf/nh

H.F. _____

1 Section 1. Section 22.7, subsection 62, Code Supplement
2 2011, is amended to read as follows:
3 62. Records of the department on aging pertaining to clients
4 served by the prevention of elder abuse ~~prevention initiative~~,
5 neglect, and exploitation program.
6 Sec. 2. Section 231.4, subsection 1, paragraph n, Code
7 Supplement 2011, is amended to read as follows:
8 *n. "Unit of general purpose local government"* means the
9 governing body of a city, county, township, metropolitan area,
10 or region within the state that has a population of one hundred
11 thousand or more, that is recognized for areawide planning, and
12 that functions as a political subdivision of the state whose
13 authority is general and not limited to only one function or
14 combination of related functions, or a tribal organization.
15 Sec. 3. Section 231.4, subsection 2, Code Supplement 2011,
16 is amended to read as follows:
17 2. For the purposes of this chapter, *"aging and disability*
18 *resource center"*, *"area agency on aging"*, *"focal point"*,
19 *"greatest economic need"*, ~~and~~ *"greatest social need"*, *"planning*
20 *and service area"*, and *"tribal organization"* mean as those terms
21 are defined in the federal Act.
22 Sec. 4. Section 231.14, subsection 1, paragraphs e, g, and
23 h, Code 2011, are amended to read as follows:
24 *e.* Designate for each planning and service area a public or
25 private nonprofit agency or organization as the area agency on
26 aging for that area. The commission may revoke the designation
27 of an area agency on aging pursuant to section 231.32.
28 *g.* Adopt a formula for the distribution of federal Act~~,~~ and
29 state ~~services for older individuals, and senior living program~~
30 funds taking into account, to the maximum extent feasible, the
31 best available data on the geographic distribution of older
32 individuals in the state, and publish the formula for review
33 and comment.
34 *h.* Adopt policies and measures to assure that preference
35 will be given to providing services to older individuals

H.F. _____

1 with the greatest economic or social needs, with particular
2 attention to low-income minority older individuals, older
3 individuals with limited English proficiency, and older
4 individuals residing in rural areas.
5 Sec. 5. Section 231.22, Code 2011, is amended to read as
6 follows:
7 **231.22 Director — assistant director.**
8 1. The governor, subject to confirmation by the senate,
9 shall appoint a director of the department on aging who shall,
10 subject to chapter 8A, subchapter IV, employ and direct staff
11 as necessary to carry out the powers and duties created by
12 this chapter. The director shall serve at the pleasure of the
13 governor. However, the director is subject to reconfirmation
14 by the senate as provided in section 2.32, subsection 4. The
15 governor shall set the salary for the director within the range
16 set by the general assembly.
17 2. The director shall have the following qualifications and
18 training:
19 *a.* Training in the field of gerontology, social work, public
20 health, public administration, or other related fields.
21 *b.* Direct experience or extensive knowledge of programs and
22 services related to older individuals.
23 *c.* Demonstrated understanding and concern for the welfare of
24 older individuals.
25 *d.* Demonstrated competency and recent working experience in
26 an administrative, supervisory, or management position.
27 3. The director may appoint an assistant director who shall
28 be in charge of the department in the absence of the director.
29 The appointment shall be based on the appointee's training,
30 experience, and capabilities.
31 Sec. 6. Section 231.23, Code 2011, is amended to read as
32 follows:
33 **231.23 Department on aging — duties and authority.**
34 The department on aging director shall:
35 1. Develop and administer a state plan on aging.

H.F. _____

1 2. Assist the commission in the review and approval of area
2 plans.
3 3. Pursuant to commission policy, coordinate state
4 activities related to the purposes of this chapter and all
5 other chapters under the department's jurisdiction.
6 4. Advocate for older individuals by reviewing and
7 commenting upon all state plans, budgets, laws, rules,
8 regulations, and policies which affect older individuals and
9 by providing technical assistance to any agency, organization,
10 association, or individual representing the needs of older
11 individuals.
12 5. Assist the commission in dividing the state into distinct
13 planning and service areas.
14 6. Assist the commission in designating for each area a
15 public or private nonprofit agency or organization as the area
16 agency on aging for that area.
17 7. Pursuant to commission policy, take into account the
18 views of older Iowans.
19 8. Assist the commission in adopting a formula for the
20 distribution of funds available from the federal Act <u>and state</u>
21 <u>appropriations and allocations</u>.
22 9. Assist the commission in assuring that preference will
23 be given to providing services to older individuals with the
24 greatest economic or social needs, with particular attention to
25 low-income minority older individuals<u>, older individuals with</u>
26 <u>limited English proficiency, and older individuals residing in</u>
27 <u>rural areas</u>.
28 10. Assist the commission in developing, adopting, and
29 enforcing administrative rules, by issuing necessary forms and
30 procedures.
31 11. Apply for, receive, and administer grants, devises,
32 donations, gifts, or bequests of real or personal property from
33 any source to conduct projects consistent with the purposes of
34 the department. Notwithstanding section 8.33, moneys received
35 by the department pursuant to this section are not subject to

H.F. _____

1 reversion to the general fund of the state.
2 12. Administer state authorized programs.
3 ~~13. Provide annual training for area agency on aging board~~
4 ~~of directors members.~~
5 ~~14.~~ 13. Establish a procedure for an area agency on
6 aging to use in selection of members of the agency's board of
7 directors. The selection procedure shall be incorporated into
8 the bylaws of the board of directors.
9 ~~15. Provide oversight to ensure that the composition of the~~
10 ~~area agency on aging board of directors complies with the rules~~
11 ~~of the department.~~
12 Sec. 7. Section 231.23A, unnumbered paragraph 1, Code 2011,
13 is amended to read as follows:
14 The department on aging shall provide or administer, but is
15 not limited to providing or administering, all of the following
16 programs and services to the extent required by law and subject
17 to the availability of funding:
18 Sec. 8. Section 231.23A, subsections 1 and 6, Code 2011, are
19 amended to read as follows:
20 1. Services for older individuals including but not limited
21 to home and community-based services such as adult day,
22 assessment and intervention, transportation, chore, counseling,
23 homemaker, material aid, personal care, reassurance, respite,
24 visitation, caregiver support, emergency response system,
25 mental health outreach, and home repair as defined by the
26 department in the most current version of the department's
27 reporting manual and pursuant to the federal Act and
28 regulations.
29 6. The nutrition and health promotion program.
30 Sec. 9. Section 231.33, subsections 7 and 11, Code 2011, are
31 amended to read as follows:
32 7. Give preference in the delivery of services under the
33 area plan to older individuals with the greatest economic or
34 social need, with particular attention to low-income minority
35 older individuals, older individuals with limited English

H.F. _____

proficiency, and older individuals residing in rural areas.

11. ~~Contact~~ Conduct outreach efforts~~, with special emphasis on rural older individuals,~~ to identify older individuals with the greatest economic or social needs, with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas, and inform them of the availability of services under the area plan.

Sec. 10. Section 231.52, subsection 3, Code 2011, is amended to read as follows:

3. The department shall require such uniform reporting and financial accounting by ~~contractors~~ subgrantees as may be necessary to fulfill the purposes of this section.

Sec. 11. Section 231.56, Code 2011, is amended to read as follows:

231.56 Services and programs.

The department shall administer services and programs ~~to reduce institutionalization and encourage community involvement to help older individuals remain in their own homes~~ that allow older individuals to secure and maintain maximum independence and dignity in a home environment that provides for self-care with appropriate supportive services, assist in removing individual and social barriers to economic and personal independence for older individuals, provide a continuum of care for older individuals and individuals with disabilities, and secure the opportunity for older individuals to receive managed in-home and community-based long-term care services. Funds appropriated for this purpose shall be instituted based on administrative rules adopted by the commission. The department shall require such records as needed to administer this section.

Sec. 12. Section 231.56A, Code 2011, is amended to read as follows:

231.56A ~~Elder~~ Prevention of elder abuse ~~initiative, emergency shelter, and support services projects~~, neglect, and exploitation

H.F. _____

1 program.
2 1. ~~Through the state's service contract process adopted~~
3 ~~pursuant to section 8.47, the department shall identify~~
4 ~~entities that have demonstrated the ability to provide~~
5 ~~a collaborative response to the immediate needs of older~~
6 ~~individuals for the purpose of implementing elder abuse~~
7 ~~initiative, emergency shelter, and support services projects.~~
8 ~~The projects shall be coordinated in service areas that have~~
9 ~~a multidisciplinary team established pursuant to section~~
10 ~~235B.1, where available.~~ The department shall administer
11 the prevention of elder abuse, neglect, and exploitation
12 program in accordance with the requirements of the federal
13 Act. The purpose of the program is to carry out activities for
14 intervention in, investigation of, and response to elder abuse,
15 neglect, and exploitation including financial exploitation.
16 2. The target population of the ~~projects~~ program shall
17 be any older individual residing in Iowa who is at risk of
18 or who is experiencing abuse, neglect, or exploitation ~~which~~
19 ~~may include but is not limited to an older individual who is~~
20 ~~the subject of a report of suspected dependent adult abuse~~
21 ~~pursuant to chapter 235B. This subsection shall not apply to~~
22 ~~an older individual who is receiving assistance under a county~~
23 ~~management plan approved pursuant to section 331.439~~ including
24 financial exploitation.
25 3. The contractor implementing the ~~projects~~ program shall
26 identify ~~allowable~~ emergency shelter and support services,
27 state funding, outcomes, reporting requirements, and approved
28 community resources from which services may be obtained ~~under~~
29 ~~the projects~~.
30 4. The contractor shall implement the ~~projects~~ program
31 and shall coordinate the provider network through the use of
32 referrals or other engagement of community resources to provide
33 services to older individuals.
34 5. ~~The department shall award funds to the contractor~~
35 ~~in accordance with the state's service contract process and~~

H.F. _____

1 ~~department rule. Receipt and expenditures of moneys under the~~
2 ~~projects are subject to examination, including audit, by the~~
3 ~~department.~~ The department shall adopt rules to implement this
4 section.
5 ~~6. This section shall not be construed and is not intended~~
6 ~~as, and shall not imply, a grant of entitlement for services to~~
7 ~~individuals who are not otherwise eligible for the services or~~
8 ~~for utilization of services that do not currently exist or are~~
9 ~~not otherwise available.~~
10 Sec. 13. Section 231.62, Code Supplement 2011, is amended
11 by striking the section and inserting in lieu thereof the
12 following:
13 **231.62 Alzheimer´s disease services and assistance.**
14 Pursuant to the federal Act, the department shall direct
15 the area agencies on aging to use outreach efforts to identify
16 older individuals with Alzheimer´s disease and related
17 disorders and to establish supportive services for those
18 individuals and their families. The department shall regularly
19 review trends and initiatives to address the long-term living
20 needs of Iowans to determine how the needs of persons with
21 Alzheimer´s disease and related disorders can be appropriately
22 met.
23 Sec. 14. Section 231.66, Code 2011, is amended to read as
24 follows:
25 **231.66 Nutrition and health promotion program.**
26 A nutrition and health promotion program shall be
27 administered by the department, in accordance with the
28 requirements of the federal Act, including congregate and
29 home-delivered nutrition programs, nutrition screening,
30 nutrition education, nutrition counseling, and evidence-based
31 health promotion programs to promote health and well-being,
32 reduce food insecurity, promote socialization, and maximize
33 independence of older individuals.
34 Sec. 15. REPEAL. Sections 231.24 and 231.63, Code 2011,
35 are repealed.

H.F. _____

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

House Study Bill 612 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ANDERSON)

A BILL FOR

1 An Act relating to civil actions, procedures, and remedies and
2 including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5413HC (1) 84
rh/rj

H.F. _____

1 Section 1. NEW SECTION. **611.24 Costs — attorney fees.**
2 1. On the court's granting or denial, in whole or in part,
3 of a motion to dismiss a cause of action that has no basis
4 in law or fact, the court shall award costs and reasonable
5 attorney fees to the prevailing party in the civil action.
6 2. This section does not apply to actions by or against the
7 state, other governmental entities, or public officials acting
8 in their official capacity or under color of law.
9 Sec. 2. NEW SECTION. **613.3 Designation of third parties —**
10 **timely disclosure.**
11 A defendant is prohibited from designating a person as a
12 responsible third party with respect to a plaintiff's cause of
13 action after the applicable limitations period on the cause
14 of action has expired if the defendant has failed to timely
15 disclose that the person may be designated as a responsible
16 third party pursuant to rules of civil procedure 1.231 through
17 1.237.
18 Sec. 3. NEW SECTION. **624.12A Interlocutory appeal of order**
19 **involving controlling question of law.**
20 1. On a party's motion or on its own initiative, the
21 district court in a civil action, by written order, may permit
22 an appeal from an order that is not otherwise subject to appeal
23 if all of the following are met:
24 *a.* The order to be appealed involves a controlling question
25 of law upon which there is a substantial ground for difference
26 of opinion.
27 *b.* An immediate appeal from the order will materially
28 advance the ultimate termination of the litigation.
29 2. An appeal under this section does not stay proceedings in
30 the district court unless all of the following are met:
31 *a.* The parties agree to a stay.
32 *b.* The district court or appellate court orders a stay of
33 the proceedings pending appeal.
34 3. The supreme court may accept an appeal permitted by
35 this section if the appealing party files an application for

H.F. _____

1 interlocutory appeal, explaining why an appeal is warranted
2 pursuant to subsection 1, within fifteen days after the date
3 the district court signs the order permitting the appeal. The
4 time period applicable to the filing of the notice of appeal
5 commences when the supreme court enters the order accepting the
6 appeal.
7 4. The supreme court shall prescribe rules providing for the
8 expediting of appeals pursuant to this section.
9 5. This section does not apply to an interlocutory appeal in
10 termination of parental rights or child in need of assistance
11 proceedings pursuant to chapter 232.
12 Sec. 4. NEW SECTION. **677.15 Offer requirements.**
13 1. An offer to confess judgment made pursuant to this
14 chapter shall meet all of the following requirements:
15 *a.* Be in writing.
16 *b.* State that the offer is made pursuant to this chapter.
17 *c.* State the terms by which the claims may be settled.
18 *d.* State a deadline by which the offer must be accepted.
19 *e.* Be served on all parties to whom the settlement offer is
20 made.
21 2. A party is not required to file with the court an offer
22 to confess made pursuant to this chapter.
23 3. A party that makes an offer to confess that does not
24 comply with the requirements of this section shall not be
25 entitled to recover any costs pursuant to section 677.16.
26 Sec. 5. NEW SECTION. **677.16 Costs — limitation.**
27 1. For purposes of this chapter, *"costs"* means moneys
28 actually spent and obligations actually incurred that are
29 directly related to an action in which an offer is made, and
30 includes all of the following:
31 *a.* Court costs.
32 *b.* Reasonable deposition costs.
33 *c.* Reasonable fees for not more than two testifying expert
34 witnesses.
35 *d.* Reasonable attorney fees.

H.F. _____

1 2. Costs that may be awarded under this chapter shall not
2 be greater than the total amount that the plaintiff recovers
3 or would recover before adding an award of costs in favor of
4 the plaintiff or subtracting as an offset an award of costs in
5 favor of the defendant.
6 Sec. 6. REPEAL. Sections 677.2, 677.5, 677.10, and 677.13,
7 Code 2011, are repealed.
8 Sec. 7. MOTION TO DISMISS —— FAILURE TO STATE CLAIM ——
9 RULES. The supreme court shall prescribe rules to provide for
10 the dismissal of a civil action that has no basis in law or
11 fact on motion and without evidence. The rules shall provide
12 that the motion to dismiss shall be granted or denied within
13 forty-five days of the filing of the motion to dismiss. Such
14 rules shall not apply to termination of parental rights or
15 child in need of assistance proceedings pursuant to chapter
16 232.
17 Sec. 8. EFFICIENT RESOLUTION OF CIVIL ACTIONS —— RULES. The
18 supreme court shall prescribe rules and procedures to promote
19 the prompt, efficient, and cost-effective resolution of civil
20 actions. The rules shall apply to civil actions in district
21 court in which the amount in controversy, including all claims
22 for damages of any kind, whether actual or punitive, penalties,
23 attorney fees, expenses, costs, interest, or any other type
24 of damage of any kind, does not exceed one hundred thousand
25 dollars. The rules and procedures shall address the need for
26 lowering discovery costs in such actions and the procedure
27 for ensuring that such actions will be expedited in the civil
28 justice system.
29 Sec. 9. APPLICABILITY. This Act applies to causes of
30 actions accrued on or after the effective date of this Act.
31 EXPLANATION
32 This bill relates to civil procedures, actions, and remedies
33 and includes an applicability provision.
34 MOTION TO DISMISS —— FAILURE TO STATE A CLAIM.
35 RULES. The bill provides that the supreme court shall

H.F. _____

1 prescribe rules to provide for the dismissal of a civil
2 action that has no basis in law or fact on motion and without
3 evidence. The rules shall provide that the motion to dismiss
4 shall be granted or denied within 45 days of the filing of the
5 motion to dismiss. Such rules shall not apply to termination
6 of parental rights or child in need of assistance proceedings
7 pursuant to Code chapter 232.
8 COSTS AND ATTORNEY FEES. The bill provides that upon the
9 court's granting or denial, in whole or in part, of a motion to
10 dismiss a cause of action that has no basis in law or in fact,
11 the court shall award costs and reasonable attorney fees to the
12 prevailing party in a civil action. The bill does not apply to
13 actions by or against the state, other governmental entities,
14 or public officials acting in their official capacity or under
15 color of law.
16 DESIGNATION OF THIRD PARTIES IN CIVIL ACTION — TIMELY
17 DISCLOSURE. The bill prohibits a defendant from designating
18 a person as a responsible third party with respect to a
19 plaintiff's cause of action after the applicable limitations
20 period on the cause of action has expired if the defendant has
21 failed to timely disclose that the person may be designated as
22 a responsible third party pursuant to rules of civil procedure
23 1.231 through 1.237.
24 INTERLOCUTORY APPEAL OF ORDER INVOLVING CONTROLLING QUESTION
25 OF LAW. The bill provides that, on a party's motion or on
26 its own initiative, the district court in a civil action, by
27 written order, may permit an appeal from an order that is
28 not otherwise subject to appeal if the order to be appealed
29 involves a controlling question of law upon which there is a
30 substantial ground for difference of opinion and an immediate
31 appeal from the order will materially advance the ultimate
32 termination of the litigation. Such an appeal does not stay
33 proceedings in the district court unless the parties agree to a
34 stay and the district court or appellate court orders a stay of
35 the proceedings. The appealing party must file an application

H.F. _____

1 for interlocutory appeal explaining why an appeal is warranted
2 within 15 days after the date the district court signs the
3 order permitting the appeal. The time period applicable to
4 the filing of the notice of appeal starts when the supreme
5 court enters the order accepting the appeal. The bill provides
6 that the supreme court shall prescribe rules which provide
7 for the expediting of appeals. The bill does not apply to an
8 interlocutory appeal in termination of parental rights or child
9 in need of assistance proceedings pursuant to Code chapter 232.
10 SETTLEMENT OFFERS.
11 REQUIREMENTS. The bill provides that an offer to confess
12 judgment made pursuant to Code chapter 677 (offer to confess
13 judgment) shall be in writing, state that the offer is made
14 pursuant to Code chapter 677, state the terms by which the
15 claims may be settled, state a deadline by which the offer
16 must be accepted, and be served on all parties to whom the
17 settlement offer is made. A party is not required to file with
18 the court an offer to confess made pursuant to the bill. A
19 party that makes an offer to confess that does not comply with
20 the requirements of the bill is not be entitled to recover any
21 costs.
22 COSTS. The bill defines "costs" to mean money actually spent
23 and obligations actually incurred that are directly related to
24 an action in which an offer is made, and includes court costs,
25 reasonable deposition costs, reasonable fees for not more
26 than two testifying expert witnesses, and reasonable attorney
27 fees. Costs that may be awarded shall not be greater than
28 the total amount that the plaintiff recovers or would recover
29 before adding an award of costs in favor of the plaintiff or
30 subtracting as an offset an award of costs in favor of the
31 defendant. The bill makes conforming repeals to Code sections
32 677.2, 677.5, 677.10, and 677.13 relating to costs awarded for
33 settlements based upon the time the settlement offer is made
34 and accepted in the civil action.
35 EFFICIENT RESOLUTION OF CIVIL ACTIONS — RULES. The bill

H.F. _____

1 provides that the supreme court shall prescribe rules and
2 procedures to promote the prompt, efficient, and cost-effective
3 resolution of civil actions. The rules shall apply to civil
4 actions in district court in which the amount in controversy,
5 including all claims for damages of any kind, whether actual or
6 punitive, penalties, attorney fees, expenses, costs, interest,
7 or any other type of damage of any kind, does not exceed
8 $100,000. The rules and procedures shall address the need for
9 lowering discovery costs in such actions and the procedure
10 for ensuring that such actions will be expedited in the civil
11 justice system.
12 APPLICABILITY. The bill applies to causes of actions
13 accrued on or after the effective date of the bill.

House Study Bill 613 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ANDERSON)

A BILL FOR

1 An Act relating to notice of mortgage mediation assistance.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 6037YC (2) 84
rh/sc

H.F. _____

1 Section 1. Section 654.4B, subsection 2, paragraph b, Code
2 Supplement 2011, is amended to read as follows:
3 *b.* This subsection is repealed July 1, ~~2012~~ 2013.
4 EXPLANATION
5 This bill extends to July 1, 2013, the requirement that
6 creditors provide notice of the availability of counseling and
7 mediation services to homeowners facing foreclosure.

House Study Bill 614 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ANDERSON)

A BILL FOR

1 An Act relating to the liability of an owner, lessee, or
2 occupant of land for injury to a trespasser on the land and
3 including an applicability provision.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5411HC (1) 84
rh/rj

H.F. _____

1 Section 1. NEW SECTION. **462.1 Liability of owner, lessee,**
2 **or occupant of land — trespassers.**
3 1. Except as provided in subsection 2, an owner, lessee, or
4 occupant of land owes no duty of care to a trespasser on the
5 land and is not liable for any injury to a trespasser on the
6 land, except that an owner, lessee, or occupant owes a duty
7 to refrain from injuring a trespasser willfully, wantonly,
8 or through gross negligence. For purposes of this section,
9 *"trespasser"* means a person who enters the land of an owner,
10 lessee, or occupant without any legal right, express or
11 implied.
12 2. An owner, lessee, or occupant of land may be liable for
13 injury to a child who is less than sixteen years of age caused
14 by a highly dangerous artificial condition on the land if all
15 of the following conditions exist:
16 *a.* The owner, lessee, or occupant knew or reasonably should
17 have known that such children were likely to trespass at the
18 location of the artificial condition.
19 *b.* The artificial condition is one that the owner, lessee,
20 or occupant knew or reasonably should have known existed, and
21 that the owner, lessee, or occupant realized or should have
22 realized involved an unreasonable risk of death or serious
23 bodily harm to such children.
24 *c.* The injured child did not discover the artificial
25 condition or realize the risk involved in the condition or the
26 risk of injury in the area made dangerous by the condition.
27 *d.* The utility to the owner, lessee, or occupant of
28 maintaining the artificial condition and the burden of
29 eliminating the danger were slight as compared with the risk
30 to the child involved.
31 *e.* The owner, lessee, or occupant failed to exercise
32 reasonable care to eliminate the danger or otherwise protect
33 the child.
34 3. Notwithstanding the application of subsection 2 to a
35 child who is less than sixteen years of age, a child who is

H.F. _____

1 fourteen years of age or older is presumed to appreciate the
2 risk of highly dangerous artificial conditions on land, but
3 this presumption may be overcome if the claimant proves that
4 the child, at the time of the injury, did not have the ability
5 to appreciate the risk.
6 4. An owner, lessee, or occupant of land whose actions are
7 justified under section 704.3, 704.4, or 704.5, shall not be
8 liable to a trespasser for damages arising from those actions.
9 5. This section does not affect chapter 461C or create or
10 increase the liability of any person.
11 Sec. 2. APPLICABILITY. This Act applies to all causes of
12 actions accrued on or after the effective date of this Act.
13 EXPLANATION
14 This bill relates to liability of an owner, lessee, or
15 occupant of land for injury to a trespasser.
16 The bill provides that, except as otherwise provided in
17 the bill, an owner, lessee, or occupant of land owes no duty
18 of care to a trespasser on the land and is not liable for any
19 injury to a trespasser on the land, except that an owner,
20 lessee, or occupant owes a duty to refrain from injuring a
21 trespasser willfully, wantonly, or through gross negligence.
22 For purposes of the bill, "trespasser" means a person who
23 enters the land of an owner, lessee, or occupant without any
24 legal right, express or implied.
25 The bill provides that an owner, lessee, or occupant of
26 land may be liable for injury to a child who is less than 16
27 years old caused by a highly dangerous artificial condition on
28 the land if the owner, lessee, or occupant knew or reasonably
29 should have known that such children were likely to trespass
30 at the location of the artificial condition; the artificial
31 condition is one that the owner, lessee, or occupant knew or
32 reasonably should have known existed, and that the owner,
33 lessee, or occupant realized or should have realized involved
34 an unreasonable risk of death or serious bodily harm to such
35 children; the injured child did not discover the artificial

H.F. _____

1 condition or realize the risk involved in the condition or the
2 risk of injury in the area made dangerous by the condition;
3 the utility to the owner, lessee, or occupant of maintaining
4 the artificial condition and the burden of eliminating the
5 danger were slight as compared with the risk to the child
6 involved; and the owner, lessee, or occupant failed to exercise
7 reasonable care to eliminate the danger or otherwise protect
8 the child.
9 The bill provides that a child who is 14 years of age or
10 older is presumed to appreciate the risk of highly dangerous
11 artificial conditions on land, but this presumption may be
12 overcome if the claimant proves that the child, at the time of
13 the injury, did not have the ability to appreciate the risk.
14 The bill provides that an owner, lessee, or occupant of land
15 whose actions are justified under Code section 704.3 (defense
16 of self or another), 704.4 (defense of property), or 704.5
17 (aiding another in the defense of property), shall not be
18 liable to a trespasser for damages arising from those actions.
19 The bill does not affect Code chapter 461C relating to
20 public use of private land for recreational purposes and for
21 urban deer control, or create or increase the liability of any
22 person.
23 The bill applies to all causes of actions accrued on or after
24 July 1, 2012.

House Study Bill 615 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON NATURAL RESOURCES BILL BY CHAIRPERSON RAYHONS)

A BILL FOR

1 An Act relating to the regulation of snowmobiles, all-terrain
2 vehicles, and watercraft by the department of natural
3 resources, establishing fees, and making penalties
4 applicable.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5210HC (2) 84
dea/nh

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1 Section 1. Section 321G.1, Code 2011, is amended by adding
2 the following new subsections:
3 NEW SUBSECTION. 5A. *"Designated snowmobile trail"* means
4 a snowmobile riding trail on any public land, private land,
5 or public ice that has been designated by the department,
6 a political subdivision, or a controlling authority for
7 snowmobile use.
8 NEW SUBSECTION. 5B. *"Direct supervision"* means to provide
9 supervision of another person while maintaining visual and
10 verbal contact at all times.
11 NEW SUBSECTION. 11A. *"Nonresident"* means a person who is
12 not a resident of this state.
13 NEW SUBSECTION. 15A. *"Public ice"* means any frozen,
14 navigable waters within the territorial limits of this state
15 and the frozen marginal river areas adjacent to this state,
16 other than farm ponds, that are under the jurisdiction of the
17 commission.
18 NEW SUBSECTION. 16A. *"Public water"* means any navigable
19 waters within the territorial limits of this state and the
20 marginal river areas adjacent to this state, other than farm
21 ponds, that are under the jurisdiction of the commission.
22 NEW SUBSECTION. 17A. *"Resident"* means as defined in section
23 483A.1A.
24 Sec. 2. Section 321G.1, subsections 19 and 21, Code 2011,
25 are amended to read as follows:
26 19. ~~*"Safety*~~ *"Education certificate"* means a snowmobile
27 ~~safety~~ education certificate, approved by the commission, which
28 is issued to a qualified applicant who is twelve years of age
29 or older.
30 21. *"Special event"* means an organized race, exhibition, or
31 demonstration of limited duration which is conducted on public
32 land, ~~or~~ public ice, or a designated snowmobile trail under
33 the jurisdiction of the commission according to a prearranged
34 schedule and in which general public interest is manifested.
35 Sec. 3. Section 321G.1, Code 2011, is amended by adding the

H.F. _____

following new subsection:

NEW SUBSECTION. 23. *"Water skipping"* means the operation of a snowmobile on the surface of water by utilizing the skis, track, and bottom surface area of the snowmobile for flotation while the snowmobile is in motion.

Sec. 4. Section 321G.2, subsection 1, paragraphs c, e, and f, Code 2011, are amended to read as follows:

c. Use of snowmobiles on designated snowmobile trails and public lands under the jurisdiction of the commission.

e. Establishment of a program of grants, subgrants, and contracts to be administered by the department for the development, maintenance, signing, and operation of designated snowmobile trails and the operation of grooming equipment by political subdivisions and incorporated private organizations.

f. Issuance of ~~safety~~ education certificates.

Sec. 5. Section 321G.2, subsection 1, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. *1.* Maintenance, signing, and operation of designated snowmobile trails.

Sec. 6. Section 321G.3, Code 2011, is amended to read as follows:

321G.3 Registration required — penalties.

1. Each snowmobile used on public land ~~or~~, public ice, or a designated snowmobile trail of this state shall be currently registered. A person shall not operate, maintain, or give permission for the operation or maintenance of a snowmobile on public land ~~or~~, public ice, or a designated snowmobile trail unless the snowmobile is registered in accordance with this chapter or applicable federal laws or ~~the snowmobile displays a current annual user permit decal issued for the snowmobile as provided in section 321G.4A~~ in accordance with an approved numbering system of another state and the evidence of registration is in full force and effect. A snowmobile registered in another state must also be issued a user permit in this state in accordance with this chapter.

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~~2. A registration certificate and registration decal shall be assigned, without payment of fee, to snowmobiles owned by the state of Iowa or its political subdivisions. The registration decal shall be displayed on the snowmobile as required under section 321G.5. A registration certificate shall be assigned, without payment of a registration fee, for a snowmobile which is exempt from registration but is being titled, upon payment of a writing fee as provided in section 321G.27 and an administrative fee. A registration decal shall not be issued and the registration shall not expire while the snowmobile is exempt. The application for registration and the registration certificate shall indicate the reason for exemption from the registration fee.~~

~~3.~~ 2. A violation of subsection 1 ~~or 2~~ is punishable as a scheduled violation under section 805.8B, subsection 2, paragraph *"a"*. When the scheduled fine is paid, the violator shall submit proof to the department that a valid registration or user permit has been obtained by providing a copy of the registration or user permit to the department within thirty days of the date the fine is paid. A person who violates this subsection is guilty of a simple misdemeanor.

Sec. 7. Section 321G.4, subsection 2, Code 2011, is amended to read as follows:

2. The owner of the snowmobile shall file an application for registration with the department through ~~a~~ the county recorder of the county of residence, or in the case of a nonresident owner, in the county of primary use, in the manner established by the commission. The application shall be completed by the owner and shall be accompanied by a fee of fifteen dollars and a writing fee as provided in section 321G.27. A snowmobile shall not be registered by the county recorder until the county recorder is presented with receipts, bills of sale, or other satisfactory evidence that the sales or use tax has been paid for the purchase of the snowmobile or that the owner is exempt from paying the tax. A snowmobile that has

H.F. _____

an expired registration certificate from another state may be registered in this state upon proper application, payment of all applicable registration and writing fees, and payment of a penalty of five dollars.

Sec. 8. Section 321G.4A, subsection 1, Code 2011, is amended to read as follows:

1. A nonresident wishing to operate a snowmobile, other than a snowmobile registered pursuant to this chapter, on public land, ~~or~~ public ice, or a designated snowmobile trail of this state shall ~~first~~ obtain a user permit from the department. A user permit shall be issued for ~~the~~ use on only one snowmobile ~~specified at the time of application~~ and is not transferable. A user permit shall be valid for the calendar year or time period specified in the permit.

Sec. 9. Section 321G.6, subsection 3, Code 2011, is amended to read as follows:

3. Duplicate registrations may be issued ~~upon application to the~~ by a county recorder ~~and~~ or a license agent upon the payment of a five dollar fee plus a writing fee as provided in section 321G.27.

Sec. 10. Section 321G.7, subsection 1, Code 2011, is amended to read as follows:

1. A county recorder or license agent shall remit to the commission the snowmobile fees collected by the recorder or license agent in the manner and time prescribed by the department.

Sec. 11. Section 321G.8, subsection 1, Code 2011, is amended to read as follows:

1. Snowmobiles owned ~~and used~~ by the United States, this state, or another state, or by a ~~political~~ governmental subdivision ~~of another state~~ thereof, and used for enforcement, search and rescue, or official research and studies, but not for recreational or commercial purposes.

Sec. 12. Section 321G.9, subsection 6, Code 2011, is amended by striking the subsection.

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1 Sec. 13. Section 321G.10, Code Supplement 2011, is amended
2 to read as follows:
3 **321G.10 Accident reports.**
4 If a snowmobile is involved in an accident resulting in
5 injury or death to anyone or property damage amounting to one
6 thousand five hundred dollars or more, either the operator
7 or someone acting for the operator shall immediately notify
8 the county sheriff or another law enforcement agency in the
9 state. If the accident occurred on public land, ~~or~~ public
10 ice, or a designated snowmobile trail under the jurisdiction
11 of the commission, the operator shall file with the commission
12 a report of the accident, within seventy-two hours, containing
13 information as the commission may require. All other accidents
14 shall be reported as required under section 321.266.
15 Sec. 14. Section 321G.12, Code 2011, is amended to read as
16 follows:
17 **321G.12 ~~Headlamp — tail lamp~~ Headlight — taillight —**
18 **brakes.**
19 Every snowmobile shall be equipped with at least one
20 ~~headlamp~~ headlight and one ~~tail lamp~~ taillight. Every
21 snowmobile shall be equipped with brakes.
22 Sec. 15. Section 321G.13, subsection 1, paragraph f, Code
23 2011, is amended to read as follows:
24 *f.* On any public land, public ice, or ~~snow~~ designated
25 snowmobile trail, in violation of official signs of the
26 commission prohibiting such operation in the interest of
27 safety for persons, property, or the environment. Any officer
28 appointed by the commission may post an official sign in an
29 emergency for the protection of persons, property, or the
30 environment.
31 Sec. 16. Section 321G.13, subsection 1, Code 2011, is
32 amended by adding the following new paragraph:
33 NEW PARAGRAPH. *i.* Upon the surface of any public water in a
34 maneuver known as water skipping. This paragraph "*i*" does not
35 apply to operation on rivers or streams between November 1 and

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April 1.

Sec. 17. Section 321G.13, subsection 3, Code 2011, is amended to read as follows:

3. A person shall not drive or operate a snowmobile on public land or a designated snowmobile trail without a measurable snow cover.

Sec. 18. Section 321G.17, Code 2011, is amended to read as follows:

321G.17 Violation of stop signal.

A person~~, after having~~ who has received a visual or audible signal from a peace officer to come to a stop, shall not operate a snowmobile in willful or wanton disregard of the signal, ~~or~~ interfere with or endanger the officer or any other person or vehicle, ~~or~~ increase speed, or attempt to flee or elude the officer.

Sec. 19. Section 321G.20, Code 2011, is amended to read as follows:

321G.20 ~~Minors under twelve~~ Operation by minors.

1. An owner or operator of a snowmobile shall not permit a person under twelve years of age to operate and a person less than twelve years of age shall not operate~~,~~ a snowmobile on a designated snowmobile trail, public land, or public ice except when accompanied on the same snowmobile by a responsible person of at least eighteen years of age who is experienced in snowmobile operation and who possesses a valid driver's license, as defined in section 321.1, or ~~a safety~~ an education certificate issued under this chapter.

2. While operating a snowmobile on a designated snowmobile trail, public land, or public ice, a person twelve through fifteen years of age and possessing a valid education certificate must be under the direct supervision of a parent, guardian, or another adult authorized by the parent or guardian, who is experienced in snowmobile operation and possesses a valid driver's license, as defined in section 321.1, or an education certificate issued under this chapter.

H.F. _____

3. A person under eighteen years of age but over the age of fifteen shall not operate a snowmobile on or across a public highway unless the person has in the person's possession an education certificate issued to the person pursuant to this chapter.

Sec. 20. Section 321G.21, subsections 1 through 5, Code 2011, are amended to read as follows:

1. A manufacturer, distributor, or dealer owning a snowmobile required to be registered under this chapter may operate the snowmobile for purposes of transporting, testing, demonstrating, or selling it without the snowmobile being registered, except that a special ~~identification number~~ registration decal issued to the owner as provided in this chapter shall be displayed on the snowmobile in the manner prescribed by rules of the commission. The special ~~identification number~~ registration decal shall not be used on a snowmobile offered for hire or for any work or service performed by a manufacturer, distributor, or dealer.

2. Every manufacturer, distributor, or dealer shall register with the department by making application to the commission, upon forms prescribed by the commission, for a special registration certificate ~~containing a general identification number and for one or more duplicate special registration certificates~~ and decal. The applicant shall pay a registration fee of ~~fifteen~~ forty-five dollars and submit reasonable proof of the applicant's status as a bona fide manufacturer, distributor, or dealer as may be required by the commission.

3. The commission, upon granting an application, shall issue to the applicant a special registration certificate ~~containing~~ and decal. The special registration certificate shall contain the applicant's name, ~~and~~ address, ~~the~~ and general identification number; ~~assigned to the applicant,~~ the word "manufacturer", "dealer", or "distributor"~~,~~; and other information the commission prescribes. ~~The manufacturer,~~

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~~distributor, or dealer shall have the assigned number printed upon or attached to a removable sign or signs which may be temporarily but firmly mounted or attached to the snowmobile being used. The display shall meet the requirements of this chapter and the rules of the commission.~~

4. The commission shall also issue duplicate special registration certificates and decals which shall have displayed thereon the general identification number assigned to the applicant. ~~Each duplicate registration certificate so issued shall contain a number or symbol identifying it from every other duplicate special registration certificate bearing the same general identification number.~~ A county recorder may issue duplicate special registration certificates and decals electronically pursuant to rules adopted by the commission. The fee for each additional duplicate special registration certificate and decal shall be ~~two~~ five dollars, plus a writing fee.

5. Each special registration certificate issued ~~hereunder~~ under this section shall be for a period of three years and shall expire on December 31 of ~~each~~ the renewal year~~, and a~~. A new special registration certificate for the ~~ensuing twelve months~~ three-year renewal period may be obtained upon application to the commission and payment of the fee provided by law. A county recorder may issue special registration certificate renewals electronically pursuant to rules adopted by the commission.

Sec. 21. Section 321G.23, Code 2011, is amended to read as follows:

321G.23 Course of instruction.

1. The commission shall provide, by rules adopted pursuant to section 321G.2, for the establishment of certified courses of instruction to be conducted throughout the state for the safe use and operation of snowmobiles. The curriculum shall include instruction in the lawful and safe use, operation, and equipping of snowmobiles consistent with this chapter and rules

H.F. _____

adopted by the commission and the director of transportation and other matters the commission deems pertinent for a qualified snowmobile operator. The commission may establish a fee for the course which shall not exceed the actual cost of instruction minus moneys received by the department from ~~safety~~ education certificate fees under section 321G.24.

2. The commission may certify any experienced, qualified operator to be an instructor of a class established under subsection 1. Each instructor shall be at least eighteen years of age.

3. Upon completion of the course of instruction, the commission shall provide for the administration of a written test to any student who wishes to qualify for ~~a safety~~ an education certificate.

4. The commission shall provide ~~safety~~ education material relating to the operation of snowmobiles for the use of nonpublic or public elementary and secondary schools in this state.

5. The department may develop requirements and standards for online education offerings. Only vendors who have entered into a memorandum of understanding with the department shall be permitted to offer an online course that results in the issuance of an education certificate approved by the commission. Vendors may charge for their courses and collect the education certificate fee required under section 321G.24, subsection 2, on behalf of the department as agreed to in the memorandum of understanding.

Sec. 22. Section 321G.24, Code 2011, is amended to read as follows:

321G.24 ~~Safety~~ Education certificate — fee.

1. A person under eighteen years of age shall not operate a snowmobile on public land, ~~or~~ public ice, a designated snowmobile trail, or land purchased with snowmobile registration funds in this state without obtaining a valid ~~safety~~ education certificate ~~issued~~ approved by the department

H.F. _____

and having the certificate in the person's possession, unless the person is accompanied on the same snowmobile by a responsible person of at least eighteen years of age who is experienced in snowmobile operation and possesses a valid driver's license, as defined in section 321.1, or ~~a safety~~ an education certificate issued under this chapter.

2. Upon ~~application~~ successful completion of the course and payment of a fee of five dollars, a qualified applicant shall be issued ~~a safety~~ an education certificate which is valid until the certificate is suspended or revoked by the director for a violation of a provision of this chapter or a rule adopted pursuant to this chapter. ~~The application shall be made on forms issued by the commission and shall contain information as the commission may reasonably require.~~

3. Any person who is required to have ~~a safety~~ an education certificate under this chapter and who has completed a course of instruction established under section 321G.2, subsection 1, paragraph *"j"*, including the successful passage of an examination which includes a written test relating to such course of instruction, shall be considered qualified to receive ~~a safety~~ an education certificate.

4. The ~~permit~~ certificate fees collected under this section shall be credited to the special snowmobile fund created under section 321G.7 and shall be used for safety and educational programs.

5. A valid snowmobile safety or education certificate or license issued ~~to a nonresident~~ by a governmental authority of another state shall be considered a valid certificate or license in this state if the ~~permit~~ certification or ~~license~~ licensing requirements of the governmental authority~~, excluding fees,~~ are substantially the same as the requirements of this chapter as determined by the commission.

Sec. 23. Section 321G.25, Code 2011, is amended to read as follows:

321G.25 Stopping and inspecting — warnings.

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1 A peace officer may stop and inspect a snowmobile operated,
2 parked, or stored on public streets, highways, public lands,
3 ~~or frozen waters~~ public ice, or designated snowmobile trails
4 of the state to determine if the snowmobile is registered,
5 numbered, or equipped as required by this chapter and
6 commission rules. The officer shall not inspect an area that
7 is not essential to determine compliance with the requirements.
8 If the officer determines that the snowmobile is not in
9 compliance, the officer may issue a warning memorandum to the
10 operator and forward a copy to the commission. The warning
11 memorandum shall indicate the items found not in compliance and
12 shall direct the owner or operator of the snowmobile to have
13 the snowmobile in compliance and return a copy of the warning
14 memorandum with the proof of compliance to the commission
15 within fourteen days. If the proof of compliance is not
16 provided within fourteen days, the owner or operator is in
17 violation of this chapter.
18 Sec. 24. Section 321G.26, Code 2011, is amended to read as
19 follows:
20 **321G.26 Termination of use.**
21 A person who receives a warning memorandum for a snowmobile
22 shall stop using the snowmobile as soon as possible and shall
23 not operate it on public streets, highways, public lands, ~~or~~
24 ~~frozen waters~~ public ice, or designated snowmobile trails of
25 the state until the snowmobile is in compliance.
26 Sec. 25. Section 321G.27, subsection 1, Code 2011, is
27 amended by adding the following new paragraph:
28 NEW PARAGRAPH. *0c.* The county recorder shall collect
29 a writing fee of one dollar and twenty-five cents for each
30 duplicate special registration certificate issued by the county
31 recorder's office.
32 Sec. 26. Section 321G.29, subsection 8, Code Supplement
33 2011, is amended to read as follows:
34 8. Once titled, a person shall not sell or transfer
35 ownership of a snowmobile without delivering to the purchaser

H.F. _____

or transferee a certificate of title with an assignment on it showing title in the ~~purchaser or transferee~~ purchaser's or transferee's name. A person shall not purchase or otherwise acquire a snowmobile without obtaining a certificate of title for it in that person's name.

Sec. 27. Section 321G.31, subsection 1, Code 2011, is amended to read as follows:

1. If ownership of a snowmobile is transferred by operation of law, such as by inheritance, order in bankruptcy, insolvency, replevin, or execution sale, the transferee, within thirty days after acquiring the right to possession of the snowmobile, shall mail or deliver to the county recorder of the transferee's county of residence satisfactory proof of ownership as the county recorder requires, together with an application for a new certificate of title, and the required fee.

Sec. 28. Section 321G.33, subsections 1 and 3, Code 2011, are amended to read as follows:

1. The department may assign a distinguishing number to a snowmobile when the serial number on the snowmobile is destroyed or obliterated and issue to the owner a special ~~plate~~ decal bearing the distinguishing number which shall be affixed to the snowmobile in a position to be determined by the department. The snowmobile shall be registered and titled under the distinguishing number in lieu of the former serial number. Every snowmobile shall have a vehicle identification number assigned and affixed as required by the department.

3. A person shall not destroy, remove, alter, cover, or deface the manufacturer's vehicle identification number, the plate or decal bearing it, or any vehicle identification number the department assigns to a snowmobile without the department's permission.

Sec. 29. Section 321I.1, subsection 1, paragraph b, Code 2011, is amended to read as follows:

b. Off-road motorcycles shall be considered all-terrain

H.F. _____

1 vehicles for the purpose of registration. Off-road motorcycles
2 shall also be considered all-terrain vehicles for the purpose
3 of titling if a title has not previously been issued pursuant
4 to chapter 321. An operator of an off-road motorcycle is
5 subject to provisions governing the operation of all-terrain
6 vehicles in this chapter, but is exempt from the ~~safety~~
7 education instruction and certification program requirements of
8 sections 321I.25 and 321I.26.
9 Sec. 30. Section 321I.1, subsections 6, 7, and 16, Code
10 2011, are amended to read as follows:
11 6. *"Designated riding area"* means an all-terrain vehicle
12 riding area on any public land or public ice under the
13 jurisdiction of the department that has been designated by the
14 department for all-terrain vehicle use.
15 7. *"Designated riding trail"* means an all-terrain vehicle
16 riding trail on any public land, private land, or public
17 ice ~~under the jurisdiction of the department~~ that has been
18 designated by the department, a political subdivision, or a
19 controlling authority for all-terrain vehicle use.
20 16. *a. "Off-road utility vehicle"* means a motorized
21 flotation-tire or tracked vehicle with not less than four
22 and not more than eight low-pressure tires or tracks that is
23 limited in engine displacement to less than one thousand five
24 hundred cubic centimeters and in total dry weight to not more
25 than one thousand eight hundred pounds and that has a seat that
26 is of bucket or bench design, not intended to be straddled
27 by the operator, and a steering wheel or control levers for
28 control.
29 *b.* ~~An owner of an off-road utility vehicle may register~~
30 ~~or title an off-road utility vehicle in order to legally~~
31 ~~operate the off-road vehicle on public ice, a designated~~
32 ~~riding area, or a designated riding trail.~~ The operator of an
33 off-road utility vehicle is subject to provisions governing
34 the operation of all-terrain vehicles in section 321.234A, ~~and~~
35 this chapter, and administrative rules, but is exempt from

H.F. _____

1 the ~~safety~~ education instruction and certification program
2 requirements of sections 321I.25 and 321I.26. An operator of
3 an off-road utility vehicle shall not operate the vehicle on a
4 designated riding area or designated riding trail unless the
5 department has posted signage indicating the riding area or
6 trail is open to the operation of off-road utility vehicles.
7 Off-road utility vehicles are ~~exempt from~~ subject to the dealer
8 registration and titling requirements of this chapter. A
9 motorized vehicle that was previously titled or is currently
10 titled under chapter 321 shall not be registered or operated
11 as an off-road utility vehicle.
12 Sec. 31. Section 321I.1, Code 2011, is amended by adding the
13 following new subsection:
14 NEW SUBSECTION. 20A. *"Public ice"* means any frozen,
15 navigable waters within the territorial limits of this state
16 and the frozen marginal river areas adjacent to this state,
17 other than farm ponds, that are under the jurisdiction of the
18 commission.
19 Sec. 32. Section 321I.1, subsections 23, 25, and 27, Code
20 2011, are amended to read as follows:
21 23. *"Resident"* means ~~a person who meets the requirements~~
22 ~~for residency described in section 321.1A~~ as defined in section
23 483A.1A.
24 25. *"~~Safety~~ Education certificate"* means an all-terrain
25 vehicle ~~safety~~ education certificate, approved by the
26 commission, which is issued to a qualified applicant who is
27 twelve years of age or older.
28 27. *"Special event"* means an organized race, exhibition,
29 or demonstration of limited duration which is conducted on
30 public land, ~~or~~ public ice, or a designated riding trail under
31 the jurisdiction of the commission according to a prearranged
32 schedule and in which general public interest is manifested.
33 Sec. 33. Section 321I.2, subsection 1, paragraph f, Code
34 2011, is amended to read as follows:
35 *f.* Issuance of ~~safety~~ education certificates.

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Sec. 34. Section 321I.3, Code 2011, is amended to read as follows:

321I.3 Registration required — penalties.

1. Each all-terrain vehicle used on public land, ~~or~~ public ice, or a designated riding trail of this state shall be currently registered. A person shall not operate, maintain, or give permission for the operation or maintenance of an all-terrain vehicle on public land, ~~or~~ public ice, or a designated riding trail unless the all-terrain vehicle is registered in accordance with this chapter or applicable federal laws or ~~the all-terrain vehicle displays a current annual user permit decal issued for the all-terrain vehicle as provided in section 321I.5~~ in accordance with an approved numbering system of another state and the evidence of registration is in full force and effect. An all-terrain vehicle registered in another state must also be issued a user permit in this state in accordance with this chapter.

~~2. A registration certificate and registration decal shall be assigned, without payment of fee, to all-terrain vehicles owned by the state of Iowa or its political subdivisions. The registration decal shall be displayed on the all-terrain vehicle as required under section 321I.6. A registration certificate shall be assigned, without payment of a registration fee, for an all-terrain vehicle which is exempt from registration but is being titled, upon payment of a writing fee as provided in section 321I.29 and an administrative fee. A registration decal shall not be issued and the registration shall not expire while the all-terrain vehicle is exempt. The application for registration and the registration certificate shall indicate the reason for exemption from the registration fee.~~

~~3.~~ 2. A violation of subsection 1 ~~or 2~~ is punishable as a scheduled violation under section 805.8B, subsection 2A, paragraph *"a"*. When the scheduled fine is paid, the violator shall submit proof to the department that a valid registration

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1 or user permit has been obtained by providing a copy of the
2 registration or user permit to the department within thirty
3 days of the date the fine is paid. A person who violates this
4 subsection is guilty of a simple misdemeanor.
5 Sec. 35. Section 321I.4, subsection 2, Code 2011, is amended
6 to read as follows:
7 2. The owner of the all-terrain vehicle shall file an
8 application for registration with the department through ~~a~~ the
9 county recorder of the county of residence, or in the case
10 of a nonresident owner, in the county of primary use, in the
11 manner established by the commission. The application shall
12 be completed by the owner and shall be accompanied by a fee
13 of fifteen dollars and a writing fee as provided in section
14 321I.29. An all-terrain vehicle shall not be registered by the
15 county recorder until the county recorder is presented with
16 receipts, bills of sale, or other satisfactory evidence that
17 the sales or use tax has been paid for the purchase of the
18 all-terrain vehicle or that the owner is exempt from paying the
19 tax. An all-terrain vehicle that has an expired registration
20 certificate from another state may be registered in this state
21 upon proper application, payment of all applicable registration
22 and writing fees, and payment of a penalty of five dollars.
23 Sec. 36. Section 321I.5, subsection 1, Code 2011, is amended
24 to read as follows:
25 1. A nonresident wishing to operate an all-terrain vehicle,
26 other than an all-terrain vehicle ~~owned by a resident and~~
27 registered pursuant to this chapter, on public land, ~~or~~ public
28 ice, or a designated riding trail of this state shall ~~first~~
29 obtain a user permit from the department. A user permit shall
30 be issued for ~~the~~ use on only one all-terrain vehicle ~~specified~~
31 ~~at the time of application~~ and is not transferable. A user
32 permit shall be valid for the calendar year or time period
33 specified in the permit.
34 Sec. 37. Section 321I.7, subsections 3 and 4, Code 2011, are
35 amended to read as follows:

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3. Duplicate registrations may be issued ~~upon application to the~~ by a county recorder or a license agent and the payment of a five dollar fee plus a writing fee as provided in section 321I.29.

4. A motorcycle, as defined in section 321.1, subsection 40, paragraph *"a"*, may be registered as an all-terrain vehicle as provided in this section. A motorcycle registered as an all-terrain vehicle may participate in all programs established for all-terrain vehicles under this chapter except for the ~~safety~~ education instruction and certification program.

Sec. 38. Section 321I.8, Code 2011, is amended to read as follows:

321I.8 Fees remitted to commission — appropriation.

1. A county recorder or license agent shall remit to the commission the all-terrain vehicle fees collected by the recorder or license agent in the manner and time prescribed by the department.

2. The department shall remit the fees, including user fees collected pursuant to section 321I.5, to the treasurer of state, who shall place the money in a special all-terrain vehicle fund. The money is appropriated to the department for the all-terrain vehicle programs of the state. The programs shall include grants, subgrants, contracts, or cost-sharing of all-terrain vehicle programs with political subdivisions or incorporated private organizations or both in accordance with rules adopted by the commission. All-terrain vehicle fees may be used for the establishment, maintenance, and operation of all-terrain vehicle recreational riding areas through the awarding of grants administered by the department. All-terrain vehicle recreational riding areas established, maintained, or operated by the use of such grants shall not be operated for profit. All programs using cost-sharing, grants, subgrants, or contracts shall establish and implement ~~a safety~~ an education instruction program either singly or in cooperation with other all-terrain vehicle programs. All-terrain vehicle fees may

H.F. _____

be used to support all-terrain vehicle programs on a usage basis. At least fifty percent of the special fund shall be available for political subdivisions or incorporated private organizations or both. Moneys from the special fund not used by the political subdivisions or incorporated private organizations or both shall remain in the fund and may be used by the department for the administration of the all-terrain vehicle programs. Notwithstanding section 8.33, moneys in the special fund shall not revert to the general fund of the state at the end of a fiscal year. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the special fund shall remain in the fund.

Sec. 39. Section 321I.9, subsection 1, Code 2011, is amended to read as follows:

1. All-terrain vehicles owned ~~and used~~ by the United States, this state, or another state, or by a ~~political~~ governmental subdivision ~~of another state~~ thereof, and used for enforcement, search and rescue, or official research and studies, but not for recreational or commercial purposes.

Sec. 40. Section 321I.11, Code Supplement 2011, is amended to read as follows:

321I.11 Accident reports.

If an all-terrain vehicle is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand five hundred dollars or more, either the operator or someone acting for the operator shall immediately notify the county sheriff or another law enforcement agency in the state. If the accident occurred on public land, ~~or~~ public ice, or a designated riding trail under the jurisdiction of the commission, the operator shall file with the commission a report of the accident, within seventy-two hours, containing information as the commission may require. All other accidents shall be reported as required under section 321.266.

Sec. 41. Section 321I.13, Code 2011, is amended to read as

H.F. _____

1 follows:
2 **321I.13 ~~Headlamp — tail lamp~~ Headlight — taillight —**
3 **brakes.**
4 Every all-terrain vehicle operated during the hours of
5 darkness shall display a lighted ~~headlamp~~ headlight and ~~tail~~
6 ~~lamp~~ taillight. Every all-terrain vehicle shall be equipped
7 with brakes.
8 Sec. 42. Section 321I.14, subsection 1, paragraph f, Code
9 2011, is amended to read as follows:
10 *f.* On any public land, public ice, or ~~snow~~ designated
11 riding trail, in violation of official signs of the commission
12 prohibiting such operation in the interest of safety for
13 persons, property, or the environment. Any officer appointed
14 by the commission may post an official sign in an emergency for
15 the protection of persons, property, or the environment.
16 Sec. 43. Section 321I.17, Code 2011, is amended to read as
17 follows:
18 **321I.17 Special events.**
19 The department may authorize the holding of organized
20 special events as defined in this chapter within this state.
21 The department shall adopt rules relating to the conduct of
22 special events held under department permits and designating
23 the equipment and facilities necessary for the safe operation
24 of all-terrain vehicles ~~or~~, off-road motorcycles, and off-road
25 utility vehicles and for the safety of operators, participants,
26 and observers in the special events. A special event ~~for~~
27 ~~all-terrain vehicles~~ may ~~include motorcycles upon payment~~
28 ~~of~~ require an entrance fee set by the organizer of the
29 special event. The department may require that part of the
30 ~~motorcycle~~ entrance fee be credited to pay costs of all-terrain
31 vehicle programs authorized pursuant to section 321I.8. At
32 least thirty days before the scheduled date of a special
33 event in this state, an application shall be filed with the
34 department for authorization to conduct the special event. The
35 application shall set forth the date, time, and location of the

H.F. _____

proposed special event and any other information the department requires. The special event shall not be conducted without written authorization of the department. ~~Copies of the rules shall be furnished by the department to any person making an application.~~

Sec. 44. Section 321I.18, Code 2011, is amended to read as follows:

321I.18 Violation of stop signal.

A person~~, after having~~ who has received a visual or audible signal from a peace officer to come to a stop~~,~~ shall not operate an all-terrain vehicle in willful or wanton disregard of the signal, ~~or~~ interfere with or endanger the officer or any other person or vehicle, ~~or~~ increase speed, or attempt to flee or elude the officer.

Sec. 45. Section 321I.21, unnumbered paragraph 1, Code 2011, is amended to read as follows:

A person under twelve years of age shall not operate an all-terrain vehicle, including an off-road motorcycle, on a designated riding area or designated riding trail or on public land or public ice unless one of the following applies:

Sec. 46. Section 321I.21, subsection 1, Code 2011, is amended to read as follows:

1. The person is taking a prescribed ~~safety~~ education training course and the operation is under the direct supervision of a certified all-terrain vehicle ~~safety~~ education instructor.

Sec. 47. Section 321I.22, subsections 1 through 5, Code 2011, are amended to read as follows:

1. A manufacturer, distributor, or dealer owning an all-terrain vehicle required to be registered under this chapter may operate the all-terrain vehicle for purposes of transporting, testing, demonstrating, or selling it without the all-terrain vehicle being registered, except that a special ~~identification number~~ registration decal issued to the owner as provided in this chapter shall be displayed on the all-terrain

H.F. _____

vehicle in the manner prescribed by rules of the commission. The special ~~identification number~~ registration decal shall not be used on an all-terrain vehicle offered for hire or for any work or service performed by a manufacturer, distributor, or dealer.

2. Every manufacturer, distributor, or dealer shall register with the department by making application to the commission, upon forms prescribed by the commission, for a special registration certificate ~~containing a general identification number and for one or more duplicate special registration certificates~~ and decal. The applicant shall pay a registration fee of ~~fifteen~~ forty-five dollars and submit reasonable proof of the applicant's status as a bona fide manufacturer, distributor, or dealer as may be required by the commission.

3. The commission, upon granting an application, shall issue to the applicant a special registration certificate ~~containing~~ and decal. The special registration certificate shall contain the applicant's name, ~~and~~ address, ~~the~~ and general identification number; ~~assigned to the applicant,~~ the word "manufacturer", "dealer", or "distributor"~~,~~; and other information the commission prescribes. ~~The manufacturer, distributor, or dealer shall have the assigned number printed upon or attached to a removable sign or signs which may be temporarily but firmly mounted or attached to the all-terrain vehicle being used. The display shall meet the requirements of this chapter and the rules of the commission.~~

4. The commission shall also issue duplicate special registration certificates and decals which shall have displayed thereon the general identification number assigned to the applicant. ~~Each duplicate registration certificate so issued shall contain a number or symbol identifying it from every other duplicate special registration certificate bearing the same general identification number.~~ A county recorder may issue duplicate special registration certificates and decals

H.F. _____

electronically pursuant to rules adopted by the commission. The fee for each additional duplicate special registration certificate and decal shall be ~~two~~ five dollars plus a writing fee.

5. Each special registration certificate issued ~~hereunder~~ under this section shall be for a period of three years and shall expire on December 31 of ~~each~~ the renewal year~~, and a~~. A new special registration certificate for the ~~ensuing twelve months~~ three-year renewal period may be obtained upon application to the commission and payment of the fee provided by law. A county recorder may issue special registration certificate renewals electronically pursuant to rules adopted by the commission.

Sec. 48. Section 321I.25, Code 2011, is amended to read as follows:

321I.25 Course of instruction.

1. The commission shall provide, by rules adopted pursuant to section 321I.2, for the establishment of certified courses of instruction to be conducted throughout the state for the safe use and operation of all-terrain vehicles. The curriculum shall include instruction in the lawful and safe use, operation, and equipping of all-terrain vehicles consistent with this chapter and rules adopted by the commission ~~and the director of transportation and other matters the commission deems pertinent for a qualified all-terrain vehicle operator~~. The commission may establish a fee for the course which shall not exceed the actual cost of instruction minus moneys received by the department from ~~safety~~ education certificate fees under section 321I.26.

2. The commission may certify any experienced, qualified operator to be an instructor of a class established under subsection 1. Each instructor shall be at least eighteen years of age.

3. Upon completion of the course of instruction, the commission shall provide for the administration of either a

H.F. _____

1 written test or the demonstration of adequate riding skills to
2 any student who wishes to qualify for ~~a safety~~ an education
3 certificate.
4 4. The commission shall provide ~~safety~~ education material
5 relating to the operation of all-terrain vehicles for the use
6 of nonpublic or public elementary and secondary schools in this
7 state.
8 5. The department may develop requirements and standards
9 for online education offerings. Only vendors who have entered
10 into a memorandum of understanding with the department
11 shall be permitted to offer an online course that results
12 in the issuance of an education certificate approved by the
13 commission. Vendors may charge for their courses and collect
14 the education certificate fee required under section 321I.26,
15 subsection 2, on behalf of the department as agreed to in the
16 memorandum of understanding.
17 Sec. 49. Section 321I.26, Code 2011, is amended to read as
18 follows:
19 **321I.26 ~~Safety~~ Education certificate — fee.**
20 1. A person twelve years of age or older but less than
21 eighteen years of age shall not operate an all-terrain vehicle
22 on public land, ~~or~~ public ice, a designated riding trail, or
23 land purchased with all-terrain vehicle registration funds
24 in this state without obtaining a valid ~~safety~~ education
25 certificate ~~issued~~ approved by the department and having the
26 certificate in the person's possession.
27 2. Upon ~~application~~ successful completion of the course
28 and payment of a fee of five dollars, a qualified applicant
29 shall be issued ~~a safety~~ an education certificate which is
30 valid until the certificate is suspended or revoked by the
31 director for a violation of a provision of this chapter or a
32 rule adopted pursuant to this chapter. ~~The application shall~~
33 ~~be made on forms issued by the commission and shall contain~~
34 ~~information as the commission may reasonably require.~~
35 3. Any person who is required to have ~~a safety~~ an education

H.F. _____

certificate under this chapter and who has completed a course of instruction established under section 321I.2, subsection 1, paragraph *"i"*, including the successful passage of an examination which includes either a written test relating to such course of instruction or the demonstration of adequate riding skills, shall be considered qualified to receive ~~a safety~~ an education certificate.

4. The ~~permit~~ certificate fees collected under this section shall be credited to the special all-terrain vehicle fund and shall be used for ~~safety and~~ educational programs.

5. A valid all-terrain vehicle safety or education certificate or license issued ~~to a nonresident~~ by a governmental authority of another state shall be considered a valid certificate or license in this state if the ~~permit~~ certification or ~~license~~ licensing requirements of the governmental authority~~, excluding fees,~~ are substantially the same as the requirements of this chapter as determined by the commission.

Sec. 50. Section 321I.27, Code 2011, is amended to read as follows:

321I.27 Stopping and inspecting — warnings.

A peace officer may stop and inspect an all-terrain vehicle operated, parked, or stored on public streets, highways, public lands, ~~or frozen waters~~ public ice, or designated riding trails of the state to determine if the all-terrain vehicle is registered, numbered, or equipped as required by this chapter and commission rules. The officer shall not inspect an area that is not essential to determine compliance with the requirements. If the officer determines that the all-terrain vehicle is not in compliance, the officer may issue a warning memorandum to the operator and forward a copy to the commission. The warning memorandum shall indicate the items found not in compliance and shall direct the owner or operator of the all-terrain vehicle to have the all-terrain vehicle in compliance and return a copy of the warning memorandum with the

H.F. _____

proof of compliance to the commission within fourteen days. If the proof of compliance is not provided within fourteen days, the owner or operator is in violation of this chapter.

Sec. 51. Section 321I.28, Code 2011, is amended to read as follows:

321I.28 Termination of use.

A person who receives a warning memorandum for an all-terrain vehicle shall stop using the all-terrain vehicle as soon as possible and shall not operate it on public streets, highways, public lands, ~~or frozen waters~~ public ice, or designated riding trails of the state until the all-terrain vehicle is in compliance.

Sec. 52. Section 321I.29, subsection 1, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. *0c.* The county recorder shall collect a writing fee of one dollar and twenty-five cents for each duplicate special registration certificate issued by the county recorder's office.

Sec. 53. Section 321I.31, subsection 8, Code 2011, is amended to read as follows:

8. Once titled, a person shall not sell or transfer ownership of an all-terrain vehicle without delivering to the purchaser or transferee a certificate of title with an assignment on it showing title in the ~~purchaser or transferee~~ purchaser's or transferee's name. A person shall not purchase or otherwise acquire an all-terrain vehicle without obtaining a certificate of title for it in that person's name.

Sec. 54. Section 321I.33, subsection 1, Code 2011, is amended to read as follows:

1. If ownership of an all-terrain vehicle is transferred by operation of law, such as by inheritance, order in bankruptcy, insolvency, replevin, or execution sale, the transferee, within thirty days after acquiring the right to possession of the all-terrain vehicle, shall mail or deliver to the county recorder of the transferee's county of residence satisfactory

H.F. _____

1 proof of ownership as the county recorder requires, together
2 with an application for a new certificate of title, and the
3 required fee.
4 Sec. 55. Section 321I.35, subsections 1 and 3, Code 2011,
5 are amended to read as follows:
6 1. The department may assign a distinguishing number to an
7 all-terrain vehicle when the serial number on the all-terrain
8 vehicle is destroyed or obliterated and issue to the owner a
9 special ~~plate~~ decal bearing the distinguishing number which
10 shall be affixed to the all-terrain vehicle in a position to be
11 determined by the department. The all-terrain vehicle shall be
12 registered and titled under the distinguishing number in lieu
13 of the former serial number. Every all-terrain vehicle shall
14 have a vehicle identification number assigned and affixed as
15 required by the department.
16 3. A person shall not destroy, remove, alter, cover, or
17 deface the manufacturer's vehicle identification number, the
18 plate or decal bearing it, or any vehicle identification number
19 the department assigns to an all-terrain vehicle without the
20 department's permission.
21 Sec. 56. Section 461C.2, subsection 5, Code 2011, is amended
22 to read as follows:
23 5. *"Recreational purpose"* means the following or any
24 combination thereof: Hunting, trapping, horseback riding,
25 fishing, swimming, boating, camping, picnicking, hiking,
26 pleasure driving, motorcycling, all-terrain vehicle riding,
27 nature study, water skiing, snowmobiling, other summer
28 and winter sports, and viewing or enjoying historical,
29 archaeological, scenic, or scientific sites while going to and
30 from or actually engaged therein.
31 Sec. 57. Section 462A.2, Code Supplement 2011, is amended by
32 adding the following new subsection:
33 NEW SUBSECTION. 43A. *"Watercraft education certificate"*
34 means a certificate, approved by the commission, which is
35 issued to a qualified applicant who is twelve years of age or

H.F. _____

1 older who has successfully completed a watercraft education
2 course approved by the department.
3 Sec. 58. Section 462A.12, subsection 6, Code 2011, is
4 amended to read as follows:
5 6. An owner or operator of a vessel propelled by a motor
6 of more than ten horsepower shall not permit any person under
7 twelve years of age to operate the vessel unless accompanied
8 in or on the same vessel by a responsible person of at
9 least eighteen years of age who is experienced in motorboat
10 operation. A person who is twelve years of age or older
11 but less than eighteen years of age shall not operate any
12 vessel propelled by a motor of more than ten horsepower unless
13 the person has successfully completed a department-approved
14 watercraft ~~safety~~ education course and obtained a watercraft
15 ~~safety~~ education certificate or is accompanied in or on the
16 same vessel by a responsible person of at least eighteen years
17 of age who is experienced in motorboat operation. A person
18 required to have a watercraft ~~safety~~ education certificate
19 shall carry and shall exhibit or make available the certificate
20 upon request of an officer of the department. A violation
21 of this subsection is a simple misdemeanor as provided in
22 section 462A.13. However, a person charged with violating
23 this subsection shall not be convicted if the person produces
24 in court, within a reasonable time, a ~~department-approved~~
25 watercraft education certificate. The cost of a ~~department~~
26 watercraft education certificate, or any duplicate, shall not
27 exceed five dollars.
28 Sec. 59. NEW SECTION. **462A.12A Online watercraft education**
29 **courses.**
30 1. The department shall develop requirements and standards
31 for online watercraft education courses. Only vendors who have
32 entered into a memorandum of understanding with the department
33 shall be approved by the department to offer an online
34 watercraft education course that upon successful completion is
35 sufficient to result in the issuance of a watercraft education

H.F. _____

1 certificate to the person who completes the course.
2 2. A vendor approved to offer an online watercraft education
3 course as provided in subsection 1 may charge a fee for the
4 course as agreed to in the memorandum of understanding with
5 the department and may also collect the watercraft education
6 certificate fee on behalf of the department as agreed to in the
7 memorandum of understanding.
8 Sec. 60. Section 462A.36, Code 2011, is amended to read as
9 follows:
10 **462A.36 Fee for special certificate — minimum requirements**
11 **for issuance.**
12 1. Any manufacturer or dealer may, upon payment of a fee of
13 ~~fifteen~~ forty-five dollars, make application to the commission,
14 upon such forms as the commission prescribes, for a special
15 certificate containing a general distinguishing number and for
16 one or more duplicate special certificates. The applicant
17 shall submit such reasonable proof of the applicant's status
18 as a bona fide manufacturer or dealer as the commission may
19 require.
20 2. The commission may adopt rules consistent with this
21 chapter establishing minimum requirements for a dealer or
22 manufacturer to be issued a special certificate. In adopting
23 such rules the department shall consider the need to protect
24 persons, property, and the environment, and to promote uniform
25 practices relating to the sale and use of vessels. The
26 commission may also adopt rules providing for the suspension or
27 revocation of a dealer's or manufacturer's special certificate
28 issued pursuant to this section.
29 Sec. 61. Section 462A.38, Code 2011, is amended to read as
30 follows:
31 **462A.38 ~~Duplicates~~ Duplicate special certificates.**
32 The commission shall also issue duplicate special
33 certificates as applied for which shall have displayed
34 thereon the general distinguishing number assigned to the
35 applicant. ~~Each duplicate special certificate so issued shall~~

H.F. _____

~~contain a number or symbol identifying the same from every other duplicate special certificate bearing the same general distinguishing number.~~ The fee for each additional duplicate special certificate shall be ~~two~~ five dollars plus a writing fee.

Sec. 62. Section 462A.39, Code 2011, is amended to read as follows:

462A.39 Expiration date.

Each special certificate issued ~~hereunder~~ under this chapter shall be for a period of three years and shall expire at midnight on April 30 of the last calendar year of the registration period, and a ~~new~~ special certificate may be renewed for ~~the ensuing registration~~ another three-year period ~~may be obtained~~ upon application to the commission and payment of the fee provided by law.

Sec. 63. Section 462A.46, Code 2011, is amended to read as follows:

462A.46 Purchase of registered vessel by dealer.

Whenever a dealer purchases or otherwise acquires a vessel registered in this state, the dealer shall issue a signed receipt to the previous owner, indicating the date of purchase or acquisition, the name and address of such previous owner, and the registration number of the vessel purchased or acquired. ~~The original receipt shall be delivered to the previous owner and one copy shall be mailed or delivered by the dealer to the county recorder of the county in which the vessel is registered, and one copy shall be delivered to the commission within forty-eight hours.~~

Sec. 64. Section 462A.53, Code 2011, is amended to read as follows:

462A.53 Amount of writing fees.

A writing fee of one dollar and twenty-five cents for each ~~transaction~~ privilege shall be collected by the county recorder. ~~If two or more functions are transacted for the same vessel at one time, the writing fee is limited to one dollar~~

H.F. _____

~~and twenty-five cents.~~

Sec. 65. Section 805.8B, subsection 2, paragraph a, Code 2011, is amended to read as follows:

a. For registration or user permit violations under section 321G.3, ~~subsections~~ subsection 1 ~~and 2~~, the scheduled fine is fifty dollars.

Sec. 66. Section 805.8B, subsection 2, paragraph b, subparagraph (3), Code 2011, is amended to read as follows:

(3) For operating violations under section 321G.13, subsection 1, paragraphs *"a"*, *"b"*, *"e"*, *"f"*, *"g"*, ~~and~~ *"h"*, and *"i"*, and subsections 2 and 3, the scheduled fine is one hundred dollars.

Sec. 67. Section 805.8B, subsection 2, paragraph g, Code 2011, is amended to read as follows:

g. For violations of section 321G.20 and for ~~safety~~ education certificate violations under section 321G.24, subsection 1, the scheduled fine is fifty dollars.

Sec. 68. Section 805.8B, subsection 2A, paragraphs a and g, Code 2011, are amended to read as follows:

a. For registration or user permit violations under section 321I.3, ~~subsections~~ subsection 1 ~~and 2~~, the scheduled fine is fifty dollars.

g. For violations of section 321I.21 and for ~~safety~~ education certificate violations under section 321I.26, subsection 1, the scheduled fine is fifty dollars.

Sec. 69. REPEAL. Sections 462A.40 and 462A.42, Code 2011, are repealed.

EXPLANATION

This bill relates to matters concerning the regulation of snowmobiles, all-terrain vehicles, and watercraft by the department of natural resources, and makes penalties applicable.

SNOWMOBILE REGULATION. The bill makes numerous revisions to Code chapter 321G, which provides for the regulation of snowmobiles by the department.

H.F. _____

1 The bill defines "resident" and "nonresident", for purposes
2 of snowmobile regulation, to mean the same as defined for
3 purposes of hunting and fishing licenses.
4 The bill defines "public water" as any navigable waters
5 within the state and the marginal river areas adjacent to the
6 state, other than farm ponds, under the jurisdiction of the
7 natural resource commission. A similar definition is provided
8 for "public ice", and various sections of Code chapter 321G are
9 amended to specify the defined term.
10 The bill specifies that the natural resource commission may
11 adopt rules for the use of snowmobiles on designated snowmobile
12 trails and for maintenance, signing, and operation of the
13 trails, and existing provisions are amended to indicate that
14 operation on designated trails is subject to regulation by
15 the department. The scope of grant programs and contracts
16 administered by the department is expanded to include
17 the signage of designated snowmobile trails. "Designated
18 snowmobile trail" is defined to mean a snowmobile riding
19 trail on any public land, private land, or public ice that is
20 designated by the department, a political subdivision, or a
21 controlling authority for snowmobile use.
22 The bill specifies that the original application for
23 registration of a snowmobile must be filed with the county
24 recorder of the owner's county of residence or if the owner is
25 a nonresident, in the county of primary use. If a transfer
26 of ownership occurs by operation of law, the application must
27 be filed in the transferee's county of residence. Duplicate
28 registrations and registration renewals may be accomplished
29 through a county recorder or a license agent. A snowmobile
30 owned by a nonresident and registered in another state must be
31 issued a user permit in this state, which is valid for use on
32 only one snowmobile.
33 The bill provides that a snowmobile owned by the United
34 States, this state, or another state, or by a governmental
35 subdivision, is exempt from registration requirements in

H.F. _____

1 this state if the snowmobile is used for enforcement, search
2 and rescue, or official research and studies, but not for
3 recreational or commercial purposes. Current provisions for
4 the issuance of registration certificates and registration
5 decals for snowmobiles owned by the state of Iowa or its
6 political subdivisions are stricken.
7 The bill makes a technical change requiring that every
8 snowmobile be equipped with a headlight and a taillight, rather
9 than a headlamp and a tail lamp.
10 The bill prohibits a person from water skipping a snowmobile
11 on public water, except on rivers and streams during the period
12 between November 1 and April 1. A violation is a simple
13 misdemeanor punishable by a scheduled fine of $100. "Water
14 skipping" is defined as the operation of a snowmobile on the
15 surface of water using the skis, track, and bottom surface of
16 the snowmobile for flotation while the snowmobile is in motion.
17 The bill makes technical changes to clarify language
18 relating to stop signal violations.
19 The bill increases the fee for a special registration
20 certificate from $15 to $45 for snowmobile manufacturers,
21 distributors, and dealers and extends the registration period
22 from one year to three years. Special registration certificate
23 renewals may be issued electronically. The bill provides
24 for the issuance of a special registration decal along with
25 the special registration certificate. The decal is to be
26 displayed on a snowmobile when it is being operated for
27 purposes of transporting, testing, demonstrating, or selling
28 the snowmobile. Duplicate special registration certificates
29 and decals may be issued electronically by a county recorder
30 and are subject to a fee of $5 plus a writing fee of $1.25.
31 Pursuant to current law, a safety certificate is required
32 for operation of a snowmobile on regulated land or ice by a
33 person under 18 years of age, and in addition, a person 12
34 to 15 years of age must be under the direct supervision of a
35 parent, guardian, or another adult authorized by the parent or

H.F. _____

1 guardian. The bill makes a terminology change by replacing the
2 existing "safety certificate" with an "education certificate"
3 throughout Code chapter 321G. In addition, the bill defines
4 "direct supervision" to mean providing supervision of another
5 person while maintaining visual and verbal contact at all
6 times. Currently, a person under 16 years of age must have
7 a safety certificate to operate a snowmobile on or across a
8 public highway. The bill extends the requirement to persons
9 under 18 years of age.
10 The bill authorizes the department to develop requirements
11 and standards for the provision of online education resulting
12 in the issuance of education certificates. A vendor must
13 enter into a memorandum of understanding with the department
14 to conduct such a course. Pursuant to the memorandum of
15 understanding, a vendor may charge a fee for the online course
16 and collect the education certificate fee on behalf of the
17 department.
18 The bill provides that when a serial number on a snowmobile
19 is destroyed or obliterated and the department assigns a
20 distinguishing number to the snowmobile, the department may
21 issue a special decal, rather than a plate, to be affixed to
22 the snowmobile and bearing the distinguishing number.
23 ALL-TERRAIN VEHICLE REGULATION. The bill makes numerous
24 revisions to Code chapter 321I, which provides for the
25 regulation of all-terrain vehicles by the department.
26 The bill amends the definition of "off-road utility
27 vehicle" to include tracked vehicles. In addition, the bill
28 provides that off-road utility vehicles are subject to dealer
29 registration and titling requirements applicable to other
30 all-terrain vehicles. Currently, registration and titling by
31 dealers is not required. The bill specifies that the operation
32 of off-road utility vehicles is subject to provisions governing
33 the operation of all-terrain vehicles both in statute and in
34 administrative rules.
35 The bill revises the definition of "designated riding trail"

H.F. _____

1 to include any public land, private land, or public ice that
2 has been designated by the department, a political subdivision,
3 or a controlling entity for all-terrain vehicle use. Various
4 Code sections are amended to include designated riding trails
5 within the scope of department regulations.
6 The bill defines "public ice" as any frozen, navigable
7 waters within the state and the marginal river areas adjacent
8 to the state, other than farm ponds, under the jurisdiction
9 of the natural resource commission. Various sections of Code
10 chapter 321I are amended to specify the defined term.
11 The bill defines "resident", for purposes of all-terrain
12 vehicle regulation, to mean the same as defined for purposes of
13 hunting and fishing licenses.
14 The bill specifies that the original application for
15 registration of an all-terrain vehicle must be filed with the
16 county recorder of the county of residence or if the owner is
17 a nonresident, in the county of primary use. If a transfer
18 of ownership occurs by operation of law, the application must
19 be filed in the transferee's county of residence. Duplicate
20 registrations and registration renewals may be accomplished
21 through a county recorder or a license agent. An all-terrain
22 vehicle owned by a nonresident and registered in another state
23 must be issued a user permit in this state, which is valid for
24 use on only one all-terrain vehicle.
25 The bill provides that an all-terrain vehicle owned
26 by the United States, this state, or another state, or by
27 a governmental subdivision, is exempt from registration
28 requirements in this state if the all-terrain vehicle
29 is used for enforcement, search and rescue, or official
30 research and studies, but not for recreational or commercial
31 purposes. Current provisions for the issuance of registration
32 certificates and registration decals for all-terrain vehicles
33 owned by the state of Iowa or its political subdivisions are
34 stricken.
35 The bill makes a technical change requiring that every

H.F. _____

1 all-terrain vehicle be equipped with a headlight and a
2 taillight, rather than a headlamp and a tail lamp.
3 The bill provides for the inclusion of motorcycles and
4 off-road utility vehicles in special events. Also, the
5 requirement that the department furnish a copy of the rules for
6 a special event to an applicant for the event is stricken.
7 The bill makes technical changes to clarify language
8 relating to a person who violates a stop signal from a peace
9 officer.
10 The bill increases the fee for a special registration
11 certificate from $15 to $45 for all-terrain vehicle
12 manufacturers, distributors, and dealers and extends the
13 registration period from one year to three years. Special
14 registration certificate renewals may be issued electronically.
15 The bill provides for the issuance of a special registration
16 decal along with the special registration certificate.
17 The decal is to be displayed on an all-terrain vehicle
18 when it is being operated for purposes of transporting,
19 testing, demonstrating, or selling the vehicle. Duplicate
20 special registration certificates and decals may be issued
21 electronically by a county recorder and are subject to a fee of
22 $5 plus a writing fee of $1.25.
23 Pursuant to current law, a safety certificate is required
24 for operation of an all-terrain vehicle on public land or ice
25 by a person between 12 and 18 years of age. The bill replaces
26 the "safety certificate" with an "education certificate"
27 throughout Code chapter 321I. The bill authorizes the
28 department to develop requirements and standards for the
29 provision of online education resulting in the issuance of
30 education certificates. A vendor must enter into a memorandum
31 of understanding with the department to conduct such a course.
32 Pursuant to the memorandum of understanding, a vendor may
33 charge a fee for the online course and collect the education
34 certificate fee on behalf of the department.
35 The bill provides that when a serial number on an all-terrain

H.F. _____

1 vehicle is destroyed or obliterated and the department assigns
2 a distinguishing number to the all-terrain vehicle, the
3 department may issue a special decal, rather than a plate,
4 to be affixed to the all-terrain vehicle and bearing the
5 distinguishing number.
6 Code section 461C.2(5) is amended to include all-terrain
7 vehicle riding among the public recreational purposes to be
8 encouraged on private land in the state.
9 WATERCRAFT EDUCATION COURSES AND CERTIFICATES. Code section
10 462A.2 is amended to include a definition of "watercraft
11 education certificate" that is issued to a qualified applicant
12 12 years of age or older. Code section 462A.12(6) is amended
13 to change the nomenclature for the requirements that must be
14 met by a person between 12 and 18 years of age to operate
15 certain watercraft without an adult in the watercraft. Such a
16 person is required to complete a department-approved watercraft
17 education, instead of safety, course and obtain a watercraft
18 education, instead of safety, certificate.
19 New Code section 462A.12A requires the department to
20 develop requirements and standards for vendors to offer online
21 watercraft education courses. Approved vendors may charge
22 a fee for the course and may also collect the watercraft
23 education certificate fee on behalf of the department as
24 provided in a memorandum of understanding with the department.
25 SPECIAL CERTIFICATES FOR WATERCRAFT DEALERS AND
26 MANUFACTURERS. Code section 462A.36 is amended to allow the
27 natural resource commission to adopt rules establishing minimum
28 requirements for special certificates to be issued, suspended,
29 or revoked for vessel dealers or manufacturers. In adopting
30 the rules, the commission shall consider the need to protect
31 persons, property, and the environment, and promote uniform
32 practices relating to the sale and use of vessels. The fee for
33 a special certificate is increased from $15 to $45.
34 Code section 462A.38 is amended to delete a requirement
35 that duplicate special certificates contain unique numbers

H.F. _____

1 or symbols and to increase the fee for additional duplicate
2 special certificates from $2 to $5, plus a writing fee of
3 $1.25.
4 Code section 462A.39 is amended to provide that each special
5 certificate is issued for three years, expires on April 30 of
6 the last calendar year of the registration period, and may be
7 renewed for another three-year period upon application and
8 payment of a fee.
9 Code section 462A.40, requiring manufacturers or dealers
10 to keep written records of the vessels upon which special
11 certificates are used, and Code section 462A.42, requiring
12 dealers to furnish a list to the commission each year of all
13 used vessels held by them and for which registration has not
14 been paid, are repealed.
15 Code section 462A.46 is amended to delete a requirement that
16 when a dealer purchases or acquires a registered vessel, the
17 dealer must mail or deliver a copy of the original receipt
18 issued to the county recorder of the county where the vessel
19 is registered and to the natural resource commission within 48
20 hours.
21 Code section 462A.53 is amended to delete a limitation on
22 the writing fee collected by a county treasurer for two or more
23 functions transacted for the same vessel at one time. The bill
24 provides that the county treasurer shall collect a writing fee
25 of $1.25 for each privilege relating to watercraft.

House Study Bill 616 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON NATURAL RESOURCES BILL BY CHAIRPERSON RAYHONS)

A BILL FOR

1 An Act relating to various recreation and conservation
2 activities under the purview of the department of natural
3 resources, providing for repeals, and making penalties
4 applicable.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5217HC (2) 84
av/nh

H.F. _____

1 Section 1. Section 461A.35, Code 2011, is amended to read
2 as follows:
3 **461A.35 Prohibited destructive acts.**
4 1. It shall be unlawful for any person to use, enjoy
5 the privileges of, destroy, injure, or deface plant life,
6 trees, buildings, or other natural or material property, or
7 to construct or operate for private or commercial purposes
8 any structure, or to remove any plant life, trees, buildings,
9 sand, gravel, ice, earth, stone, wood, or other natural
10 material, or to operate vehicles, within the boundaries of
11 any state park, preserve, or stream or any other lands or
12 waters under the jurisdiction of the commission for any purpose
13 whatsoever, except upon the terms, conditions, limitations, and
14 restrictions as set forth by the commission.
15 2. A person who violates this section commits a simple
16 misdemeanor, punishable as a scheduled violation pursuant to
17 section 805.8B, subsection 6, paragraph *"c"*.
18 Sec. 2. Section 461A.42, subsection 2, Code 2011, is amended
19 to read as follows:
20 2. The use of fireworks, as defined in section 727.2, in
21 state parks and preserves is prohibited except as authorized
22 by a permit issued by the department. The commission shall
23 establish, by rule adopted pursuant to chapter 17A, a fireworks
24 permit system which authorizes the issuance of a limited number
25 of permits to qualified persons to use or display fireworks in
26 selected state parks and preserves.
27 3. A person violating this ~~subsection~~ section is guilty of a
28 simple misdemeanor punishable as a scheduled violation pursuant
29 to section 805.8B, subsection 6, paragraph *"c"*. ~~In addition~~
30 ~~to any other penalties, the punishment imposed for a violation~~
31 ~~of this subsection shall include assessment of a fine of not~~
32 ~~less than two hundred fifty dollars. The court shall order~~
33 ~~restitution if any damages were caused by the violation which~~
34 ~~may include, but is not limited to, community service.~~
35 Sec. 3. Section 461A.57, Code 2011, is amended to read as

H.F. _____

1 follows:
2 **461A.57 Penalties.**
3 Any person violating any of the provisions of sections
4 ~~461A.35~~ 461A.36 to 461A.41, 461A.43, and 461A.45 to 461A.56 is
5 guilty of a simple misdemeanor.
6 Sec. 4. Section 481A.1, subsection 7, Code 2011, is amended
7 to read as follows:
8 7. *"Bait"* includes~~,~~ but is not limited to~~,~~ minnows, green
9 sunfish, orange-spotted sunfish, gizzard shad, frogs, crayfish,
10 and salamanders~~, and mussels~~.
11 Sec. 5. Section 481A.6A, subsection 1, Code 2011, is amended
12 to read as follows:
13 1. As used in this section, *"pen-reared pheasant"* means a
14 Chinese ring-necked pheasant (Phasianus colchicus torquatus)
15 which originates from a captive population and which has
16 been propagated and held by a hatchery. For the purposes of
17 this section *"pen-reared pheasant"* does not include a Reeves
18 (Syrmaticus reevesii) or Lady Amherst (Chrysolophus amherstiae)
19 pheasant, a subspecies of the Chinese ring-necked pheasant
20 such as a Japanese (Phasianus vesicolor) or a Black-necked (P.
21 colchicus colchicus) pheasant, or a melanistic mutant (black,
22 white, or other color mix) of the Chinese ring-necked pheasant.
23 Sec. 6. NEW SECTION. **481A.17 Target shooting sports**
24 **program.**
25 The department shall establish a target shooting sports
26 program to promote recreational target shooting sports. The
27 purposes of the program shall be to introduce more Iowans
28 to target shooting sports, promote existing target shooting
29 programs, provide more target shooting facilities, and improve
30 existing target shooting facilities. The commission may adopt
31 rules to achieve these purposes.
32 Sec. 7. Section 481A.142, subsection 5, paragraph a, Code
33 2011, is amended to read as follows:
34 *a.* Sell bait, including minnows~~,~~ and frogs, ~~and clams,~~
35 propagated or raised within the licensed unit without having

H.F. _____

to obtain a bait dealer's license. However, aquaculture units wishing to take bait from areas other than their licensed units must also obtain a bait dealer's license.

Sec. 8. Section 481A.144, subsection 1, Code 2011, is amended to read as follows:

1. A person shall not sell minnows, frogs, crayfish, or salamanders~~, and mussels~~ for fish bait without first obtaining a bait dealer's license from the department upon payment of the license fee. A licensee shall comply with all laws pertaining to taking, possessing, and selling of bait handled by the licensee. If convicted of violating a provision of this chapter or a rule adopted pursuant to this chapter, a licensee shall forfeit the licensee's bait dealer license upon demand of the director.

Sec. 9. Section 482.2, subsections 3, 7, 10, and 11, Code 2011, are amended to read as follows:

3. *"Commercial fisher"* means a person who is licensed by the state to take, attempt to take, possess, transport, sell, barter, or trade ~~turtles or turtle eggs,~~ commercial fish except roe species, or fish parts except roe. A commercial fisher may take, possess, transport, or sell turtles or turtle eggs.

7. *"Commercial roe harvester"* means a person who is licensed by the state to engage in the harvest and sale, but not barter~~,~~ or trade, of roe and roe species.

10. *"Commercial turtle harvester"* means a person who is licensed by the state to take, attempt to take, possess, transport, and sell, but not barter~~,~~ or trade, commercial turtles or turtle eggs.

11. *"Commercial turtle harvesting"* means taking, attempting to take, possessing, or transporting of commercial turtles or turtle eggs for the purpose of selling, ~~bartering, trading,~~ offering, or exposing for sale, but not bartering or trading.

Sec. 10. Section 482.4, subsection 3, Code 2011, is amended to read as follows:

3. Commercial fishers and commercial turtle harvesters

H.F. _____

shall ~~purchase gear tags from the commission to be affixed~~ provide and affix weather-resistant gear tags to each piece of gear in use. ~~Notwithstanding the fee rates for gear tags under subsection 6, the minimum fee is five dollars. All tags are valid for ten years from the date of issue. In addition to the gear tags, all gear shall be tagged with a~~ Each weather-resistant gear tag ~~showing~~ shall plainly show the name ~~and~~, address, and commercial license number of the licensee and whether the gear is fish or turtle gear.

Sec. 11. Section 482.4, subsection 4, Code 2011, is amended by striking the subsection.

Sec. 12. Section 482.4, subsection 6, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

6. Commercial fish and turtle gear tags are required on the following units of commercial gear:

a. Seine.

b. Trammel net.

c. Gill net.

d. Entrapment nets.

e. Commercial trotline.

f. Commercial turtle trap.

Sec. 13. Section 482.4, subsection 7, Code 2011, is amended by striking the subsection.

Sec. 14. Section 482.11, subsection 1, paragraph a, Code 2011, is amended to read as follows:

a. A commercial turtle harvester license is required to operate commercial gear and to take, attempt to take, possess, transport, or sell~~, barter, or trade~~ commercial turtles or turtle eggs. Nonresident commercial turtle harvesters shall harvest commercial turtles only from the boundary waters.

Sec. 15. Section 482.14, subsection 3, Code 2011, is amended to read as follows:

3. Commercial turtle harvesters shall utilize a dated receipt with at least two parts, with one original and one

H.F. _____

1 copy of each receipt, that contains the species, number, and
2 pounds of turtles sold~~, bartered, or traded~~. Commercial turtle
3 harvesters shall retain a copy of each receipt for five years
4 following the transaction. A purchaser of commercial turtles
5 shall retain a copy of the receipt for as long as the purchaser
6 is in possession of the turtles.
7 Sec. 16. Section 483A.1, subsection 2, paragraph s, Code
8 2011, is amended by striking the paragraph.
9 Sec. 17. Section 805.8B, subsection 6, paragraph c, Code
10 2011, is amended to read as follows:
11 *c.* For violations of ~~section~~ sections 461A.35, 461A.42, and
12 461A.44, the scheduled fine is fifty dollars.
13 Sec. 18. REPEAL. Chapter 568, Code and Code Supplement
14 2011, is repealed.
15 EXPLANATION
16 This bill relates to various recreation and conservation
17 activities under the purview of the department of natural
18 resources, provides for repeals, and makes penalties
19 applicable.
20 Code section 461A.35 is amended to provide that a person who
21 commits certain destructive acts on state parks, preserves,
22 or other lands or waters under the control of the natural
23 resource commission commits a simple misdemeanor, punishable
24 as a scheduled violation with a fine of $50 pursuant to Code
25 section 805.8B(6)(c). Currently, such an offense is punishable
26 as a simple misdemeanor.
27 Code section 461A.42(2) is amended to provide that a
28 person who violates prohibitions against the use of firearms,
29 explosives, weapons, and fireworks in state parks and
30 preserves commits a simple misdemeanor, punishable as a
31 scheduled violation with a fine of $50 pursuant to Code
32 section 805.8B(6)(c). Currently, a violation of the weapon and
33 firearms prohibitions is punishable as a simple misdemeanor.
34 A violation of the fireworks prohibition is punishable
35 as a simple misdemeanor with a minimum fine of $250 and a

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1 requirement of restitution if any damages were caused by the
2 violation, which may include but is not limited to community
3 service.
4 Code section 461A.57 is amended to coordinate with the
5 changes to 461A.35 and 461A.42.
6 Code section 481A.1(7) is amended to remove mussels from the
7 definition of bait.
8 Code section 481A.6A(1) is amended to specify that a
9 "pen-reared pheasant" that can be obtained by owners or tenants
10 of land from a hatchery and raised or released on that person's
11 land includes only a Chinese ring-necked pheasant and does not
12 include other specified types of pheasants.
13 New Code section 481A.17 authorizes the department to
14 establish a target shooting sports program to promote
15 recreational target shooting sports and to adopt rules to
16 achieve the specified purposes of the program.
17 Code section 481A.142 is amended to provide that a holder of
18 an aquaculture unit license cannot sell clams as bait.
19 Code section 481A.144 is amended to provide that a licensed
20 bait dealer cannot sell mussels for fish bait.
21 Code section 482.2 is amended to provide that a licensed
22 commercial fisher is not allowed to barter or trade turtles
23 or turtle eggs, a licensed commercial roe harvester is not
24 allowed to barter or trade roe and roe species, and a licensed
25 commercial turtle harvester is not allowed to barter or trade
26 commercial turtles or turtle eggs.
27 Code section 482.4(3) is amended to require commercial
28 fishers and commercial turtle harvesters to provide and
29 affix weather-resistant gear tags to each piece of gear in
30 use instead of purchasing the tags from the natural resource
31 commission. Each gear tag must plainly show the name, address,
32 and commercial license number of the licensee and whether the
33 gear is fish or turtle gear.
34 Code section 482.4(4) providing that all numbered fish gear
35 tags are interchangeable among the different types of gear is

H.F. _____

1 stricken.
2 Code section 482.4(6) and (7) are amended to delete fees for
3 gear tags required on the specified units of commercial gear.
4 Code section 482.11(1)(a) is amended by deleting language
5 indicating that a commercial turtle harvester licensee
6 can barter or trade commercial turtles or turtle eggs. A
7 coordinating amendment is made in Code section 482.14(3).
8 Code section 483A.1(2)(s) providing for the sale of a
9 falconry license to nonresidents is stricken.
10 Code chapter 568, which authorizes the sale of certain
11 islands and abandoned river channels, is repealed.

House Study Bill 617 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
NATURAL RESOURCES BILL BY
CHAIRPERSON RAYHONS)

A BILL FOR

1 An Act relating to the issuance of hunting and fishing licenses
2 and providing for fees.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5226HC (1) 84
av/nh

H.F. _____

1 Section 1. Section 481A.72, Code 2011, is amended to read
2 as follows:
3 **481A.72 Hooks and lines.**
4 1. A person shall not at any time take from the waters
5 of the state any fish, except as otherwise provided in this
6 chapter, except with hook, line, and bait, nor shall a person
7 use more than ~~two~~ three lines nor more than two hooks on each
8 line in still fishing or trolling, and in fly fishing not more
9 than two flies may be used on one line, and in trolling and bait
10 casting not more than two trolling spoons or artificial bait
11 may be used on one line.
12 2. A person shall not leave fish line or lines and hooks in
13 the water unattended by being out of visual sight of the lines
14 and hooks.
15 3. One hook means a single, double, or treble pointed hook,
16 and all hooks attached as a part of an artificial bait or lure
17 shall be counted as one hook.
18 Sec. 2. Section 483A.1, Code 2011, is amended to read as
19 follows:
20 **483A.1 Licenses — fees.**
21 Except as otherwise provided in this chapter, a person
22 shall not fish, trap, hunt, pursue, catch, kill, take in any
23 manner, use, have possession of, sell, or transport all or a
24 part of any wild animal, bird, game, or fish, the protection
25 and regulation of which is desirable for the conservation of
26 resources of the state, without first obtaining a license for
27 that purpose and the payment of a fee as follows:
28 1. Residents:
29 *a.* Fishing license, annual ..... $ 17.00
30 *b.* Fishing license, three-year ..... $ 51.00
31 *c.* Fishing license, seven-day ..... $ 11.50
32 *d.* Fishing license, one-day ..... $ 7.50
33 *e.* Third line fishing permit, annual ..... $ 10.00
34 ~~*b.*~~ *f.* Fishing license, lifetime, sixty-five
35 years or older ..... $ 50.50

H.F. _____

1 ~~e.~~ *g.* Hunting license, annual ..... $ 17.00
2 *h.* Hunting license, three-year, including
3 the wildlife habitat fees ..... $ 84.00
4 ~~d.~~ *i.* Hunting license, lifetime, sixty-five
5 years or older ..... $ 50.50
6 *j.* Combination hunting and fishing license,
7 including the wildlife habitat fee, annual ..... $ 60.00
8 ~~e.~~ *k.* Deer hunting license ..... $ 25.50
9 ~~f.~~ *l.* Wild turkey hunting license ..... $ 22.50
10 ~~g.~~ *m.* Fur harvester license, sixteen years
11 or older ..... $ 20.50
12 ~~h.~~ *n.* Fur harvester license, under sixteen
13 years of age ..... $ 5.50
14 ~~i.~~ *o.* Fur dealer license $225.50
15 ~~j.~~ *p.* Aquaculture unit license ..... $ 25.50
16 ~~k.~~ *q.* Retail bait dealer license ..... $ 30.50
17 ~~l. Fishing license, seven-day ..... $ 11.50~~
18 ~~m.~~ *r.* Trout fishing fee ..... $ 10.50
19 ~~n.~~ *s.* Game breeder license ..... $ 15.50
20 ~~o.~~ *t.* Taxidermy license ..... $ 15.50
21 ~~p.~~ *u.* Falconry license ..... $ 20.50
22 ~~q.~~ *v.* Wildlife habitat fee ..... $ 11.00
23 ~~r.~~ *w.* Migratory game bird fee ..... $ 8.00
24 ~~s. Fishing license, one-day ..... $ 7.50~~
25 ~~t.~~ *x.* Wholesale bait dealer license $125.00
26 ~~u.~~ *y.* Boundary waters sport trotline
27 license, annual ..... $ 20.50
28 2. Nonresidents:
29 *a.* Fishing license, annual ..... $ 39.00
30 *b.* Fishing license, seven-day ..... $ 30.00
31 *c.* Fishing license, three-day ..... $ 15.50
32 *d.* Fishing license, one-day ..... $ 8.50
33 *e.* Third line fishing permit, annual ..... $ 10.00
34 ~~c.~~ *f.* Hunting license, eighteen years of
35 age or older $110.00

H.F. _____

~~d.~~ g. Hunting license, under eighteen years of age ..... $ 30.00

~~e.~~ h. Deer hunting license, antlered or any sex deer $295.00

~~f.~~ i. Preference point issued under section 483A.7, subsection 3, paragraph "b", or section 483A.8, subsection 3, paragraph "e" ..... $ 50.00

~~g.~~ j. Deer hunting license, antlerless deer only, required with the purchase of an antlered or any sex deer hunting license $125.00

~~h.~~ k. Deer hunting license, antlerless deer only $225.00

~~i.~~ l. Holiday deer hunting license issued under section 483A.8, subsection 6, antlerless deer only ..... $ 75.00

~~j.~~ m. Wild turkey hunting license $100.00

~~k.~~ n. Fur harvester license $200.00

~~l.~~ o. Fur dealer license $501.00

~~m.~~ p. Location permit for fur dealers ..... $ 56.00

~~n.~~ q. Aquaculture unit license ..... $ 56.00

~~o.~~ r. Retail bait dealer license ~~or the~~ .... $125.00 or the amount for the same type of license in the nonresident's state, is greater

s. Wholesale bait dealer license ..... $250.00 or the amount for the same type of license in the nonresident's state, whichever is greater

~~p.~~ t. Trout fishing fee ..... $ 13.00

~~q.~~ u. Game breeder license ..... $ 26.00

~~r.~~ v. Taxidermy license ..... $ 26.00

~~s.~~ w. Falconry license ..... $ 26.00

~~t.~~ x. Wildlife habitat fee ..... $ 11.00

H.F. _____

1 ~~*u.*~~ *y.* Migratory game bird fee ..... $ 8.00
2 ~~*v. Fishing license, three-day* ..... $ 15.50~~
3 ~~*w. Wholesale bait dealer license* ..... $250.00~~
4 ~~or the amount for the same type of~~
5 ~~license in the nonresident's state,~~
6 ~~whichever is greater~~
7 ~~*x. Fishing license, one-day* ..... $ 8.50~~
8 ~~*y.*~~ *z.* Boundary waters sport trotline
9 license, annual ..... $ 40.50
10 Sec. 3. Section 483A.3, Code 2011, is amended by adding the
11 following new subsection:
12 NEW SUBSECTION. 1A. A three-year hunting license purchased
13 pursuant to section 483A.1, subsection 1, paragraph *"h"*,
14 includes the payment of a wildlife habitat fee for each of the
15 three years for which the license is valid and those fees shall
16 be used as provided in this section.
17 Sec. 4. Section 483A.3A, Code 2011, is amended to read as
18 follows:
19 **483A.3A Fish habitat development funding.**
20 Three dollars from each resident and nonresident annual and
21 seven-day fishing license and nine dollars from each resident
22 three-year fishing license sold shall be deposited in the
23 state fish and game protection fund and shall be used within
24 this state for fish habitat development. Not less than fifty
25 percent of this amount shall be used by the commission to enter
26 into agreements with county conservation boards to carry out
27 the purposes of this section.
28 Sec. 5. Section 483A.7, subsection 3, paragraph b, Code
29 2011, is amended to read as follows:
30 *b.* The commission shall assign one preference point to a
31 nonresident whose application for a nonresident wild turkey
32 hunting license is denied due to limitations on the number
33 of nonresident wild turkey hunting licenses available for
34 issuance that year. An additional preference point shall be
35 assigned to that person each subsequent year the person's

H.F. _____

license application is denied for that reason. A nonresident may purchase additional preference points pursuant to section 483A.1, subsection 2, paragraph ~~"f"~~ "i". The first nonresident wild turkey hunting license drawing each year shall be made from the pool of applicants with the most preference points and continue to pools of applicants with successively fewer preference points until all available nonresident wild turkey hunting licenses have been issued. If a nonresident applicant receives a wild turkey hunting license, all of the applicant's assigned preference points at that time shall be removed.

Sec. 6. Section 483A.8, subsection 3, paragraphs b and e, Code Supplement 2011, are amended to read as follows:

b. A nonresident who purchases an antlered or any sex deer hunting license pursuant to section 483A.1, subsection 2, paragraph ~~"e"~~ "h", is required to purchase an antlerless deer only deer hunting license at the same time, pursuant to section 483A.1, subsection 2, paragraph ~~"g"~~ "j".

e. The commission shall assign one preference point to a nonresident whose application for a nonresident antlered or any sex deer hunting license is denied due to limitations on the number of nonresident antlered or any sex deer hunting licenses available for issuance that year. An additional preference point shall be assigned to that person each subsequent year the person's license application is denied for that reason. A nonresident may purchase additional preference points pursuant to section 483A.1, subsection 2, paragraph ~~"f"~~ "i". The first nonresident antlered or any sex deer hunting license drawing each year shall be made from the pool of applicants with the most preference points and continue to pools of applicants with successively fewer preference points until all available nonresident antlered or any sex deer hunting licenses have been issued. If a nonresident applicant receives an antlered or any sex deer hunting license, all of the applicant's assigned preference points at that time shall be removed.

Sec. 7. Section 483A.9A, Code 2011, is amended by adding the

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following new subsection:

NEW SUBSECTION. 3. The commission shall offer to residents a combination package of an annual fishing license and an annual hunting license, as provided in section 483A.1, subsection 1, the cost of which includes the wildlife habitat fee and a one-year subscription to a magazine about Iowa's natural resources.

Sec. 8. Section 483A.17, Code 2011, is amended to read as follows:

483A.17 Tenure of license.

Every license, except as otherwise provided in this chapter, is valid from the date issued to January 10 of the succeeding calendar year for which it is issued. A license shall not be issued prior to December 15 for the subsequent calendar year except for a three-year fishing license or a three-year hunting license issued to a resident pursuant to section 483A.1, subsection 1.

Sec. 9. Section 483A.28, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Any person who is issued a valid fishing license pursuant to this chapter may fish with a third line as provided in section 481A.72 only upon the annual purchase of a third line fishing permit as provided in section 483A.1.

EXPLANATION

This bill relates to the issuance of hunting and fishing licenses.

Code section 481A.72 is amended to allow a person to use three instead of two lines while fishing. Code section 483A.1 is amended to provide for the annual purchase of a third line fishing permit costing $10 by a resident or nonresident fisher. Code section 483A.28 is amended to provide that a person who fishes with a third line must annually purchase a third line fishing permit.

Code section 483A.1 is also amended to provide for three new license options for residents. A new three-year fishing

H.F. _____

1 license is available for residents at a cost of $51. Code
2 section 483A.3A is amended to specify that $9 from each
3 three-year fishing license must be used for fish habitat
4 development.
5 A new three-year hunting license, including the wildlife
6 habitat fees, is available for $84. Code section 483A.3 is
7 amended to specify that of the $84 for this license, $33 is
8 allocated to wildlife habitat fees.
9 A new annual combination hunting and fishing license,
10 including the wildlife habitat fee, is available for $60. Code
11 section 483A.9A specifies that the package includes an annual
12 fishing license, an annual hunting license, payment of the
13 wildlife habitat fee, and a one-year subscription to a magazine
14 about Iowa's natural resources.
15 Code section 483A.17 is amended to specify that a three-year
16 fishing license or a three-year hunting license is not subject
17 to the requirement that a license cannot be issued prior to
18 December 15 for the subsequent year.
19 Technical changes are also made to Code section 483A.1 to
20 group similar types of licenses together. Conforming changes
21 were made in Code sections 483A.7 and 483A.8.

House Study Bill 618 - Introduced

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

A BILL FOR

1 An Act relating to the assessment of moneys on sheep and wool
2 production.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5539YC (2) 84
da/rj

H.F. _____

1 Section 1. Section 182.14, subsection 1, Code 2011, is
2 amended to read as follows:
3 1. If approved by a majority of voters at a referendum, an
4 assessment shall be set by the board at not more than two cents
5 for each pound of wool produced and sold by a producer and not
6 more than ~~ten~~ fifty cents per head on sheep sold by a producer.
7 EXPLANATION
8 Current law provides for an assessment (a so-called
9 checkoff) on the sale of sheep and wool to first purchasers.
10 The assessment is ultimately expended by the Iowa sheep and
11 wool promotion board for purposes of promoting the marketing
12 of sheep and wool and to provide for related education and
13 research programs. The board operates and the checkoff is
14 imposed pursuant to a referendum approved by sheep and wool
15 producers.
16 This bill increases the maximum amount of the checkoff rate
17 on the sale of each head of sheep from 10 cents to 50 cents.

House Study Bill 619 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ANDERSON)

A BILL FOR

1 An Act amending provisions in the uniform commercial code
2 relating to secured transactions, and including effective
3 date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5461YC (5) 84
da/rj

H.F. _____

Section 1. Section 554.9102, subsection 1, paragraph g, subparagraph (2), Code 2011, is amended to read as follows:

(2) ~~to execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part,~~ with ~~the~~ present intent ~~of the authenticating person to identify the person and adopt or accept a record~~ to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol, or process.

Sec. 2. Section 554.9102, subsection 1, paragraphs j, ax, and br, Code 2011, are amended to read as follows:

j. "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

ax. "Jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is formed or organized.

br. "Registered organization" means an organization formed or organized solely under the law of a single state or the United States ~~and as to which the state or the United States must maintain a public record showing the organization to have been organized~~ by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by the state or the United States. The term includes a business trust that is formed under the law of a single state if a statute of the state governing business trusts requires that the business trust's organic record be

H.F. _____

1 filed with the state.
2 Sec. 3. Section 554.9102, subsection 1, Code 2011, is
3 amended by adding the following new paragraph:
4 NEW PARAGRAPH. *Obp. "Public organic record"* means a record
5 that is available to the public for inspection and is:
6 (1) a record consisting of the record initially filed with
7 or issued by a state or the United States to form or organize
8 an organization and any record filed with or issued by the
9 state or the United States which amends or restates the initial
10 record;
11 (2) an organic record of a business trust consisting of
12 the record initially filed with a state and any record filed
13 with the state which amends or restates the initial record, if
14 a statute of the state governing business trusts requires that
15 the record be filed with the state; or
16 (3) a record consisting of legislation enacted by the
17 legislature of a state or the Congress of the United States
18 which forms or organizes an organization, any record amending
19 the legislation, and any record filed with or issued by the
20 state or the United States which amends or restates the name of
21 the organization.
22 Sec. 4. Section 554.9105, Code 2011, is amended to read as
23 follows:
24 **554.9105 Control of electronic chattel paper.**
25 1. *General rule: control of electronic chattel paper.* A
26 secured party has control of electronic chattel paper if a
27 system employed for evidencing the transfer of interests in the
28 chattel paper reliably establishes the secured party as the
29 person to which the chattel paper was assigned.
30 2. *Specific facts giving control.* A system satisfies
31 subsection 1 if the record or records comprising the chattel
32 paper are created, stored, and assigned in such a manner that:
33 ~~1.~~ *a.* a single authoritative copy of the record or records
34 exists which is unique, identifiable and, except as otherwise
35 provided in ~~subsections 4, 5, and 6~~ paragraphs *"d"*, *"e"*, and

H.F. _____

"*f*", unalterable;

~~2.~~ *b.* the authoritative copy identifies the secured party as the assignee of the record or records;

~~3.~~ *c.* the authoritative copy is communicated to and maintained by the secured party or its designated custodian;

~~4.~~ *d.* copies or ~~revisions~~ amendments that add or change an identified assignee of the authoritative copy can be made only with the ~~participation~~ consent of the secured party;

~~5.~~ *e.* each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

~~6.~~ *f.* any ~~revision~~ amendment of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

Sec. 5. Section 554.9307, subsection 6, paragraph b, Code 2011, is amended to read as follows:

b. in the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location, including by designating its main office, home office, or other comparable office; or

Sec. 6. Section 554.9311, subsection 1, paragraphs b and c, Code 2011, are amended to read as follows:

b. any certificate-of-title statute, including as provided in chapter 321, covering automobiles, trailers, mobile homes, boats, farm tractors, or the like, which provides for a security interest to be indicated on ~~the~~ a certificate of title as a condition or result of perfection; or

c. a ~~certificate-of-title~~ statute of another jurisdiction which provides for a security interest to be indicated on ~~the~~ a certificate of title as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

Sec. 7. Section 554.9316, Code 2011, is amended by adding the following new subsections:

NEW SUBSECTION. 8. *Effect on filed financing statement*

H.F. _____

1 *of change in governing law.* The following rules apply to
2 collateral to which a security interest attaches within
3 four months after the debtor changes its location to another
4 jurisdiction:
5 *a.* A financing statement filed before the change pursuant
6 to the law of the jurisdiction designated in section 554.9301,
7 subsection 1, or section 554.9305, subsection 3, is effective
8 to perfect a security interest in the collateral if the
9 financing statement would have been effective to perfect a
10 security interest in the collateral had the debtor not changed
11 its location.
12 *b.* If a security interest perfected by a financing statement
13 that is effective under paragraph *"a"* becomes perfected under
14 the law of the other jurisdiction before the earlier of the
15 time the financing statement would have become ineffective
16 under the law of the jurisdiction designated in section
17 554.9301, subsection 1, or section 554.9305, subsection 3, or
18 the expiration of the four-month period, it remains perfected
19 thereafter. If the security interest does not become perfected
20 under the law of the other jurisdiction before the earlier time
21 or event, it becomes unperfected and is deemed never to have
22 been perfected as against a purchaser of the collateral for
23 value.
24 NEW SUBSECTION. 9. *Effect of change in governing law*
25 *on financing statement filed against original debtor.* If a
26 financing statement naming an original debtor is filed pursuant
27 to the law of the jurisdiction designated in section 554.9301,
28 subsection 1, or section 554.9305, subsection 3, and the new
29 debtor is located in another jurisdiction, the following rules
30 apply:
31 *a.* The financing statement is effective to perfect a
32 security interest in collateral acquired by the new debtor
33 before, and within four months after, the new debtor becomes
34 bound under section 554.9203, subsection 4, if the financing
35 statement would have been effective to perfect a security

H.F. _____

1 interest in the collateral had the collateral been acquired by
2 the original debtor.
3 *b.* A security interest perfected by the financing statement
4 and which becomes perfected under the law of the other
5 jurisdiction before the earlier of the time the financing
6 statement would have become ineffective under the law of
7 the jurisdiction designated in section 554.9301, subsection
8 1, or section 554.9305, subsection 3, or the expiration
9 of the four-month period remains perfected thereafter. A
10 security interest that is perfected by the financing statement
11 but which does not become perfected under the law of the
12 other jurisdiction before the earlier time or event becomes
13 unperfected and is deemed never to have been perfected as
14 against a purchaser of the collateral for value.
15 Sec. 8. Section 554.9317, subsections 2 and 4, Code 2011,
16 are amended to read as follows:
17 2. *Buyers that receive delivery.* Except as otherwise
18 provided in subsection 5, a buyer, other than a secured
19 party, of tangible chattel paper, tangible documents, goods,
20 instruments, or a ~~security certificate~~ certificated security
21 takes free of a security interest or agricultural lien if the
22 buyer gives value and receives delivery of the collateral
23 without knowledge of the security interest or agricultural lien
24 and before it is perfected.
25 4. *Licensees and buyers of certain collateral.* A licensee of
26 a general intangible or a buyer, other than a secured party,
27 of ~~accounts, electronic chattel paper, electronic documents,~~
28 ~~general intangibles, or investment property~~ collateral other
29 than tangible chattel paper, tangible documents, goods,
30 instruments, or a certificated security takes free of a
31 security interest if the licensee or buyer gives value without
32 knowledge of the security interest and before it is perfected.
33 Sec. 9. Section 554.9326, Code 2011, is amended to read as
34 follows:
35 **554.9326 Priority of security interests created by new**

H.F. _____

debtor.

1. *Subordination of security interest created by new debtor.* Subject to subsection 2, a security interest that is created by a new debtor ~~which is~~ in collateral in which the new debtor has or acquires rights and is perfected solely by a filed financing statement that ~~is effective solely under section 554.9508 in collateral in which a new debtor has or acquires rights~~ would be ineffective to perfect the security interest but for the application of section 554.9316, subsection 9, paragraph *"a"*, or section 554.9508 is subordinate to a security interest in the same collateral which is perfected other than by such a filed financing statement ~~that is effective solely under section 554.9508~~.

2. *Priority under other provisions — multiple original debtors.* The other provisions of this part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements ~~that are effective solely under section 554.9508~~ described in subsection 1. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

Sec. 10. Section 554.9406, subsection 5, Code 2011, is amended to read as follows:

5. *Inapplicability of subsection 4 to certain sales.* Subsection 4 does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under section 554.9610 or an acceptance of collateral under section 554.9620.

Sec. 11. Section 554.9408, subsection 2, Code 2011, is amended to read as follows:

2. *Applicability of subsection 1 to sales of certain rights to payment.* Subsection 1 applies to a security interest in a payment intangible or promissory note only if the security

H.F. _____

interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under section 554.9610 or an acceptance of collateral under section 554.9620.

Sec. 12. Section 554.9502, subsection 3, paragraph c, Code 2011, is amended to read as follows:

c. the record satisfies the requirements for a financing statement in this section, ~~other than an indication~~ but:

(1) the record need not indicate that it is to be filed in the real property records; and

(2) the record sufficiently provides the name of a debtor who is an individual if it provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom section 554.9503, subsection 1, paragraph *"d"* applies; and

Sec. 13. Section 554.9503, subsection 1, paragraphs a through d, Code 2011, are amended to read as follows:

a. except as otherwise provided in paragraph *"c"*, if the debtor is a registered organization or if the collateral is held in a trust that is a registered organization, only if the financing statement provides the name ~~of the debtor indicated~~ that is stated to be the registered organization's name on the public organic record ~~of~~ most recently filed with or issued or enacted by the ~~debtor's~~ registered organization's jurisdiction of organization which ~~shows the debtor to have been organized~~ purports to state, amend, or restate the registered organization's name;

b. subject to subsection 6, if the ~~debtor is a decedent's estate~~ collateral is being administered by the personal representative of a decedent, only if the financing statement provides, as the name of the debtor, the name of the decedent and, in a separate part of the financing statement, indicates that the ~~debtor is an estate~~ collateral is being administered by a personal representative;

c. if the ~~debtor is a trust or a trustee acting with respect~~

H.F. _____

1 ~~to property held in trust, only if the financing statement~~
2 collateral is held in a trust that is not a registered
3 organization, only if the financing statement:
4 (1) provides as the name ~~specified for the trust in its~~
5 ~~organic documents or, if no name is specified, provides the~~
6 ~~name of the settlor and additional information sufficient to~~
7 ~~distinguish the debtor from other trusts having one or more of~~
8 ~~the same settlors; and~~ of the debtor:
9 (a) if the organic record of the trust specifies a name for
10 the trust, the name specified; or
11 (b) if the organic record of the trust does not specify a
12 name for the trust, the name of the settlor or testator; and
13 (2) ~~indicates, in the debtor's name or otherwise, that~~
14 ~~the debtor is a trust or is a trustee acting with respect to~~
15 ~~property held in trust; and~~ in a separate part of the financing
16 statement:
17 (a) if the name is provided in accordance with subparagraph
18 (1), subparagraph division (a), indicates that the collateral
19 is held in a trust; or
20 (b) if the name is provided in accordance with subparagraph
21 (1), subparagraph division (b), provides additional information
22 sufficient to distinguish the trust from other trusts having
23 one or more of the same settlors or the same testator and
24 indicates that the collateral is held in a trust, unless the
25 additional information so indicates;
26 *d.* subject to subsection 7, if the debtor is an individual
27 to whom this state has issued a driver's license under chapter
28 321 that has not expired, only if the financing statement
29 provides the name of the individual which is indicated on the
30 driver's license;
31 *e.* if the debtor is an individual to whom paragraph "*d*"
32 does not apply, only if the financing statement provides the
33 individual name of the debtor or the surname and first personal
34 name of the debtor; and
35 *f.* in other cases:

H.F. _____

(1) if the debtor has a name, only if ~~it~~ the financing statement provides the ~~individual or~~ organizational name of the debtor; and

(2) if the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor, in a manner that each name provided would be sufficient if the person named were the debtor.

Sec. 14. Section 554.9503, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. unless required under subsection 1, paragraph ~~"d"~~ *"f"*, subparagraph (2), names of partners, members, associates, or other persons comprising the debtor.

Sec. 15. Section 554.9503, Code 2011, is amended by adding the following new subsections:

NEW SUBSECTION. 6. *Name of decedent.* The name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the "name of the decedent" under subsection 1, paragraph *"b"*.

NEW SUBSECTION. 7. *Multiple driver's licenses.* If this state has issued to an individual more than one driver's license under chapter 321 of a kind described in subsection 1, paragraph *"d"*, the one that was issued most recently is the one to which subsection 1, paragraph *"d"* refers.

NEW SUBSECTION. 8. *Definition.* In this section, the *"name of the settlor or testator"* means:

a. if the settlor is a registered organization, the name that is stated to be the settlor's name on the public organic record most recently filed with or issued or enacted by the settlor's jurisdiction of organization which purports to state, amend, or restate the settlor's name; or

b. in other cases, the name of the settlor or testator indicated in the trust's organic record.

Sec. 16. Section 554.9507, subsection 3, Code 2011, is

H.F. _____

amended to read as follows:

3. *Change in debtor's name.* If ~~a debtor so changes its~~ the name that a filed financing statement provides for a debtor becomes insufficient as the name of the debtor under section 554.9503, subsection 1, so that the financing statement becomes seriously misleading under section 554.9506:

a. the financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four months after, the ~~change~~ filed financing statement becomes seriously misleading; and

b. the financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the ~~change~~ filed financing statement becomes seriously misleading, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four months after ~~the change~~ the financing statement became seriously misleading.

Sec. 17. Section 554.9515, subsection 6, Code 2011, is amended to read as follows:

6. *Transmitting utility financing statement.* If a debtor is a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed.

Sec. 18. Section 554.9516, subsection 2, paragraph c, subparagraph (2), unnumbered paragraph 1, Code 2011, is amended to read as follows:

in the case of an amendment or ~~correction~~ information statement, the record:

Sec. 19. Section 554.9516, subsection 2, paragraph c, subparagraph (3), Code 2011, is amended to read as follows:

(3) in the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not

H.F. _____

1 identify the debtor's ~~last name~~ surname; or
2 Sec. 20. Section 554.9516, subsection 2, paragraph e, Code
3 2011, is amended to read as follows:
4 *e.* in the case of an initial financing statement or an
5 amendment that provides a name of a debtor which was not
6 previously provided in the financing statement to which the
7 amendment relates, the record does not:
8 (1) provide a mailing address for the debtor; or
9 (2) indicate whether the name provided as the name of the
10 debtor is the name of an individual or an organization; ~~or~~
11 ~~(3) if the financing statement indicates that the debtor is~~
12 ~~an organization, provide:~~
13 ~~(a) a type of organization for the debtor;~~
14 ~~(b) a jurisdiction of organization for the debtor; or~~
15 ~~(c) an organizational identification number for the debtor~~
16 ~~or indicate that the debtor has none;~~
17 Sec. 21. Section 554.9518, Code 2011, is amended to read as
18 follows:
19 **554.9518 Claim concerning inaccurate or wrongfully filed**
20 **record.**
21 1. *~~Correction statement~~ Statement with respect to record*
22 *indexed under person's name.* A person may file in the filing
23 office ~~a correction~~ an information statement with respect to
24 a record indexed there under the person's name if the person
25 believes that the record is inaccurate or was wrongfully filed.
26 2. *~~Sufficiency~~ Contents of ~~correction~~ statement under*
27 *subsection 1.* ~~A correction~~ An information statement under
28 subsection 1 must:
29 *a.* identify the record to which it relates ~~by:~~
30 ~~(1)~~ by the file number assigned to the initial financing
31 statement to which the record relates; ~~and~~
32 ~~(2) if the correction statement relates to a record filed~~
33 ~~or recorded in a filing office described in section 554.9501,~~
34 ~~subsection 1, paragraph "a", the date and time that the initial~~
35 ~~financing statement was filed or recorded and the information~~

H.F. _____

~~specified in section 554.9502, subsection 2;~~

b. indicate that it is a ~~correction~~ an information statement; and

c. provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

3. *Statement by secured party of record.* A person may file in the filing office an information statement with respect to a record filed there if the person is a secured party of record with respect to the financing statement to which the record relates and believes that the person that filed the record was not entitled to do so under section 554.9509, subsection 4.

4. *Contents of statement under subsection 3.* An information statement under subsection 3 must:

a. identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;

b. indicate that it is an information statement; and

c. provide the basis for the person's belief that the person that filed the record was not entitled to do so under section 554.9509, subsection 4.

~~3.~~ 5. *Record not affected by ~~correction~~ information statement.* The filing of ~~a correction~~ an information statement does not affect the effectiveness of an initial financing statement or other filed record.

Sec. 22. Section 554.9607, subsection 2, paragraph b, subparagraph (1), Code 2011, is amended to read as follows:

(1) a default has occurred with respect to the obligation secured by the mortgage; and

Sec. 23. Section 554.9625, subsection 3, Code 2011, is amended to read as follows:

3. *Persons entitled to recover damages — statutory damages ~~in consumer-goods transaction~~ if collateral is consumer*

H.F. _____

1 *goods.* Except as otherwise provided in section 554.9628:
2 *a.* a person that, at the time of the failure, was a debtor,
3 was an obligor, or held a security interest in or other lien
4 on the collateral may recover damages under subsection 2 for
5 its loss; and
6 *b.* if the collateral is consumer goods, a person that was
7 a debtor or a secondary obligor at the time a secured party
8 failed to comply with this part may recover for that failure
9 in any event an amount not less than the credit service charge
10 plus ten percent of the principal amount of the obligation or
11 the time-price differential plus ten percent of the cash price.
12 Sec. 24. NEW SECTION. **554.9801 Effective date.** The
13 amendments to this Article, as enacted in this Act, take effect
14 on July 1, 2013.
15 Sec. 25. NEW SECTION. **554.9802 Savings clause.**
16 1. *Pre-effective-date transactions or liens.* Except
17 as otherwise provided in this part, this Act applies to a
18 transaction or lien within its scope, even if the transaction
19 or lien was entered into or created before July 1, 2013.
20 2. *Pre-effective date proceedings.* This Act does not affect
21 an action, case, or proceeding commenced before July 1, 2013.
22 Sec. 26. NEW SECTION. **554.9803 Security interest perfected**
23 **before effective date.**
24 1. *Continuing perfection: perfection requirements*
25 *satisfied.* A security interest that is a perfected security
26 interest immediately before July 1, 2013, is a perfected
27 security interest under this Article, as amended by this Act,
28 if on July 1, 2013, the applicable requirements for attachment
29 and perfection under this Article, as amended by this Act, are
30 satisfied without further action.
31 2. *Continuing perfection: perfection requirements not*
32 *satisfied.* Except as otherwise provided in section 554.9805,
33 if immediately before July 1, 2013, a security interest is a
34 perfected security interest, but the applicable requirements
35 for perfection under this Article, as amended by this Act, are

H.F. _____

1 not satisfied on July 1, 2013, the security interest remains
2 perfected thereafter only if the applicable requirements for
3 perfection under this Article, as amended by this Act, are
4 satisfied within one year after July 1, 2013.
5 Sec. 27. NEW SECTION. **554.9804 Security interest**
6 **unperfected before effective date.**
7 A security interest that is an unperfected security interest
8 immediately before July 1, 2013, becomes a perfected security
9 interest:
10 1. without further action, on July 1, 2013, if the
11 applicable requirements for perfection under this Article, as
12 amended by this Act, are satisfied before or on July 1, 2013;
13 or
14 2. when the applicable requirements for perfection are
15 satisfied if the requirements are satisfied after July 1, 2013.
16 Sec. 28. NEW SECTION. **554.9805 Effectiveness of action**
17 **taken before effective date.**
18 1. *Pre-effective-date filing effective.* The filing of
19 a financing statement before July 1, 2013, is effective to
20 perfect a security interest to the extent the filing would
21 satisfy the applicable requirements for perfection under this
22 Article, as amended by this Act.
23 2. *When pre-effective-date filing becomes ineffective.* This
24 Act does not render ineffective an effective financing
25 statement that, before July 1, 2013, is filed and satisfies
26 the applicable requirements for perfection under the law of
27 the jurisdiction governing perfection as provided in this
28 Article, as it existed before July 1, 2013. However, except as
29 otherwise provided in subsections 3 and 4 and section 554.9806,
30 the financing statement ceases to be effective:
31 *a.* if the financing statement is filed in this state, at the
32 time the financing statement would have ceased to be effective
33 had this Act not taken effect; or
34 *b.* if the financing statement is filed in another
35 jurisdiction, at the earlier of:

H.F. _____

1 (1) the time the financing statement would have ceased to be
2 effective under the law of that jurisdiction; or
3 (2) June 30, 2018.
4 3. *Continuation statement.* The filing of a continuation
5 statement on or after July 1, 2013, does not continue the
6 effectiveness of a financing statement filed before July 1,
7 2013. However, upon the timely filing of a continuation
8 statement on or after July 1, 2013, and in accordance with
9 the law of the jurisdiction governing perfection as provided
10 in this Article, as amended by this Act, the effectiveness
11 of a financing statement filed in the same office in that
12 jurisdiction before July 1, 2013, continues for the period
13 provided by the law of that jurisdiction.
14 4. *Application of subsection 2, paragraph "b", subparagraph*
15 *(2) to transmitting utility financing statement.* Subsection
16 2, paragraph *"b"*, subparagraph (2) applies to a financing
17 statement that, before July 1, 2013, is filed against a
18 transmitting utility and satisfies the applicable requirements
19 for perfection under the law of the jurisdiction governing
20 perfection as provided in this Article, as it existed before
21 July 1, 2013, only to the extent that this Article, as amended
22 by this Act, provides that the law of a jurisdiction other than
23 the jurisdiction in which the financing statement is filed
24 governs perfection of a security interest in collateral covered
25 by the financing statement.
26 5. *Application of Part 5.* A financing statement that
27 includes a financing statement filed before July 1, 2013,
28 and a continuation statement filed on or after July 1,
29 2013, is effective only to the extent that the financing
30 statement satisfies the requirements of Part 5, as amended by
31 this Act, for an initial financing statement. A financing
32 statement that indicates that the debtor is a decedent's
33 estate indicates that the collateral is being administered
34 by a personal representative within the meaning of section
35 554.9503, subsection 1, paragraph *"b"*, as amended by this Act.

H.F. _____

1 A financing statement that indicates that the debtor is a trust
2 or is a trustee acting with respect to property held in trust
3 indicates that the collateral is held in a trust within the
4 meaning of section 554.9503, subsection 1, paragraph *"c"*, as
5 amended by this Act.
6 Sec. 29. NEW SECTION. **554.9806 When initial financing**
7 **statement suffices to continue effectiveness of financing**
8 **statement.**
9 1. *Initial financing statement in lieu of continuation*
10 *statement.* The filing of an initial financing statement
11 in the office specified in section 554.9501 continues the
12 effectiveness of a financing statement filed before July 1,
13 2013, if:
14 *a.* the filing of an initial financing statement in that
15 office would be effective to perfect a security interest under
16 this Article, as amended by this Act;
17 *b.* the pre-effective-date financing statement was filed in
18 an office in another state; and
19 *c.* the initial financing statement satisfies subsection 3.
20 2. *Period of continued effectiveness.* The filing of an
21 initial financing statement under subsection 1 continues the
22 effectiveness of the pre-effective-date financing statement:
23 *a.* if the initial financing statement is filed before
24 July 1, 2013, for the period provided in section 554.9515, as
25 it existed before July 1, 2013, with respect to an initial
26 financing statement; and
27 *b.* if the initial financing statement is filed on or after
28 July 1, 2013, for the period provided in section 554.9515,
29 as amended by this Act, with respect to an initial financing
30 statement.
31 3. *Requirements for initial financing statement under*
32 *subsection 1.* To be effective for purposes of subsection 1, an
33 initial financing statement must:
34 *a.* satisfy the requirements of Part 5, as amended by this
35 Act, for an initial financing statement;

H.F. _____

1 *b.* identify the pre-effective-date financing statement by
2 indicating the office in which the financing statement was
3 filed and providing the dates of filing and file numbers,
4 if any, of the financing statement and of the most recent
5 continuation statement filed with respect to the financing
6 statement; and
7 *c.* indicate that the pre-effective-date financing statement
8 remains effective.
9 Sec. 30. NEW SECTION. **554.9807 Amendment of**
10 **pre-effective-date financing statement.**
11 1. *"Pre-effective-date financing statement".* In this
12 section, *"pre-effective-date financing statement"* means a
13 financing statement filed before July 1, 2013.
14 2. *Applicable law.* On or after July 1, 2013, a person may
15 add or delete collateral covered by, continue or terminate the
16 effectiveness of, or otherwise amend the information provided
17 in, a pre-effective-date financing statement only in accordance
18 with the law of the jurisdiction governing perfection as
19 provided in this Article, as amended by this Act. However,
20 the effectiveness of a pre-effective-date financing statement
21 also may be terminated in accordance with the law of the
22 jurisdiction in which the financing statement is filed.
23 3. *Method of amending: general rule.* Except as otherwise
24 provided in subsection 4, if the law of this state governs
25 perfection of a security interest, the information in a
26 pre-effective-date financing statement may be amended on or
27 after July 1, 2013, only if:
28 *a.* the pre-effective-date financing statement and an
29 amendment are filed in the office specified in section
30 554.9501;
31 *b.* an amendment is filed in the office specified in section
32 554.9501 concurrently with, or after the filing in that office
33 of, an initial financing statement that satisfies section
34 554.9806, subsection 3; or
35 *c.* an initial financing statement that provides the

H.F. _____

1 information as amended and satisfies section 554.9806,
2 subsection 3, is filed in the office specified in section
3 554.9501.
4 4. *Method of amending: continuation.* If the law of
5 this state governs perfection of a security interest, the
6 effectiveness of a pre-effective-date financing statement may
7 be continued only under section 554.9805, subsections 3 and 5,
8 or section 554.9806.
9 5. *Method of amending: additional termination rule.* Whether
10 or not the law of this state governs perfection of a security
11 interest, the effectiveness of a pre-effective-date financing
12 statement filed in this state may be terminated on or after
13 July 1, 2013, by filing a termination statement in the office
14 in which the pre-effective-date financing statement is filed,
15 unless an initial financing statement that satisfies section
16 554.9806, subsection 3, has been filed in the office specified
17 by the law of the jurisdiction governing perfection as provided
18 in this Article, as amended by this Act, as the office in which
19 to file a financing statement.
20 Sec. 31. NEW SECTION. **554.9808 Person entitled to file**
21 **initial financing statement or continuation statement.**
22 A person may file an initial financing statement or a
23 continuation statement under this part if:
24 1. the secured party of record authorizes the filing; and
25 2. the filing is necessary under this part:
26 *a.* to continue the effectiveness of a financing statement
27 filed before July 1, 2013; or
28 *b.* to perfect or continue the perfection of a security
29 interest.
30 Sec. 32. NEW SECTION. **554.9809 Priority.**
31 This Act determines the priority of conflicting claims to
32 collateral. However, if the relative priorities of the claims
33 were established before July 1, 2013, this Article, as it
34 existed before July 1, 2013, determines priority.
35 Sec. 33. CODE EDITOR DIRECTIVE. Section 554.9316, Code

H.F. _____

1 2011, is amended by striking from the headnote the words
2 "Continued perfection of security interest following change in
3 governing law." and inserting in lieu thereof the words "Effect
4 of change in governing law."
5 Sec. 34. REPEAL. Sections 554.9701 through 554.9710, Code
6 2011, are repealed effective July 1, 2017.
7 Sec. 35. REPEAL. Sections 554.9801 through 554.9809 are
8 repealed effective July 1, 2017.
9 Sec. 36. GENERAL SAVINGS PROVISION. The repeals of sections
10 554.9701 through 554.9710, and sections 554.9801 through
11 554.9809 in this Act are subject to the application of section
12 4.13, relating to general savings provisions.
13 Sec. 37. EFFECTIVE DATE. This Act takes effect July 1,
14 2013.
15 EXPLANATION
16 BACKGROUND. This bill makes changes in Article 9 of
17 the Uniform Commercial Code (UCC). Generally, Article 9
18 regulates transactions involving the collateralization of
19 debt in personal property and provides rights to competing
20 creditors. It allows a creditor to take a lien (a security
21 interest) in the collateral with the possibility of enforcing
22 the lien if the debtor defaults upon a contractual obligation.
23 The Article includes detailed requirements relating to the
24 creation and perfection of the creditor's security interest in
25 the collateral, and the right to acquire priority over other
26 creditors (e.g., by filing a financing statement with the
27 secretary of state, possessing or controlling the property, or
28 acquiring some form of automatic attachment), and for taking
29 legal action to satisfy the debt by acquiring the collateral or
30 rights to property associated with the contract.
31 BACKGROUND — MODEL ACT. Iowa's version of the UCC is
32 codified in Code chapter 554 based on a model Act drafted and
33 recommended, in association with the American law institute, by
34 the national conference of commissioners on uniform state laws
35 (NCCUSL), also known as the uniform law commission (ULC), which

H.F. _____

1 includes Iowa members appointed by the governor (Code chapter
2 5). In 2000, the general assembly substantially amended
3 Article 9 in conformance with the NCCUSL's 1998 recommended
4 revisions (2000 Iowa Acts, ch. 1149). This bill provides for
5 further revisions to the revised Article 9 again as recommended
6 by the NCCUSL.
7 GENERAL PROVISIONS — DEFINITIONS (CODE SECTION 554.9102).
8 The bill changes definitional provisions, including terms
9 related to records produced or stored in an electronic format
10 including the authentication of records and certificates of
11 title.
12 DEFINITIONS — AUTHENTICATION. The bill amends the
13 definition of "authenticate" to include attaching or logically
14 associating an electronic sound, symbol, or process with a
15 record.
16 DEFINITIONS — CERTIFICATE OF TITLE. The law defines
17 "record" as information inscribed on a tangible medium or
18 stored in an electronic or other medium that can be retrieved
19 in a perceivable form. The bill amends the definition of
20 "certificate of title" to include a record maintained as an
21 alternative to a certificate of title by the issuing government
22 unit.
23 DEFINITIONS — PUBLIC ORGANIC RECORD. The bill creates a
24 new definition for a "public organic record" to mean one of
25 three items: (1) a record available for public inspection that
26 is initially filed with or issued by a state or the federal
27 government to form an organization; (2) an organic record of
28 a business trust initially filed with a state or which amends
29 that record; or (3) a record consisting of federal or state
30 legislation that forms an organization.
31 DEFINITIONS — REGISTERED ORGANIZATION. Under current law,
32 a "registered organization" is formed solely under state or
33 federal law for which the state or federal government must
34 maintain a public record. The bill provides that a registered
35 organization is formed in one of three ways: (1) by filing

H.F. _____

1 a public organic record under state or federal law, (2) the
2 issuance of a public organic record by a state or the federal
3 government, or (3) pursuant to state or federal legislation.
4 The bill specifies that this expressly includes a business
5 trust (e.g., a so-called Massachusetts business trust) formed
6 under a state law that requires public organic records to be
7 filed with the state (e.g., secretary of state).
8 ELECTRONIC CHATTEL PAPER (CODE SECTION 554.9105). A
9 chattel paper transaction involves a written agreement in
10 which a seller or lessor transfers possession and control of
11 property to another while retaining a security interest or
12 lease interest in the property. The writing evidencing the
13 debt constitutes chattel paper. Under current law, a security
14 interest is perfected by control of the paper, and the UCC
15 sets forth a six-factor test to determine if a secured party
16 has control of electronic chattel paper. The bill retains the
17 six-factor test but allows a secured party to establish control
18 by using a system that reliably establishes the secured party
19 as the person to whom the chattel paper was assigned.
20 PERFECTION AND PRIORITY — LOCATION OF A DEBTOR (CODE
21 SECTION 554.9307). This provision applies to either a
22 registered organization formed under the laws of the United
23 States or a branch or agency of a bank that is not organized
24 under the law of the United States or a state. A registered
25 organization can designate its state of location in a manner
26 described in federal law. The bill provides that when
27 referenced in federal law, a registered organization's "main
28 office" or "home office" means the organization's location (for
29 purposes of filing a financing statement).
30 PERFECTION AND PRIORITY — PERFECTION OF SECURITY INTEREST
31 IN PROPERTY (CODE SECTION 554.9311). The bill makes changes to
32 conform with the bill's revised definition of "certificate of
33 title" (See Code section 554.9101 as amended in the bill).
34 PERFECTION AND PRIORITY — EFFECT OF CHANGE IN GOVERNING
35 LAW (CODE SECTION 554.9316). The bill provides protection

H.F. _____

1 for a secured party whose security interest in after-acquired
2 property would become unperfected if the debtor relocated to
3 another jurisdiction (e.g., state). Under current law, by
4 comparison, a security interest that attached to collateral
5 prior to a debtor's move to another jurisdiction remains
6 perfected for four months after the move. The four-month
7 grace period is limited to collateral in which the security
8 party's interest was perfected at the time that the debtor's
9 location changed. The bill adds the same grace period for
10 the after-acquired property. It provides that the security
11 interest attaches within the four-month period if the secured
12 party does whatever would have been necessary to perfect the
13 security interest in the original jurisdiction. The collateral
14 remains perfected for the four-month period. The secured party
15 may continue perfection beyond the four-month period by filing
16 a financing statement or otherwise perfecting under the law
17 of the new jurisdiction. Similarly, the rule applies to a
18 security interest in after-acquired property if a new debtor
19 becomes bound by the original debtor's security agreement and
20 the new debtor is located in a different jurisdiction from the
21 jurisdiction in which the original debtor was located.
22 PERFECTION AND PRIORITY — INTERESTS THAT TAKE PRIORITY OVER
23 OR TAKE FREE OF SECURITY INTERESTS (CODE SECTION 554.9317).
24 Currently, a licensee of general intangible property or a buyer
25 (other than a secured party) takes free of a security interest
26 if the licensee or buyer gives value without knowledge of a
27 security interest before the security interest is perfected.
28 The bill strikes the list of types of property subject to this
29 exclusion (accounts, electronic chattel paper, electronic
30 documents, general intangibles, or investment property other
31 than a certificated security) and provides that the licensee
32 or buyer takes free of an unperfected security in collateral
33 other than tangible chattel paper, tangible documents, goods,
34 instruments, or a certificated security.
35 PERFECTION AND PRIORITY — PRIORITY OF SECURITY INTERESTS

H.F. _____

1 CREATED BY A NEW DEBTOR (CODE SECTION 554.9326). The current
2 law provides for contests involving priority that may arise
3 when a new debtor becomes bound by a security agreement of an
4 original debtor and each debtor has a secured creditor. The
5 bill makes changes to correspond to a change made in the bill
6 to Code section 554.9316. It provides for the subordinate
7 position of a secured party who has a security interest in the
8 original debtor's collateral and who has filed a financing
9 statement against the new debtor in a different jurisdiction,
10 but the financing statement would not otherwise be sufficient
11 to obtain priority.
12 RIGHTS OF THIRD PARTIES — PAYMENT INTANGIBLES AND
13 PROMISSORY NOTES (CODE SECTIONS 554.9406 AND 554.9408). Two
14 similar provisions are affected. Both relate to a term
15 restricting an assignment in an agreement between an account
16 debtor and an assignor or in a promissory note.
17 RIGHTS OF THIRD PARTIES — GENERAL PROVISION (CODE
18 SECTION 554.9406). The first section applies generally to
19 accounts, chattel paper, payment intangibles, and promissory
20 notes, by making such a term ineffective (Code section
21 554.9406). However, an exception applies to the sale of a
22 payment intangible or promissory note. Under the bill, this
23 exception does not apply when the sale is under a disposition
24 of collateral after default (Code section 554.9610) or on
25 acceptance of collateral in full or partial satisfaction of
26 obligation (Code section 554.9620).
27 RIGHTS OF THIRD PARTIES — SPECIFIC PROVISION (CODE SECTION
28 554.9408). The second section applies to restrict but not
29 prohibit the assignment of a general intangible, health care
30 insurance receivable, or promissory note. Under current law,
31 a qualifying restriction applies to a security interest in a
32 payment intangible or promissory note only if the security
33 interest arises out of a sale of the payment intangible or
34 promissory note. The bill amends this qualification, again
35 to provide that it does not apply to a security interest that

H.F. _____

1 arises out of a sale under a disposition of collateral after
2 default or on acceptance of collateral in full or partial
3 satisfaction of obligation.
4 FILING — NAME OF DEBTOR AND SECURED PARTY (CODE SECTIONS
5 554.9502, 554.9503, AND 554.9507). The current law provides
6 when a financing statement sufficiently provides the correct
7 name of a debtor. The bill provides that for a registered
8 organization, the name of the debtor is sufficient if it
9 matches the name on the public organic record most recently
10 filed in the jurisdiction of organization. In addition,
11 the bill adopts the so-called model Act's "Alternative A",
12 sometimes known as the "only-if" rule which requires the
13 financing statement to include the name of the debtor as it
14 appears on the debtor's unexpired driver's license. In lieu of
15 the driver's license information, a variation of the current
16 rule applies. Specifically, the financing statement must use
17 the debtor's legal name or debtor's surname and first personal
18 name.
19 FILING — DURATION AND EFFECTIVENESS OF A FINANCING
20 STATEMENT FOR TRANSMITTING UTILITIES (CODE SECTION 554.9515).
21 Under current law, a financing statement listing a transmitting
22 utility as a debtor does not lapse but continues until the
23 secured party files a termination statement. The bill requires
24 that the designation of a debtor as a transmitting utility must
25 be made on the initial financing statement.
26 FILING — WHAT CONSTITUTES FILING — EFFECTIVENESS OF FILING
27 (CODE SECTION 554.9516). The bill eliminates a requirement
28 that certain information about a debtor that is an organization
29 must be stated on a financing statement. The secretary
30 of state is not required to reject a financing statement
31 because it fails to list type of organization, jurisdiction of
32 organization, and organizational identification number.
33 FILING — CLAIM CONCERNING INACCURATE OR WRONGFULLY FILED
34 RECORD (CODE SECTION 554.9518). Currently, a person may file
35 a statement correcting an incorrect statement on record (a

H.F. _____

so-called UCC-5 Correction Statement) without legal effect. The bill renames this document as an "information statement" and provides that a secured party may also file such statement. It adopts the model Act's 1998 Alternative A version, by eliminating a provision in current law that requires the statement to include the date and time that the initial financing statement was filed or recorded.

FILING — COLLECTION AND ENFORCEMENT OF A MORTGAGE INTEREST OUTSIDE FORECLOSURE (CODE SECTION 554.9607). Under current law, a secured party may enforce a mortgage (e.g., securing a promissory note) pursuant to a nonjudicial proceeding (foreclosure sale) in part by recording the security agreement and affidavit in the place where the mortgage is recorded. The affidavit must include a provision verifying that a default has occurred. The bill provides that the affidavit must verify that the default involved an obligation secured by the mortgage.

TRANSITION PROVISIONS — GENERAL. The bill provides for the scope and application of its provisions, including by referring to its effective date (Code section 554.9801) and including a general savings clause (Code section 554.9802). Generally, the transition provisions detail the requirements of secured parties that acquired or perfected a security interest prior to the bill's effective date (pre-effective-date) including by filing a pre-effective-date financing statement in this state or another jurisdiction (state) and specifying the necessary requirements to comply with the bill's provisions on and after its effective date.

TRANSITION PROVISIONS — SECURITY INTERESTS. The bill provides that a pre-effective-date security interest remains effective on and after the bill's effective date, unless it fails to satisfy the bill's requirements with a one-year grace period provided (Code section 554.9803). A pre-effective-date unperfected security interest will become perfected upon the effective date if it satisfies the bill's perfection

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1 requirements. Otherwise, it will remain unperfected until the
2 bill's perfection requirements are satisfied (Code section
3 554.9804).
4 TRANSITION PROVISION — EFFECTIVENESS OF FINANCING
5 AND CONTINUATION STATEMENTS. The bill provides that a
6 pre-effective-date financing statement continues in effect
7 as long as it satisfies the bill's requirements and other
8 provisions applicable to such financing statements. It
9 also provides that a financing statement filed in another
10 jurisdiction may remain effective for as long as it would
11 remain effective in the other jurisdiction or June 30, 2018
12 whichever is earlier (Code section 554.9805). The bill
13 provides that the filing of an initial financing statement may
14 continue the effectiveness of a pre-effective-date financing
15 statement rather than a continuation statement that would
16 otherwise be filed (Code section 554.9806). Generally, a
17 financing statement is effective for five years or until it
18 lapses (Code section 554.9515). The bill provides for the
19 amendment or termination of a pre-effective-date financing
20 statement (Code section 554.9807). A person may file an
21 initial financing statement or a continuation statement to
22 the extent authorized by the secured party and the filing is
23 necessary to comply with the bill's transition provisions
24 (Code section 554.9808). The bill expressly states that its
25 provisions govern relative priorities of conflicting claims,
26 except to the extent that the priorities were established
27 before the bill's effective date.
28 HEADNOTE CHANGE. The bill expressly amends a section's
29 headnote to comply with codification requirements provided in
30 Code section 3.3.
31 REPEAL OF TRANSITION PROVISION. The bill repeals existing
32 transition provisions enacted in 2000 Iowa Acts, chapter 1149,
33 and transition provisions included in the bill. The repeals
34 take effect July 1, 2017, when such provisions will be out of
35 date. The bill includes a general savings clause.

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1 EFFECTIVE DATE. The bill takes effect July 1, 2013, in the
2 same manner as other states which have adopted the model act.

House Study Bill 620 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ANDERSON)

A BILL FOR

1 An Act relating to application of the state tort claims Act to
2 providers of health care services required under the federal
3 Emergency Medical Treatment and Active Labor Act.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5414HC (1) 84
pf/nh

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1 Section 1. Section 669.2, subsection 4, Code Supplement
2 2011, is amended by adding the following new paragraph:
3 NEW PARAGRAPH. *c.* (1) *"Employee of the state"* also
4 includes a physician licensed pursuant to chapter 148 who is
5 not otherwise defined as an employee of the state under this
6 subsection and who provides emergency medical services in a
7 participating hospital.
8 (2) For the purposes of this paragraph *"c"*:
9 (a) *"Emergency medical services"* means all screenings,
10 examinations, and evaluations by a physician, hospital, or
11 other person or entity acting pursuant to obligations imposed
12 under the federal Emergency Medical Treatment and Active Labor
13 Act, 42 U.S.C. § 1355DD et seq., to determine whether an
14 emergency medical condition exists, and the care, treatment,
15 surgery, or other medical services provided to relieve or
16 eliminate the emergency medical condition, including all
17 medical services to eliminate the likelihood that the emergency
18 medical condition will deteriorate or recur without further
19 medical attention within a reasonable period of time.
20 (b) *"Participating hospital"* means participating hospital as
21 defined in 42 U.S.C. § 1395DD(e)(2).
22 Sec. 2. Section 669.4, Code 2011, is amended to read as
23 follows:
24 **669.4 District court to hold hearings.**
25 1. The district court of the state of Iowa for the district
26 in which the plaintiff is resident or in which the act or
27 omission complained of occurred, or where the act or omission
28 occurred outside of Iowa and the plaintiff is a nonresident,
29 the Polk county district court has exclusive jurisdiction to
30 hear, determine, and render judgment on any suit or claim as
31 defined in this chapter. However, the laws and rules of civil
32 procedure of this state on change of place of trial apply to
33 such suits.
34 2. *a.* The state shall be liable in respect to such claims
35 to the same claimants, in the same manner, and to the same

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1 extent as a private individual under like circumstances, except
2 that the state shall not be liable for interest prior to
3 judgment or for punitive damages. Costs shall be allowed in
4 all courts to the successful claimant to the same extent as if
5 the state were a private litigant.
6 *b.* Notwithstanding any provision to the contrary, including
7 section 669.21, with respect to a claim relating to an
8 employee of the state described in section 669.2, subsection 4,
9 paragraph "*c*", such employee of the state shall indemnify the
10 state for any judgments, settlement costs, or other liabilities
11 incurred in any claim or judgment under this chapter up to
12 one hundred thousand dollars. Such an employee of the state
13 who fails to indemnify the state after reasonable notice and
14 written demand to do so is subject to license discipline
15 pursuant to section 148.7.
16 3. The immunity of the state from suit and liability is
17 waived to the extent provided in this chapter.
18 4. A suit is commenced under this chapter by serving the
19 attorney general or the attorney general's duly authorized
20 delegate in charge of the tort claims division by service of an
21 original notice. The state shall have thirty days within which
22 to enter its general or special appearance.
23 EXPLANATION
24 This bill provides for inclusion as an employee of the
25 state under the state tort claims Act (Code chapter 669)
26 a physician who provides emergency medical services in a
27 participating hospital. The bill also provides definitions,
28 including "emergency medical services" as those services
29 provided pursuant to obligations imposed under the federal
30 Emergency Medical Treatment and Active Labor Act (EMTALA) and a
31 "participating hospital" as a hospital that is subject to the
32 requirements of EMTALA.
33 As an employee of the state under Code chapter 669, however,
34 an emergency health care provider who is a physician would be
35 required to indemnify the state for any judgments, settlement

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1 costs, or other liabilities incurred in any claim or judgment
2 under the Code chapter up to $100,000. A physician who fails
3 to indemnify the state after reasonable notice and written
4 demand to do so is subject to license discipline.

Senate Concurrent Resolution 101 - Introduced

SENATE CONCURRENT RESOLUTION NO. 101
BY WHITVER, CHELGREN, SMITH, ANDERSON, BERTRAND, FEENSTRA, SORENSON, KAPUCIAN, GREINER, BARTZ, BACON, BOETTGER, ZAUN, BEHN, SEYMOUR, HOUSER, KETTERING, HAMERLINCK, ERNST, McKINLEY, DIX, JOHNSON, WARD, and HAHN

A Concurrent Resolution urging the members of the Congress of the United States to propose a balanced budget amendment to the Constitution of the United States for submission to the states for ratification.

WHEREAS, the General Assembly of the state of Iowa acknowledges that the United States of America is facing a crippling debt crisis because of expenditures in excess of revenues and unwise fiscal policies; and

WHEREAS, a near majority of sitting United States Senators have specifically expressed support for a requirement to balance the federal budget; and

WHEREAS, on December 14, 2011, the United States Senate considered but did not approve the following proposed Constitutional Amendment, Senate Joint Resolution 10, which was originally introduced by United States Senators Orrin Hatch and Charles Grassley, and other senators:

Section 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless two-thirds of the duly chosen and sworn Members of each House of Congress shall provide by law for a specific excess of outlays over receipts by a roll call vote.

Section 2. Total outlays for any fiscal year shall

S.C.R. 101

25 not exceed 18 percent of the gross domestic product of
26 the United States for the calendar year ending before
27 the beginning of such fiscal year, unless two-thirds
28 of the duly chosen and sworn Members of each House of
1 Congress shall provide by law for a specific amount in
2 excess of such 18 percent by a roll call vote.
3 Section 3. Prior to each fiscal year, the President
4 shall transmit to the Congress a proposed budget for
5 the United States Government for that fiscal year in
6 which——
7 (1) total outlays do not exceed total receipts; and
8 (2) total outlays do not exceed 18 percent of the
9 gross domestic product of the United States for the
10 calendar year ending before the beginning of such
11 fiscal year.
12 Section 4. Any bill that imposes a new tax or
13 increases the statutory rate of any tax or the
14 aggregate amount of revenue may pass only by a
15 two-thirds majority of the duly chosen and sworn
16 Members of each House of Congress by a roll call
17 vote. For the purpose of determining any increase in
18 revenue under this section, there shall be excluded any
19 increase resulting from the lowering of the statutory
20 rate of any tax.
21 Section 5. The limit on the debt of the United
22 States shall not be increased, unless three-fifths
23 of the duly chosen and sworn Members of each House of
24 Congress shall provide for such an increase by a roll
25 call vote.
26 Section 6. The Congress may waive the provisions

S.C.R. 101

27 of sections 1, 2, 3, and 5 of this article for any
28 fiscal year in which a declaration of war against a
29 nation-state is in effect and in which a majority of
30 the duly chosen and sworn Members of each House of
1 Congress shall provide for a specific excess by a roll
2 call vote.
3 Section 7. The Congress may waive the provisions
4 of sections 1, 2, 3, and 5 of this article in any
5 fiscal year in which the United States is engaged in a
6 military conflict that causes an imminent and serious
7 military threat to national security and is so declared
8 by three-fifths of the duly chosen and sworn Members
9 of each House of Congress by a roll call vote. Such
10 suspension must identify and be limited to the specific
11 excess of outlays for that fiscal year made necessary
12 by the identified military conflict.
13 Section 8. No court of the United States or of any
14 State shall order any increase in revenue to enforce
15 this article.
16 Section 9. Total receipts shall include all
17 receipts of the United States Government except those
18 derived from borrowing. Total outlays shall include
19 all outlays of the United States Government except
20 those for repayment of debt principal.
21 Section 10. The Congress shall have power to
22 enforce and implement this article by appropriate
23 legislation, which may rely on estimates of outlays,
24 receipts, and gross domestic product.
25 Section 11. This article shall take effect
26 beginning with the fifth fiscal year beginning after

S.C.R. 101

27 its ratification; and
28 WHEREAS, proposing and ratifying this amendment
29 would provide a requirement in the Constitution of
30 the United States for a balanced federal budget; NOW
1 THEREFORE,
2 BE IT RESOLVED BY THE SENATE, THE HOUSE OF
3 REPRESENTATIVES CONCURRING, That the Iowa General
4 Assembly urges the members of the United States Senate
5 and the United States House of Representatives from
6 this state to support a proposed balanced budget
7 amendment, the same or substantially similar to
8 that described by this resolution, by cosponsoring
9 resolutions proposing the amendment in their respective
10 chambers; and
11 BE IT FURTHER RESOLVED, That the Iowa General
12 Assembly urges the members of the Congress of the
13 United States to adopt a proposed balanced budget
14 amendment, the same or substantially similar to that
15 described by this resolution, for submission to the
16 states of the United States for ratification; and
17 BE IT FURTHER RESOLVED, That upon passage of this
18 resolution, the Secretary of the Senate shall transmit
19 copies of this resolution to the President of the
20 Senate and members of the United States Senate, the
21 Speaker and members of the United States House of
22 Representatives, and to the clerk of each of the
23 legislative chambers of the other states.

Senate File 2132 - Introduced

SENATE FILE 2132
BY WHITVER

A BILL FOR

1 An Act relating to the mandatory retirement age of an associate
2 juvenile judge or associate probate judge and including
3 effective date and applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5559XS (1) 84
jm/rj

S.F. 2132

1 Section 1. Section 602.1610, subsection 1, paragraph c,
2 Code 2011, is amended to read as follows:
3 *c.* The mandatory retirement age is seventy-two years for
4 all district associate judges, associate juvenile judges,
5 associate probate judges, and judicial magistrates. ~~However,~~
6 ~~the mandatory retirement age does not apply to an associate~~
7 ~~juvenile judge or associate probate judge who is seventy-two~~
8 ~~years of age or older on July 1, 1996.~~
9 Sec. 2. EFFECTIVE DATE AND APPLICABILITY. This Act takes
10 effect January 1, 2013, and applies mandatory retirement on
11 January 1, 2013, to any associate juvenile judge or associate
12 probate judge who is seventy-two years of age or older on
13 January 1, 2013.
14 EXPLANATION
15 This bill relates to the mandatory retirement age of certain
16 judicial officers.
17 The bill strikes a provision exempting an associate juvenile
18 judge or associate probate judge from the mandatory retirement
19 age of 72 years of age if the judge was 72 years of age or older
20 on July 1, 1996.
21 The bill takes effect January 1, 2013, and applies mandatory
22 retirement on January 1, 2013, to any associate juvenile judge
23 or associate probate judge who is 72 years of age or older on
24 January 1, 2013.

Senate File 2133 - Introduced

SENATE FILE 2133
BY WHITVER

A BILL FOR

1 An Act providing an exclusion from the computation of net
2 income for the individual state income tax of qualifying
3 gains receiving capital treatment and including retroactive
4 applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5842XS (2) 84
mm/sc

S.F. 2133

1 Section 1. Section 422.7, subsection 21, Code Supplement
2 2011, is amended by striking the subsection and inserting in
3 lieu thereof the following:
4 21. *a.* Subtract, to the extent not otherwise excluded,
5 qualifying gains receiving capital treatment. For purposes of
6 this subsection, *"qualifying gains receiving capital treatment"*
7 means the amount of net capital gains, as defined in section
8 1222(11) of the Internal Revenue Code, included in the
9 taxpayer's federal adjusted gross income.
10 *b.* To the extent otherwise allowed, the deduction provided
11 in this subsection is not allowed for purposes of computation
12 of a net operating loss in section 422.9, subsection 3, and in
13 computing the income for the taxable year or years for which a
14 net operating loss is deducted.
15 Sec. 2. RETROACTIVE APPLICABILITY. This Act applies
16 retroactively to January 1, 2012, for tax years beginning on
17 or after that date.
18 EXPLANATION
19 This bill excludes qualifying gains receiving capital
20 treatment from the individual state income tax. "Qualifying
21 gains receiving capital treatment" is defined as the amount
22 of net capital gains, as defined in section 1222(11) of the
23 Internal Revenue Code, included in the taxpayer's federal
24 adjusted gross income.
25 Net capital gains is defined in the Internal Revenue Code as
26 the excess of a taxpayer's gains from the sales of long-term
27 capital assets over the losses from such sales, minus the
28 excess of losses from the sales of short-term capital assets
29 over the gains from such sales.
30 The exclusion does not apply for purposes of computing a
31 taxpayer's net operating loss or for purposes of computing
32 income for the taxable year in which a net operating loss is
33 deducted.
34 The bill applies retroactively to January 1, 2012, for tax
35 years beginning on or after that date.

Senate File 2134 - Introduced

SENATE FILE 2134
BY SENG

A BILL FOR

1 An Act making an appropriation for tourism marketing and
2 promotion to the economic development authority.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5773SS (2) 84
ad/nh

S.F. 2134

1 Section 1. TOURISM MARKETING AND PROMOTION. There is
2 appropriated from the general fund of the state to the economic
3 development authority for the fiscal year beginning July 1,
4 2012, and ending June 30, 2013, the following amount, or so
5 much thereof as is necessary, to be used for the purposes
6 designated:
7 For tourism marketing and promotion, including salaries,
8 support, maintenance, and miscellaneous purposes:
9 ..... $ 8,300,000
10 EXPLANATION
11 This bill appropriates $8.3 million to the economic
12 development authority from the general fund of the state for FY
13 2012-2013 for purposes of tourism marketing and promotion.

Senate File 2135 - Introduced

SENATE FILE 2135
BY DANIELSON

A BILL FOR

1 An Act relating to transportation management services under the
2 medical assistance program.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5656SS (2) 84
pf/nh

S.F. 2135

1 Section 1. TRANSPORTATION MANAGEMENT SERVICES —
2 REVIEW. The department of human services shall convene a
3 consumer panel comprised of medical assistance recipients
4 utilizing medical assistance program transportation management
5 services to review the applicable policies and services
6 provided. The review shall include but is not limited to
7 issues including the prior notice required of a recipient
8 in scheduling appointments; documentation requirements for
9 reimbursement of recipients for mileage and meals; and the
10 number of individuals allowed to accompany a recipient to
11 appointments for which the transportation is provided at no
12 extra charge. The department shall submit a report of the
13 review and any recommendations made by the panel to improve
14 transportation management services for consumers to the general
15 assembly by December 15, 2012.
16 EXPLANATION
17 This bill directs the department of human services (DHS)
18 to convene a consumer panel comprised of medical assistance
19 recipients utilizing medical assistance program transportation
20 management services to review the applicable policies and
21 services provided. The review is to include, at a minimum,
22 issues including the prior notice required of a recipient
23 in scheduling appointments; documentation requirements for
24 reimbursement of recipients for mileage and meals; and the
25 number of individuals allowed to accompany a recipient to
26 appointments for which the transportation is provided at no
27 extra charge. DHS is directed to submit a report of the
28 review and any recommendations made by the panel to improve
29 transportation management services for consumers to the general
30 assembly by December 15, 2012.

Senate File 2136 - Introduced

SENATE FILE 2136
BY DANIELSON

A BILL FOR

1 An Act relating to consideration of a minor's wishes in
2 determining custody.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 6042SS (2) 84
pf/nh

S.F. 2136

1 Section 1. Section 598.41, subsection 3, paragraph f, Code
2 2011, is amended to read as follows:
3 *f.* Whether the custody arrangement is in accord with the
4 child's wishes or whether the child has strong opposition,
5 taking into consideration the child's age and maturity. <u>If a</u>
6 <u>child is fourteen years of age or older, the court shall allow</u>
7 <u>the child to express the child's wishes regarding custody by</u>
8 <u>oral testimony or deposition, unless the court determines that</u>
9 <u>doing so is not in the best interest of the child.</u>
10 EXPLANATION
11 This bill provides that in determining what custody
12 arrangement is in the best interest of a minor child, if a
13 child is 14 years of age or older, the court shall allow the
14 child to express the child's wishes regarding custody by oral
15 testimony or deposition, unless doing so is determined by the
16 court to not be in the best interest of the child.

Senate File 2137 - Introduced

SENATE FILE 2137
BY SENG

A BILL FOR

1 An Act relating to certain property taxes for joint county-city
2 buildings and including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5480SS (1) 84
md/sc

S.F. 2137

Section 1. Section 331.424, subsection 1, paragraph a, subparagraph (5), Code 2011, is amended by striking the subparagraph.

Sec. 2. Section 331.430, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The taxes realized from the tax levy imposed under section 346.27, subsection 22, for a joint county-city building shall be deposited into a separate account in the county's debt service fund for the payment of the annual rent and shall be disbursed pursuant to section 346.27, subsection 22.

Sec. 3. Section 346.27, subsection 22, Code 2011, is amended to read as follows:

22. When an incorporating unit enters into a lease with the authority, the governing body of the incorporating unit shall provide by ordinance or resolution for the levy and collection of a direct annual tax sufficient to pay the annual rent payable under the lease as and when it becomes due and payable. The tax shall be levied and collected in like manner with the other taxes of the incorporating unit and shall be in addition to all other taxes authorized to be levied by that incorporating unit. This tax shall not be included within and shall be in addition to any statutory limitation of rate or amount for that incorporating unit. The ~~fund~~ taxes realized from the tax levy shall be ~~set aside~~ deposited into an account in the debt service fund of the incorporating unit for the payment of the annual rent and shall not be disbursed for any other purpose until the annual rental has been paid in full.

Sec. 4. Section 384.4, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The taxes realized from the tax levy imposed under section 346.27, subsection 22, for a joint county-city building shall be deposited into a separate account in the city's debt service fund for the payment of the annual rent and shall be disbursed pursuant to section 346.27,

S.F. 2137

1 subsection 22.
2 Sec. 5. Section 384.12, subsection 15, Code 2011, is amended
3 by striking the subsection.
4 Sec. 6. Section 403.19, subsection 2, Code Supplement 2011,
5 is amended to read as follows:
6 2. That portion of the taxes each year in excess of such
7 amount shall be allocated to and when collected be paid into
8 a special fund of the municipality to pay the principal of
9 and interest on loans, moneys advanced to, or indebtedness,
10 whether funded, refunded, assumed, or otherwise, including
11 bonds issued under the authority of section 403.9, subsection
12 1, incurred by the municipality to finance or refinance, in
13 whole or in part, an urban renewal project within the area,
14 and to provide assistance for low and moderate income family
15 housing as provided in section 403.22~~, except that~~. However,
16 taxes for the regular and voter-approved physical plant and
17 equipment levy of a school district imposed pursuant to section
18 298.2, ~~and~~ taxes for the payment of bonds and interest of
19 each taxing district ~~must~~, and taxes imposed under section
20 346.27, subsection 22, related to joint county-city buildings
21 shall be collected against all taxable property within the
22 taxing district without limitation by the provisions of this
23 subsection. However, all or a portion of the taxes for the
24 physical plant and equipment levy shall be paid by the school
25 district to the municipality if the auditor certifies to the
26 school district by July 1 the amount of such levy that is
27 necessary to pay the principal and interest on bonds issued
28 by the municipality to finance an urban renewal project,
29 which bonds were issued before July 1, 2001. Indebtedness
30 incurred to refund bonds issued prior to July 1, 2001, shall
31 not be included in the certification. Such school district
32 shall pay over the amount certified by November 1 and May
33 1 of the fiscal year following certification to the school
34 district. Unless and until the total assessed valuation of
35 the taxable property in an urban renewal area exceeds the

S.F. 2137

1 total assessed value of the taxable property in such area as
2 shown by the last equalized assessment roll referred to in
3 subsection 1, all of the taxes levied and collected upon the
4 taxable property in the urban renewal area shall be paid into
5 the funds for the respective taxing districts as taxes by
6 or for the taxing districts in the same manner as all other
7 property taxes. When such loans, advances, indebtedness, and
8 bonds, if any, and interest thereon, have been paid, all moneys
9 thereafter received from taxes upon the taxable property in
10 such urban renewal area shall be paid into the funds for the
11 respective taxing districts in the same manner as taxes on all
12 other property. In those instances where a school district
13 has entered into an agreement pursuant to section 279.64 for
14 sharing of school district taxes levied and collected from
15 valuation described in this subsection and released to the
16 school district, the school district shall transfer the taxes
17 as provided in the agreement.
18 Sec. 7. APPLICABILITY. This Act applies to property taxes
19 due and payable in fiscal years beginning on or after July 1,
20 2013.
21 EXPLANATION
22 Current Code section 346.27 allows a county along with
23 its county seat to establish an authority for the purpose of
24 acquiring, constructing, demolishing, improving, enlarging,
25 equipping, furnishing, repairing, maintaining, and operating
26 a public building for the joint use of the county and city or
27 any school district which is within or is a part of the county
28 or city. The authority then leases the building to the county
29 and city. Current Code section 346.27(22) authorizes each such
30 county and city to levy and collect property tax sufficient
31 to pay the annual rent payable under the lease as and when it
32 becomes due and payable.
33 This bill specifies that taxes realized from the tax levy
34 imposed by a county or city under Code section 346.27(22) for a
35 joint county-city building shall be deposited into a separate

S.F. 2137

account in the applicable county or city debt service fund for the payment of the annual rent.

The bill also removes such tax levies from inclusion within the county supplemental levy under Code section 331.424 and the city additional tax under Code section 384.12.

The bill excludes the property taxes levied and collected for the purpose of Code section 346.27(22) from a division of revenue (tax increment financing) under Code section 403.19.

The bill applies to property taxes due and payable in fiscal years beginning on or after July 1, 2013.

Senate File 2138 - Introduced

SENATE FILE 2138
BY COMMITTEE ON VETERANS
AFFAIRS

(SUCCESSOR TO SSB 3127)

A BILL FOR

1 An Act making appropriations to the commission of veterans
2 affairs for the provision of veterans services, and
3 including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 6000SV (1) 84
aw/rj

S.F. 2138

Section 1. Section 35A.13, subsection 4, Code Supplement 2011, is amended to read as follows:

4. The minimum balance of the trust fund required prior to expenditure of moneys from the trust fund is five million dollars. Once the minimum balance is reached, the interest and earnings on the fund and ~~any moneys received under subsection 2, paragraph "a",~~ the first three hundred thousand dollars transferred each fiscal year pursuant to section 99G.9A from the lottery fund to the trust fund are appropriated to the commission to be used to achieve the purposes of this section. Moneys appropriated to the commission that remain unobligated or unexpended at the end of each fiscal year shall revert to the trust fund. It is the intent of the general assembly that the balance in the trust fund reach fifty million dollars.

Sec. 2. COMMISSION OF VETERANS AFFAIRS. There is appropriated from the veterans trust fund, created in section 35A.13, to the commission of veterans affairs for the fiscal year beginning July 1, 2011, and ending June 30, 2012, to be used for the purposes stated in section 35A.13, subsection 6, the following amount:

..... $ 300,000

Sec. 3. EFFECTIVE UPON ENACTMENT. The following provision or provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. The section of this Act making an appropriation to the commission of veterans affairs for the fiscal year beginning July 1, 2011.

EXPLANATION

This bill makes appropriations from the veterans trust fund to the commission of veterans affairs to be used for the provision of veterans services.

Current law provides for the appropriation of the interest and earnings from the veterans trust fund and certain other moneys received in the trust fund pursuant to Code section 35A.13(2)(a) to the commission. The bill removes the language

S.F. 2138

appropriating moneys pursuant to Code section 35A.13(2)(a), but appropriates the first $300,000 that is transferred into the trust fund each fiscal year from the lottery fund pursuant to Code section 99G.9A, to the commission for the provision of such in veterans services.

The bill requires that moneys appropriated to the commission that remain unobligated or unexpended at the end of each fiscal year shall revert to the veterans trust fund.

The bill also provides for a one-time appropriation of $300,000 from the trust fund to the commission for the fiscal year beginning July 1, 2011, and ending June 30, 2012, in order to provide certain veterans services pursuant to Code section 35A.13(6). The section of the bill appropriating moneys to the commission for the fiscal year beginning July 1, 2011, and ending June 30, 2012, is effective upon enactment.

Senate File 2139 - Introduced

SENATE FILE 2139
BY HATCH

A BILL FOR

1 An Act relating to economic development by creating rural
2 opportunity zones, a student loan repayment program and
3 fund, an individual income tax credit, and including
4 applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5419XS (7) 84
mm/sc

S.F. 2139

1 Section 1. NEW SECTION. **15E.185 Rural opportunity zones.**
2 1. The economic development authority shall designate a
3 county of this state as a rural opportunity zone if it meets
4 the eligibility criteria in section 15E.186. A county shall
5 remain designated as a rural opportunity zone until it loses
6 its designation from the authority. A county may lose its
7 designation as a rural opportunity zone if events subsequent
8 to its designation cause it to lose eligibility because it
9 no longer meets the criteria specified in section 15E.186.
10 However, a county shall not lose its designation as a rural
11 opportunity zone during its participation in the student loan
12 repayment program under section 15E.188.
13 2. A county may apply to the authority for designation as a
14 rural opportunity zone. The application shall be made by the
15 county board of supervisors in the form and manner prescribed
16 by the authority. The authority shall consider each county for
17 designation as a rural opportunity zone, even if the county
18 does not submit an application.
19 3. The authority shall review the eligibility of each county
20 in this state as a rural opportunity zone at least annually.
21 Sec. 2. NEW SECTION. **15E.186 Rural opportunity zone**
22 **eligibility criteria.**
23 A county may be designated by the authority as a rural
24 opportunity zone if it meets at least two of the following
25 criteria:
26 1. The county has an average weekly wage that ranks among
27 the bottom twenty-five counties in the state based on the 2010
28 annual average weekly wage for employees in private business.
29 2. The county has a per capita income of twelve thousand six
30 hundred forty-eight dollars or less based on the 2010 certified
31 federal census.
32 3. The county has a family poverty rate of twelve percent or
33 higher based on the 2010 certified federal census.
34 4. The county has a family poverty rate that ranks among
35 the top twenty-five counties in the state based on the 2010

S.F. 2139

1 certified federal census.
2 5. The county has experienced a percentage population
3 loss that ranks among the top twenty-five counties in the
4 state between 2005 and 2010. For purposes of this subsection,
5 prison population shall be excluded in the population loss
6 calculations.
7 6. The county has a percentage of persons sixty-five years
8 of age or older that ranks among the top twenty-five counties
9 in the state based on the 2010 certified federal census.
10 7. Ten percent or more of the housing units are vacant in
11 the county.
12 8. The valuations of each class of property in the county
13 is seventy-five percent or less of the statewide average for
14 that classification based upon the most recent valuations for
15 property tax purposes.
16 9. A recent business closure or permanent layoff has
17 occurred in the county. The business closure or permanent
18 layoff must involve the loss of full-time employees, not
19 including retail employees, at one place of business totaling
20 at least one thousand employees or four percent or more of
21 the county's resident labor force based on the most recent
22 annual resident labor force statistics from the department of
23 workforce development, whichever is lower. A permanent layoff
24 does not include a layoff of seasonal employees or a layoff
25 that is seasonal in nature. For purposes of this paragraph,
26 *"permanent layoff"* means the loss of jobs to an out-of-state
27 location, the cessation of one or more production lines, the
28 removal of manufacturing machinery and equipment, or similar
29 actions determined to be equivalent in nature by the authority.
30 For purposes of this subsection, a permanent layoff must occur
31 on or after the effective date of this Act.
32 Sec. 3. NEW SECTION. **15E.187 Student loan repayment program**
33 **fund.**
34 A student loan repayment program fund is created in
35 the state treasury under the authority of the economic

S.F. 2139

development authority. The fund shall consist of all moneys appropriated to it by the general assembly. The moneys in the fund are not subject to the provisions of section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in section 15E.188. Notwithstanding section 12C.7, subsection 2, earnings or interest on moneys appropriated pursuant to this section shall be retained by the fund and used for the purposes designated until expended.

Sec. 4. NEW SECTION. **15E.188 Student loan repayment program.**

1. For purposes of this section, unless the context otherwise requires:

a. "Outstanding student loan debt" means the student loan debt balance of a participating individual at the time of enrollment in the program, which debt was incurred by the participating individual for attendance at an institution of higher education where such participating individual earned an associate, bachelor, or postgraduate degree. For purposes of this paragraph, *"institution of higher education"* means the same as defined in section 12D.1.

b. "Participating county" means a county which has created a county component in the program pursuant to subsection 4.

c. "Participating individual" means an individual that has enrolled in the program pursuant to subsection 5.

d. "Program" means the student loan repayment program established pursuant to this section, which program includes both a county component and a matching component.

e. "Qualifying individual" means an individual that meets the eligibility requirements in subsection 3, paragraph *"a"*, for participation in the program.

2. There is established a student loan repayment program within the economic development authority. The program shall consist of a county component for each participating county and a matching component of the economic development authority for

S.F. 2139

1 the purpose of providing student loan repayment assistance on
2 the outstanding student loan debt of participating individuals.
3 3. A county designated as a rural opportunity zone pursuant
4 to sections 15E.185 and 15E.186 may participate in the program
5 if it creates and implements a county component. A county
6 component shall contain the uniform terms and conditions
7 prescribed by the authority, and shall meet the following
8 minimum qualifications:
9 *a.* The county component shall only apply to resident
10 individuals that have outstanding student loan debt and that
11 establish domicile in the applicable county on or after the
12 county adopts a resolution creating a county component pursuant
13 to subsection 4, and prior to July 1, 2017.
14 *b.* The county component shall provide that participating
15 individuals are entitled to full participation in the county
16 component for five years, provided the participating individual
17 remains domiciled within that county for the entire five-year
18 period. Any participating individual that establishes domicile
19 outside of the county for which the individual first qualified
20 shall become ineligible to continue participation in the
21 program.
22 *c.* The county, through its county component, shall agree
23 to repay, subject to the availability of matching payments by
24 the economic development authority in subsection 6, over a
25 five-year period, the lesser of ten percent of the outstanding
26 student loan debt of the participating individual or seven
27 thousand five hundred dollars of the outstanding student
28 loan debt of the participating individual. A participating
29 individual must remain domiciled in the applicable county for
30 an entire calendar year to receive repayment assistance for
31 that year.
32 4. A county which creates and implements a county component
33 must provide to the authority a duly adopted resolution from
34 its board of supervisors on or before January 1, 2013. The
35 resolution shall be irrevocable and shall obligate the county

S.F. 2139

to participate in the program for a period of five years for each participating individual.

5. A qualifying individual shall enroll in both the county component and the matching component of this program in the form and manner prescribed by the authority.

6. *a.* The authority shall, subject to the availability of moneys in the student loan repayment program fund, match repayments made by a participating county under its county component for each participating individual up to the maximum amount specified in subsection 3, paragraph *"c"*.

b. Annual repayments of outstanding student loan debt by a participating county under its county component of the program, and matching repayments by the economic development authority under the matching component of the program shall be made following the close of a calendar year and following the participating individual's certification by the authority and the applicable county that the participating individual is entitled to repayment assistance pursuant to the program. Repayments will be made directly to the lender of the participating individual's outstanding student loan debt.

c. The maximum aggregate amount that any participating individual may receive from the county component and matching component of this program shall not exceed the lesser of twenty percent of the outstanding student loan debt of the participating individual or fifteen thousand dollars of the outstanding student loan debt of the participating individual.

d. Repayment assistance from the authority under the matching component of this program is subject to the availability of moneys in the student loan repayment program fund. Nothing in this section guarantees a participating individual a right to receive benefits provided in this section. A county may provide repayment assistance under its county component even if insufficient funds exist for the economic development authority to provide matching funds under the matching component.

S.F. 2139

7. The authority shall adopt rules under chapter 17A relating to the administration of this section.

Sec. 5. NEW SECTION. **15E.189 Future repeal.**

This division is repealed on June 30, 2023.

Sec. 6. NEW SECTION. **422.11I Rural opportunity zone tax credit.**

1. As used in this section, unless the context otherwise requires, *"rural opportunity zone"* means any county designated by the economic development authority as a rural opportunity zone pursuant to sections 15E.185 and 15E.186.

2. The taxes imposed under this division, less the credits allowed under section 422.12, shall be reduced by a rural opportunity zone tax credit. To be eligible for the credit, the taxpayer must meet all of the following requirements:

a. The taxpayer must be a resident individual who was domiciled in a rural opportunity zone in this state during the entire tax year. A taxpayer domiciled in a county that has lost its designation as a rural opportunity zone shall be considered to be domiciled in a rural opportunity zone, so long as the taxpayer established domicile in that county while the county was designated as a rural opportunity zone.

b. The taxpayer established domicile in a rural opportunity zone on or after July 1, 2012, and prior to January 1, 2017.

c. The taxpayer was domiciled outside of this state for five or more years immediately prior to establishing domicile in a rural opportunity zone.

d. The taxpayer had Iowa source net income of less than ten thousand dollars in any one year for each of the five years immediately prior to establishing domicile in a rural opportunity zone.

e. The taxpayer's tax return on which the credit is claimed is timely filed, including any extension of time to file.

f. The taxpayer is not currently delinquent in filing any tax return with this state nor does the taxpayer have delinquent accounts, charges, fees, loans, taxes, or other

S.F. 2139

1 indebtedness owed to this state or a political subdivision of
2 this state.
3 3. *a.* The credit shall be an amount equal to the taxpayer's
4 income tax payable to this state under this division, computed
5 without regard to the credit allowed under this section,
6 the credit for withheld tax allowed under section 422.16,
7 subsection 9, and the credit for estimated tax paid under
8 section 422.16, subsection 11, paragraph *"d"*.
9 *b.* The maximum amount that may be refunded to a taxpayer
10 in any tax year the credit allowed under this section is
11 claimed shall not exceed the sum of the amount withheld from
12 the taxpayer's wages or other income pursuant to section
13 422.16, subsection 1, for the tax year, plus the amount paid
14 as estimated tax by the taxpayer pursuant to section 422.16,
15 subsection 11, for the tax year.
16 *c.* A taxpayer may claim the credit allowed under this
17 section for not more than five consecutive tax years following
18 establishment of the taxpayer's domicile in a rural opportunity
19 zone pursuant to subsection 2, paragraph *"b"*.
20 4. This section is repealed on June 30, 2022.
21 Sec. 7. APPLICABILITY. The following provision or
22 provisions of this Act apply to tax years beginning on or after
23 January 1, 2013, and ending on or before December 31, 2021:
24 1. The section of this Act enacting section 422.11I.
25 EXPLANATION
26 This bill relates to economic development by creating rural
27 opportunity zones within this state, a student loan repayment
28 program and fund, and an individual income tax credit.
29 The bill provides that the economic development authority
30 shall designate counties of this state as rural opportunity
31 zones if they meet certain criteria. A county may apply to
32 the authority for designation as a rural opportunity zone, but
33 application is not required for designation by the authority.
34 Once designated as a rural opportunity zone, a county may be
35 undesignated by the authority if events subsequent to its

S.F. 2139

1 designation cause it to no longer be eligible. However, a
2 county shall not lose its designation as a rural opportunity
3 zone during its participation in the student loan repayment
4 program described in the bill. The authority is required to
5 review the eligibility of each county in this state as a rural
6 opportunity zone at least annually.
7 A county is eligible to be designated as a rural opportunity
8 zone if it meets at least two of nine criteria specified in
9 the bill relating to per capita income, average weekly wages,
10 family poverty rate, population loss, aging population, housing
11 vacancies, property valuations, or recent business closures or
12 permanent layoffs.
13 Rural opportunity zone designations are repealed on June 30,
14 2023.
15 The bill creates a student loan repayment program within the
16 economic development authority for the purpose of providing
17 student loan repayment assistance on the outstanding student
18 loan debt of certain individuals. The program consists of a
19 county component for each participating county and a matching
20 component of the state. Qualifying individuals may enroll in
21 both the county component and the matching component of the
22 student loan repayment program.
23 Each county designated by the authority as a rural
24 opportunity zone is eligible to create and implement a county
25 component within the student loan repayment program. Each
26 county component is required to contain the uniform terms and
27 conditions prescribed by the authority and shall have certain
28 minimum qualifications. First, the county component shall only
29 apply to resident individuals that have outstanding student
30 loan debt and that establish domicile in that county on or
31 after the county creates the county component of the program,
32 and prior to July 1, 2017. Second, the county component shall
33 provide that participating individuals are entitled to full
34 participation in the county component for five years, provided
35 the participating individual remains domiciled within that

S.F. 2139

1 county for the entire five-year period. Third, the county
2 component shall agree to repay, subject to matching payments by
3 the authority over a five-year period, the lesser of 10 percent
4 of the outstanding student loan debt of the participating
5 individual, or $7,500 of the outstanding student loan debt of
6 the participating individual. A participating individual must
7 remain domiciled in the applicable county for the entirety
8 of a calendar year to receive repayment assistance for that
9 year. After a county creates and implements its county
10 component, it is required to provide a duly adopted resolution
11 to the authority by January 1, 2013. The resolution shall be
12 irrevocable and shall obligate the county to participate in the
13 program for a period of five years per individual.
14 Participating individuals who remain domiciled in that
15 county are eligible to receive repayment assistance from
16 the county component. In addition, the authority, through
17 the matching component, shall match each payment made under
18 the county component up to the lesser of 10 percent of the
19 outstanding student loan debt, or $7,500 of the outstanding
20 student loan debt. The maximum amount of repayment assistance
21 that an individual may receive under the program shall not
22 exceed the lesser of 20 percent of the outstanding student loan
23 debt or $15,000.
24 Matching payments from the authority shall be made from
25 a student loan repayment program fund created in the bill
26 and are subject to the availability of moneys in the fund.
27 Participating individuals are not guaranteed a right to receive
28 repayment assistance under the program. A county may, but is
29 not required, to provide repayment assistance under its county
30 component even if insufficient funds exist for the authority
31 to provide matching funds. The student loan repayment program
32 is repealed on June 30, 2023.
33 The bill provides an individual income tax credit for
34 taxpayers that are domiciled in a rural opportunity zone.
35 To be eligible for the credit, the taxpayer must meet

S.F. 2139

1 seven requirements. First, the taxpayer must be a resident
2 individual. Second, the taxpayer must have been domiciled in
3 a rural opportunity zone for the entire tax year. Third, the
4 taxpayer must have established domicile in a rural opportunity
5 zone on or after July 1, 2012, and prior to January 1, 2017.
6 Fourth, the taxpayer must have been domiciled outside this
7 state for five or more years immediately prior to establishing
8 domicile in a rural opportunity zone. Fifth, the taxpayer
9 must have had Iowa source net income of less than $10,000 in
10 any one year for each of the five years immediately prior to
11 establishing domicile in a rural opportunity zone. Sixth, the
12 taxpayer's tax return on which the rural opportunity zone tax
13 credit is claimed is timely filed, including any extension of
14 time to file. Seventh, the taxpayer must not be delinquent in
15 filing any tax return with this state or have any indebtedness
16 owed to the state or a political subdivision of the state.
17 The tax credit is equal to the taxpayer's total individual
18 income tax owed to the state, computed without regard to
19 reductions for the rural opportunity zone credit, withholding
20 on the taxpayer's wages or other income, and any estimated tax
21 payments made by the individual. The maximum amount that may
22 be refunded to a taxpayer in any year the rural opportunity
23 zone tax credit is allowed shall not exceed the sum of the
24 taxpayer's withholding on wages or other income for that year,
25 plus the estimated tax payments made for that year.
26 The tax credit is allowed for five consecutive years
27 following the year the taxpayer first establishes domicile in a
28 rural opportunity zone. The rural opportunity zone tax credit
29 applies to tax years beginning on or after January 1, 2013,
30 and ending on or before December 31, 2021. The tax credit is
31 repealed on June 30, 2022.

Senate File 2140 - Introduced

SENATE FILE 2140
BY CHELGREN

A BILL FOR

1 An Act relating to Iowa's urban renewal law by modifying
2 provisions relating to the duration of urban renewal
3 areas and ordinances providing for a division of revenue,
4 requiring voter approval for ordinances establishing
5 a division of revenue, and including effective date
6 provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5918XS (3) 84
md/sc

S.F. 2140

Section 1. Section 403.17, subsection 10, Code 2011, is amended to read as follows:

10. *"Economic development area"* means an area of a municipality designated by the local governing body as appropriate for commercial and industrial enterprises, public improvements related to housing and residential development, or construction of housing and residential development for low and moderate income families, including single or multifamily housing. If an urban renewal plan for an urban renewal area adopted on or after January 1, 1995, but before the effective date of this Act, is based upon a finding that the area is an economic development area and that no part contains slum or blighted conditions, then the division of revenue provided in section 403.19, if adopted prior to the effective date of this Act, and stated in the plan shall be limited to twenty years from the calendar year following the calendar year in which the municipality first certifies to the county auditor the amount of any loans, advances, indebtedness, or bonds which qualify for payment from the division of revenue provided in section 403.19. ~~Such designated~~ An economic development area shall not include agricultural land, including land which is part of a century farm, unless the owner of the agricultural land or century farm agrees to include the agricultural land or century farm in the urban renewal area. For the purposes of this subsection, *"century farm"* means a farm in which at least forty acres of such farm have been held in continuous ownership by the same family for one hundred years or more.

Sec. 2. Section 403.19, Code Supplement 2011, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. An ordinance adopted by a municipality on or after the effective date of this Act providing for a division of revenue under this section shall not become effective within the boundaries of a school district or effective against any property tax levied by any public body on real property within the boundaries of that school district

S.F. 2140

1 unless approved by the voters of the school district at the
2 next general election. The ordinance shall be submitted by
3 the governing body of the municipality on its own motion to
4 the voters of each school district located in whole or in part
5 within the area proposed to be subject to the division of
6 revenue. If a majority of those voting on the question within
7 the school district approves the ordinance, the ordinance shall
8 become effective within the boundaries of the school district
9 that has approved the ordinance and shall, subject to the
10 limitations of subsection 2, be effective against all property
11 taxes levied by any public body on real property within the
12 boundaries of that school district. Notice of the election
13 shall be given by publication as prescribed in section 49.53
14 in a newspaper of general circulation within each local school
15 district where voting is to occur.
16 NEW SUBSECTION. 2B. Except as provided in section 403.22,
17 an ordinance providing for a division of revenue under this
18 section that is adopted on or after the effective date of
19 this Act shall be limited to twenty years from the calendar
20 year following the calendar year in which the municipality
21 first certifies to the county auditor the amount of any
22 loans, advances, indebtedness, or bonds, which qualify for
23 payment from the division of revenue. The urban renewal
24 area, including all applicable urban renewal plans, projects,
25 and ordinances shall terminate and be of no further force
26 and effect following the twenty-year period provided in this
27 subsection.
28 NEW SUBSECTION. 2C. An ordinance providing for a division
29 of revenue in effect on the effective date of this Act that is
30 not limited in duration under either section 403.17, subsection
31 10, or section 403.22, subsection 5, shall terminate and be
32 of no further force and effect not later than June 30, 2032.
33 The urban renewal area, including all applicable urban renewal
34 plans, projects, and ordinances, shall terminate and be of no
35 further force and effect on the date the division of revenue

S.F. 2140

1 ordinance terminates under this subsection.
2 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
3 immediate importance, takes effect upon enactment.
4 EXPLANATION
5 This bill provides that an ordinance adopted by a
6 municipality on or after the effective date of the bill
7 providing for a division of revenue under Code section 403.19
8 (tax increment financing) shall not become effective within
9 the boundaries of a school district or effective against
10 any property tax levied by any public body on real property
11 within the boundaries of that school district unless approved
12 by the voters of the school district at the next general
13 election. Under the bill, if a majority of those voting on the
14 question within the school district approves the ordinance,
15 the ordinance shall become effective within the boundaries of
16 the school district that has approved the ordinance and shall
17 be effective against all property taxes levied by any public
18 body on real property within the boundaries of that school
19 district, except those levies excluded under current Code
20 section 403.19(2).
21 The bill provides that except for certain divisions of
22 revenue for public improvements related to housing and
23 residential development, an ordinance providing for a division
24 of revenue that is adopted on or after the effective date
25 of the bill is limited to 20 years from the calendar year
26 following the calendar year in which the municipality first
27 certifies to the county auditor the amount of any loans,
28 advances, indebtedness, or bonds, which qualify for payment
29 from the division of revenue. Following the expiration of the
30 20-year limitation period, the urban renewal area, including
31 all applicable urban renewal plans, projects, and ordinances
32 shall terminate and be of no further force and effect.
33 The bill also provides that a division of revenue ordinance
34 in effect on the effective date of the bill that is not limited
35 in duration under either Code section 403.17(10)(20-year

S.F. 2140

1 limitation), or Code section 403.22(5)(10-year limitation),
2 shall terminate and be of no further force and effect not
3 later than June 30, 2032. The urban renewal area, including
4 all applicable urban renewal plans, projects, and ordinances,
5 related to such ordinance shall terminate and be of no further
6 force and effect on the date the division of revenue ordinance
7 terminates.
8 The bill takes effect upon enactment.

Senate File 2141 - Introduced

SENATE FILE 2141
BY HORN

A BILL FOR

1 An Act relating to the operation of motorboats on artificial
2 lakes in the state, and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5876SS (2) 84
av/sc

S.F. 2141

Section 1. Section 462A.31, subsection 1, paragraph b, Code 2011, is amended to read as follows:

b. A motorboat equipped with any power unit mounted or carried aboard the vessel may be operated at a ~~no-wake~~ five-mile-per-hour speed on all artificial lakes of more than one hundred acres in size under the custody of the department. ~~However, on lake Macbride, a motorboat with a power unit exceeding ten horsepower may be operated only when permitted by rule and the rule shall not authorize such use during the period beginning on the Friday before Memorial Day and ending on Labor Day inclusively.~~ This paragraph does not limit motorboat horsepower on natural lakes under the custody of the department or limit the department's authority to establish special speed zoning regulations.

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

EXPLANATION

This bill provides that a motorboat may be operated at a five-mile-per-hour speed on all artificial lakes of more than 100 acres in size under the custody of the department of natural resources. Currently, the speed limit for such lakes is no-wake speed.

The bill also strikes a provision limiting the use of motors exceeding 10 horsepower on lake Macbride during specified dates during the summer.

The bill is effective upon enactment.

Senate Study Bill 3132 - Introduced

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

A BILL FOR

1 An Act relating to civil actions relating to real estate,
2 including mortgage foreclosure actions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5459SC (3) 84
rh/sc

S.F. _____

Section 1. Section 617.11, Code 2011, is amended to read as follows:

617.11 Lis pendens.

1. ~~When so indexed said action~~ When a petition or municipal infraction citation affecting real estate is indexed pursuant to section 617.10, either action shall be considered pending so as to charge all third persons with notice of its pendency, and while pending no interest can be acquired by third persons in the subject matter thereof as against the plaintiff's rights.

2. If a claim of interest against the property is acquired prior to the indexing of the petition or citation and such claim is not filed of record prior to indexing, it is subject to the pending action as provided in subsection 1, unless any of the following occurs:

a. The claimant intervenes in the pending action prior to entry of judgment.

b. The claimant, prior to transfer of an interest in the property to a bona fide third-party transferee, records an affidavit showing that the party seeking relief under the pending action had, prior to the indexing of the petition or citation, actual notice of the claim of interest and of the identity of the claimant.

3. This subsection does not apply to a mechanic's lien filed pursuant to chapter 572 or to a person who has taken possession of the property for value prior to the indexing of the petition or citation.

Sec. 2. Section 654.4A, unnumbered paragraph 1, Code 2011, is amended to read as follows:

In addition to any other form of service authorized by law, where in rem relief is the only relief requested in a foreclosure action or nonjudicial foreclosure under section 654.18 or chapter 655A against either a party or a person to be served with a notice pursuant to section 654.15B, all of the following shall apply:

Sec. 3. Section 654.18, subsection 1, paragraph e, Code

S.F. _____

2011, is amended to read as follows:

e. (1) The mortgagee shall send by certified mail a notice of the election to all junior lienholders as of the date of the conveyance under paragraph *"a"*, stating that the junior lienholders have thirty days from the date of mailing to exercise any rights of redemption. The notice may also be given in the manner prescribed in section 656.3 in which case the junior lienholders have thirty days from the completion of publication to exercise the rights of redemption.

(2) In addition to any other form of service authorized by law, service of process in an alternative nonjudicial voluntary foreclosure procedure filed pursuant to this section where in rem relief is the only relief requested shall be served in the manner provided in section 654.4A.

Sec. 4. Section 655A.3, subsection 1, paragraph b, Code 2011, is amended to read as follows:

b. The notice shall contain the following in capital letters of the same type or print size as the rest of the notice:

WITHIN THIRTY DAYS AFTER YOUR RECEIPT OF THIS NOTICE, YOU MUST EITHER CURE THE DEFAULTS DESCRIBED IN THIS NOTICE OR FILE WITH THE RECORDER OF THE COUNTY WHERE THE MORTGAGED PROPERTY IS LOCATED A REJECTION OF THIS NOTICE AND SERVE A COPY OF YOUR REJECTION ON THE MORTGAGEE IN THE MANNER PROVIDED ~~BY THE RULES OF CIVIL PROCEDURE FOR SERVICE OF ORIGINAL NOTICES~~ IN SECTION 655A.4. IF YOU WISH TO REJECT THIS NOTICE, YOU SHOULD CONSULT AN ATTORNEY AS TO THE PROPER MANNER TO MAKE THE REJECTION.

IF YOU DO NOT TAKE EITHER OF THE ACTIONS DESCRIBED ABOVE WITHIN THE THIRTY-DAY PERIOD, THE FORECLOSURE WILL BE COMPLETE AND YOU WILL LOSE TITLE TO THE MORTGAGED PROPERTY. AFTER THE FORECLOSURE IS COMPLETE THE DEBT SECURED BY THE MORTGAGED PROPERTY WILL BE EXTINGUISHED.

Sec. 5. Section 655A.4, Code 2011, is amended to read as follows:

655A.4 Service.

Notice under this chapter shall be served as provided in

S.F. _____

1 the rules of civil procedure for service of original notice
2 or as provided in section 654.4A. Rejection of notice under
3 this chapter shall be served by ordinary or electronic mail
4 addressed as provided in the notice, or if no address is
5 provided, to the last address of the mortgagee known to the
6 mortgagor.
7 EXPLANATION
8 Current law provides that when a petition or municipal
9 infraction citation affecting real estate is indexed pursuant
10 to Code section 617.10, either action is considered pending,
11 placing third parties on notice of its pendency, and while
12 pending no interest can be acquired by third persons. The bill
13 provides that if a claim of interest against real estate is
14 acquired prior to the indexing of a petition or citation and
15 such claim is not filed of record prior to indexing, it is
16 subject to the pending action unless the claimant intervenes in
17 the pending action prior to entry of judgment or the claimant,
18 or prior to transfer of an interest in the property to a bona
19 fide third-party transferee, the claimant records an affidavit
20 showing that the party seeking relief under the pending action
21 had, prior to the indexing of the petition or citation, actual
22 notice of the claim of interest and of the identity of the
23 claimant. The bill does not apply to a mechanic's lien filed
24 pursuant to Code chapter 572 or to a person who has taken
25 possession of the property for value prior to indexing of the
26 petition or citation.
27 The bill extends service of process requirements currently
28 in effect for foreclosure actions to nonjudicial voluntary
29 foreclosures and nonjudicial foreclosures of nonagricultural
30 mortgages and makes conforming Code changes.

Senate Study Bill 3133 - Introduced

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

A BILL FOR

1 An Act providing for notarial acts and including effective date
2 provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5458SC (13) 84
da/rj

S.F. _____

1 DIVISION I
2 REVISED UNIFORM LAW ON NOTARIAL ACTS
3 Section 1. NEW SECTION. **9B.1 Short title.**
4 This chapter may be cited as the *"Revised Uniform Law on*
5 *Notarial Acts"*.
6 Sec. 2. NEW SECTION. **9B.2 Definitions.**
7 In this chapter:
8 1. *"Acknowledgment"* means a declaration by an individual
9 before a notarial officer that the individual has signed a
10 record for the purpose stated in the record and, if the record
11 is signed in a representative capacity, that the individual
12 signed the record with proper authority and signed it as the
13 act of the individual or entity identified in the record.
14 2. *"Electronic"* means relating to technology having
15 electrical, digital, magnetic, wireless, optical,
16 electromagnetic, or similar capabilities.
17 3. *"Electronic signature"* means an electronic symbol, sound,
18 or process attached to or logically associated with a record
19 and executed or adopted by an individual with the intent to
20 sign the record.
21 4. *"In a representative capacity"* means acting as any of the
22 following:
23 *a.* An authorized officer, agent, partner, trustee, or other
24 representative for a person other than an individual.
25 *b.* A public officer, personal representative, guardian, or
26 other representative, in the capacity stated in a record.
27 *c.* An agent or attorney-in-fact for a principal.
28 *d.* An authorized representative of another in any other
29 capacity.
30 5. *"Notarial act"* means an act, whether performed with
31 respect to a tangible or electronic record, that a notarial
32 officer may perform under the law of this state. The term
33 includes taking an acknowledgment, administering an oath or
34 affirmation, taking a verification on oath or affirmation,
35 witnessing or attesting a signature, certifying or attesting a

S.F. _____

1 copy, and noting a protest of a negotiable instrument.
2 6. *"Notarial officer"* means a notary public or other
3 individual authorized to perform a notarial act.
4 7. *"Notary public"* means an individual commissioned to
5 perform a notarial act by the secretary of state.
6 8. *"Official stamp"* means a physical image affixed to or
7 embossed on a tangible record or an electronic image attached
8 to or logically associated with an electronic record.
9 9. *"Person"* means an individual, corporation, business
10 trust, statutory trust, estate, trust, partnership, limited
11 liability company, association, joint venture, public
12 corporation, government or governmental subdivision, agency, or
13 instrumentality, or any other legal or commercial entity.
14 10. *a. "Personal appearance"* means an act of a party to
15 physically appear within the presence of a notary public at the
16 time the notarization occurs.
17 *b. "Personal appearance"* does not include appearances
18 which require video, optical, or technology with similar
19 capabilities.
20 11. *"Record"* means information that is inscribed on a
21 tangible medium or that is stored in an electronic or other
22 medium and is retrievable in perceivable form.
23 12. *"Sign"* means, with present intent to authenticate or
24 adopt a record, to do any of the following:
25 *a.* Execute or adopt a tangible symbol.
26 *b.* Attach to or logically associate with the record an
27 electronic symbol, sound, or process.
28 13. *"Signature"* means a tangible symbol or an electronic
29 signature that evidences the signing of a record.
30 14. *"Stamping device"* means any of the following:
31 *a.* A physical device capable of affixing to or embossing on
32 a tangible record an official stamp.
33 *b.* An electronic device or process capable of attaching to
34 or logically associating with an electronic record an official
35 stamp.

S.F. _____

1 15. *"State"* means a state of the United States, the District
2 of Columbia, Puerto Rico, the United States Virgin Islands, or
3 any territory or insular possession subject to the jurisdiction
4 of the United States.
5 16. *"Verification on oath or affirmation"* means a
6 declaration, made by an individual on oath or affirmation
7 before a notarial officer, that a statement in a record is
8 true.
9 Sec. 3. NEW SECTION. **9B.4 Authority to perform notarial**
10 **act.**
11 1. A notarial officer may perform a notarial act authorized
12 by this chapter or by law of this state other than this
13 chapter.
14 2. A notarial officer shall not perform a notarial act
15 with respect to a record to which the notarial officer or
16 the notarial officer's spouse is a party, or in which either
17 of them has a direct beneficial interest. A notarial act
18 performed in violation of this subsection is voidable.
19 Sec. 4. NEW SECTION. **9B.5 Requirements for certain notarial**
20 **acts.**
21 1. A notarial officer who takes an acknowledgment of a
22 record shall determine, from personal knowledge or satisfactory
23 evidence of the identity of the individual, that the
24 individual appearing before the notarial officer and making the
25 acknowledgment has the identity claimed and that the signature
26 on the record is the signature of the individual.
27 2. A notarial officer who takes a verification of a
28 statement on oath or affirmation shall determine, from personal
29 knowledge or satisfactory evidence of the identity of the
30 individual, that the individual appearing before the notarial
31 officer and making the verification has the identity claimed
32 and that the signature on the statement verified is the
33 signature of the individual.
34 3. A notarial officer who witnesses or attests to a
35 signature shall determine, from personal knowledge or

S.F. _____

1 satisfactory evidence of the identity of the individual, that
2 the individual appearing before the notarial officer and
3 signing the record has the identity claimed.
4 4. A notarial officer who certifies or attests a copy of a
5 record or an item that was copied shall determine that the copy
6 is a full, true, and accurate transcription or reproduction of
7 the record or item.
8 5. A notarial officer who makes or notes a protest of a
9 negotiable instrument shall determine the matters set forth in
10 section 554.3505, subsection 2.
11 Sec. 5. NEW SECTION. **9B.6 Personal appearance required.**
12 If a notarial act relates to a statement made in or a
13 signature executed on a record, the individual making the
14 statement or executing the signature shall appear personally
15 before the notarial officer.
16 Sec. 6. NEW SECTION. **9B.7 Identification of individual.**
17 1. A notarial officer has personal knowledge of the identity
18 of an individual appearing before the notarial officer if the
19 individual is personally known to the officer through dealings
20 sufficient to provide reasonable certainty that the individual
21 has the identity claimed.
22 2. A notarial officer has satisfactory evidence of the
23 identity of an individual appearing before the notarial officer
24 if the notarial officer can identify the individual pursuant
25 to any of the following:
26 *a.* By means of any of the following:
27 (1) A passport, driver's license, or government-issued
28 nondriver identification card, which is current or expired not
29 more than three years before performance of the notarial act.
30 (2) Another form of government identification issued to
31 an individual, which is current or expired not more than
32 three years before performance of the notarial act, contains
33 the signature or a photograph of the individual, and is
34 satisfactory to the notarial officer.
35 *b.* By a verification on oath or affirmation of a credible

S.F. _____

1 witness personally appearing before the officer and known
2 to the notarial officer or whom the notarial officer can
3 identify on the basis of a passport, driver's license, or
4 government-issued nondriver identification card, which is
5 current or expired not more than three years before performance
6 of the notarial act.
7 3. A notarial officer may require an individual to provide
8 additional information or identification credentials necessary
9 to assure the officer of the identity of the individual.
10 Sec. 7. NEW SECTION. **9B.8 Authority to refuse to perform**
11 **notarial act.**
12 1. A notarial officer may refuse to perform a notarial
13 act if the notarial officer is not satisfied that any of the
14 following apply:
15 *a.* The individual executing the record is competent or has
16 the capacity to execute the record.
17 *b.* The individual's signature is knowingly and voluntarily
18 made.
19 2. A notarial officer may refuse to perform a notarial act
20 unless refusal is prohibited by law other than this chapter.
21 3. A notarial officer shall not condition the performing of
22 notarial services upon the requirement that the person served
23 be a customer or client of the establishment by which the
24 notarial officer is employed. The employer of a notary public
25 shall not condition the performing of a notarial service upon
26 the requirement that the person served be a customer or client
27 of the establishment by which the notary public is employed.
28 Sec. 8. NEW SECTION. **9B.9 Signature if individual unable**
29 **to sign.**
30 If an individual is physically unable to sign a record, the
31 individual may direct an individual other than the notarial
32 officer to sign the individual's name on the record. The
33 notarial officer shall insert "Signature affixed by (name of
34 other individual) at the direction of (name of individual)" or
35 words of similar import.

S.F. _____

1 Sec. 9. NEW SECTION. **9B.10 Notarial act in this state.**
2 1. A notarial act may be performed in this state by any of
3 the following:
4 *a.* A notary public of this state.
5 *b.* A judge, clerk, or deputy clerk of a court of this state.
6 *c.* A person authorized by the law of this state to
7 administer oaths.
8 *d.* Any other individual authorized to perform the specific
9 act by the law of this state.
10 *e.* A registrar of vital statistics or a designee of a
11 registrar of vital statistics.
12 2. The signature and title of an individual performing
13 a notarial act in this state are prima facie evidence that
14 the signature is genuine and that the individual holds the
15 designated title.
16 3. The signature and title of a notarial officer described
17 in subsection 1, paragraph *"a"*, *"b"*, or *"c"*, conclusively
18 establish the authority of the notarial officer to perform a
19 notarial act.
20 Sec. 10. NEW SECTION. **9B.11 Notarial act in another state.**
21 1. A notarial act performed in another state has the
22 same effect under the law of this state as if performed by a
23 notarial officer of this state, if the act performed in that
24 state is performed by any of the following:
25 *a.* A notary public of that state.
26 *b.* A judge, clerk, or deputy clerk of a court of that state.
27 *c.* Any other individual authorized by the law of that state
28 to perform the notarial act.
29 2. The signature and title of an individual performing a
30 notarial act in another state are prima facie evidence that
31 the signature is genuine and that the individual holds the
32 designated title.
33 3. The signature and title of a notarial officer described
34 in subsection 1, paragraph *"a"* or *"b"*, conclusively establish
35 the authority of the notarial officer to perform the notarial

S.F. _____

1 act.
2 4. The notarial act performed in another state must be
3 performed in accordance with section 9B.6.
4 Sec. 11. NEW SECTION. **9B.12 Notarial act under authority of**
5 **federally recognized Indian tribe.**
6 1. A notarial act performed under the authority and in
7 the jurisdiction of a federally recognized Indian tribe has
8 the same effect as if performed by a notarial officer of this
9 state, if the act performed in the jurisdiction of the tribe is
10 performed by any of the following:
11 *a.* A notary public of the tribe.
12 *b.* A judge, clerk, or deputy clerk of a court of the tribe.
13 *c.* Any other individual authorized by the law of the tribe
14 to perform the notarial act.
15 2. The signature and title of an individual performing a
16 notarial act under the authority of and in the jurisdiction of
17 a federally recognized Indian tribe are prima facie evidence
18 that the signature is genuine and that the individual holds the
19 designated title.
20 3. The signature and title of a notarial officer described
21 in subsection 1, paragraph *"a"* or *"b"*, conclusively establish
22 the authority of the notarial officer to perform the notarial
23 act.
24 Sec. 12. NEW SECTION. **9B.13 Notarial act under federal**
25 **authority.**
26 1. A notarial act performed under federal law has the
27 same effect under the law of this state as if performed by
28 a notarial officer of this state, if the act performed under
29 federal law is performed by any of the following:
30 *a.* A judge, clerk, or deputy clerk of a court.
31 *b.* An individual in military service or performing duties
32 under the authority of military service who is authorized to
33 perform notarial acts under federal law.
34 *c.* An individual designated a notarial officer by the
35 United States department of state for performing notarial acts

S.F. _____

1 overseas.
2 *d.* Any other individual authorized by federal law to perform
3 the notarial act.
4 2. The signature and title of an individual acting under
5 federal authority and performing a notarial act are prima facie
6 evidence that the signature is genuine and that the individual
7 holds the designated title.
8 3. The signature and title of a notarial officer described
9 in subsection 1, paragraph *"a"*, *"b"*, or *"c"*, conclusively
10 establish the authority of the notarial officer to perform the
11 notarial act.
12 Sec. 13. NEW SECTION. **9B.14 Foreign notarial act.**
13 1. As used in this section, *"foreign state"* means a
14 government other than the United States, a state, or a
15 federally recognized Indian tribe.
16 2. If a notarial act is performed under authority and in
17 the jurisdiction of a foreign state or constituent unit of
18 the foreign state or is performed under the authority of a
19 multinational or international governmental organization, the
20 act has the same effect under the law of this state as if
21 performed by a notarial officer of this state.
22 3. If the title of office and indication of authority to
23 perform notarial acts in a foreign state appears in a digest of
24 foreign law or in a list customarily used as a source for that
25 information, the authority of an officer with that title to
26 perform notarial acts is conclusively established.
27 4. The signature and official stamp of an individual holding
28 an office described in subsection 3 are prima facie evidence
29 that the signature is genuine and the individual holds the
30 designated title.
31 5. An apostille in the form prescribed by the Hague
32 convention of October 5, 1961, and issued by a foreign state
33 party to the convention conclusively establishes that the
34 signature of the notarial officer is genuine and that the
35 notarial officer holds the indicated office.

S.F. _____

1 6. A consular authentication issued by an individual
2 designated by the United States department of state as a
3 notarial officer for performing notarial acts overseas and
4 attached to the record with respect to which the notarial act
5 is performed conclusively establishes that the signature of the
6 notarial officer is genuine and that the notarial officer holds
7 the indicated office.
8 Sec. 14. NEW SECTION. **9B.15 Certificate of notarial act.**
9 1. A notarial act must be evidenced by a certificate. The
10 certificate must meet all of the following requirements:
11 *a.* Be executed contemporaneously with the performance of the
12 notarial act.
13 *b.* Be signed and dated by the notarial officer and, if the
14 notarial officer is a notary public, be signed in the same
15 manner as on file with the secretary of state.
16 *c.* Identify the jurisdiction in which the notarial act is
17 performed.
18 *d.* Contain the title of office of the notarial officer.
19 *e.* If the notarial officer is a notary public, indicate
20 the date of expiration, if any, of the notarial officer's
21 commission.
22 2. If a notarial act regarding a tangible record is
23 performed by a notary public, an official stamp must be affixed
24 to or embossed on the certificate. If a notarial act is
25 performed regarding a tangible record by a notarial officer
26 other than a notary public and the certificate contains the
27 information specified in subsection 1, paragraphs *"b"*, *"c"*, and
28 *"d"*, an official stamp may be affixed to or embossed on the
29 certificate. If a notarial act regarding an electronic record
30 is performed by a notarial officer and the certificate contains
31 the information specified in subsection 1, paragraphs *"b"*, *"c"*,
32 and *"d"*, an official stamp may be attached to or logically
33 associated with the certificate.
34 3. A certificate of a notarial act is sufficient if it
35 meets the requirements of subsections 1 and 2 and all of the

S.F. _____

1 following apply:
2 *a.* It is in a short form set forth in section 9B.16.
3 *b.* It is in a form otherwise permitted by the law of this
4 state.
5 *c.* It is in a form permitted by the law applicable in the
6 jurisdiction in which the notarial act is performed.
7 *d.* It sets forth the actions of the notarial officer and the
8 actions are sufficient to meet the requirements of the notarial
9 act as provided in sections 9B.5, 9B.6, and 9B.7, or a law of
10 this state other than this chapter.
11 4. By executing a certificate of a notarial act, a notarial
12 officer certifies that the notarial officer has complied with
13 the requirements and made the determinations specified in
14 sections 9B.4, 9B.5, and 9B.6.
15 5. A notarial officer shall not affix the notarial officer's
16 signature to, or logically associate it with, a certificate
17 until the notarial act has been performed.
18 6. If a notarial act is performed regarding a tangible
19 record, a certificate must be part of, or securely attached
20 to, the record. If a notarial act is performed regarding
21 an electronic record, the certificate must be affixed to, or
22 logically associated with, the electronic record. If the
23 secretary of state has established standards pursuant to
24 section 9B.27 for attaching, affixing, or logically associating
25 the certificate, the process must conform to the standards.
26 Sec. 15. NEW SECTION. **9B.16 Short form certificates.**
27 The following short form certificates of notarial acts are
28 sufficient for the purposes indicated, if completed with the
29 information required by section 9B.15, subsections 1 and 2:
30 1. For an acknowledgment in an individual capacity:
31 State of.....
32 [County] of.....
33 This record was acknowledged before me on.....(Date)
34 by.....Name(s) of individual(s)
35 .....

S.F. _____

1 Signature of notarial officer
2 Stamp
3 [.....]
4 Title of office
5 [My commission expires:.....]
6 2. For an acknowledgment in a representative capacity:
7 State of.....
8 [County] of.....
9 This record was acknowledged before me on.....(Date)
10 by.....Name(s) of individual(s)
11 as (type of authority, such as officer or trustee) of (name of
12 party on behalf of whom record was executed).
13 .....
14 Signature of notarial officer
15 Stamp
16 [.....]
17 Title of office
18 [My commission expires:.....]
19 3. For a verification on oath or affirmation:
20 State of.....
21 [County] of.....
22 Signed and sworn to (or affirmed) before me on.....(Date)
23 by.....Name(s) of individual(s) making statement
24 .....
25 Signature of notarial officer
26 Stamp
27 [.....]
28 Title of office
29 [My commission expires:.....]
30 4. For witnessing or attesting a signature:
31 State of.....
32 [County] of.....
33 Signed [or attested] before me on..... (Date)
34 by.....Name(s) of individual(s)
35 .....

S.F. _____

1 Signature of notarial officer
2 Stamp
3 [.....]
4 Title of office
5 [My commission expires.....]
6 5. For certifying a copy of a record:
7 State of.....
8 [County] of.....
9 I certify that this is a true and correct copy of a record in
10 the possession of.....
11 Dated.....
12 .....
13 Signature of notarial officer
14 Stamp
15 [.....]
16 Title of office
17 [My commission expires:.....]
18 Sec. 16. NEW SECTION. **9B.17 Official stamp.**
19 1. The official stamp of a notary public must comply with
20 all of the following:
21 *a.* Include the notary public's name, the words "Notarial
22 Seal" and "Iowa", the words "Commission Number" followed by
23 a number assigned to the notary public by the secretary of
24 state, the words "My Commission Expires" followed either
25 by the date that the notary public's term would ordinarily
26 expire as provided in section 9B.21 or a blank line, and other
27 information required by the secretary of state.
28 *b.* Be capable of being copied together with the record to
29 which it is affixed or attached or with which it is logically
30 associated. If the official stamp contains a blank line, the
31 person must print the date that the notary public's term would
32 ordinarily expire on the blank line imprinted on each record
33 subject to a notarial act.
34 2. This section does not apply to a judicial officer as
35 defined in section 602.1101 performing a notarial act in

S.F. _____

1 accordance with state or federal authority. This section does
2 not apply to a chief officer or a chief officer's designee
3 certifying a peace officer's verification of a uniform citation
4 and complaint pursuant to section 805.6, subsection 3. A
5 judicial officer, chief officer, or chief officer's designee is
6 not required to acquire or use an official stamp in performing
7 these acts.
8 Sec. 17. NEW SECTION. **9B.18 Stamping device.**
9 1. A notary public is responsible for the security of the
10 notary public's stamping device and shall not allow another
11 individual to use the device to perform a notarial act.
12 2. If a notary public's stamping device is lost or
13 stolen, the notary public or the notary public's personal
14 representative or guardian shall notify promptly the
15 commissioning officer or agency on discovering that the device
16 is lost or stolen.
17 Sec. 18. NEW SECTION. **9B.20 Notification regarding**
18 **performance of notarial act on electronic record —selection of**
19 **technology.**
20 1. A notary public may select one or more tamper-evident
21 technologies to perform notarial acts with respect to
22 electronic records. A person shall not require a notary public
23 to perform a notarial act with respect to an electronic record
24 with a technology that the notary public has not selected.
25 2. Before a notary public performs the notary public's
26 initial notarial act with respect to an electronic record,
27 a notary public shall notify the secretary of state that
28 the notary public will be performing notarial acts with
29 respect to electronic records and identify the technology the
30 notary public intends to use. If the secretary of state has
31 established standards for approval of technology pursuant to
32 section 9B.27, the technology must conform to the standards.
33 If the technology conforms to the standards, the secretary of
34 state shall approve the use of the technology.
35 Sec. 19. NEW SECTION. **9B.21 Commission as notary public —**

S.F. _____

1 **qualifications — no immunity or benefit.**
2 1. An individual qualified under subsection 2 may apply to
3 the secretary of state for a commission as a notary public.
4 The applicant shall comply with and provide the information
5 required by rules established by the secretary of state and pay
6 an application fee of thirty dollars to the secretary of state.
7 A person appointed as a notary public under subsection 4 is not
8 subject to the fee imposed by this subsection.
9 2. An applicant for a commission as a notary public shall
10 meet all of the following qualifications:
11 *a.* Be at least eighteen years of age.
12 *b.* Be a citizen or permanent legal resident of the United
13 States.
14 *c.* Be a resident of or have a place of employment or
15 practice in this state.
16 *d.* Be able to read and write English.
17 *e.* Not be disqualified to receive a commission under section
18 9B.23.
19 3. Before issuance of a commission as a notary public, an
20 applicant for the commission shall execute an oath of office
21 and submit it to the secretary of state.
22 4. *a.* The secretary of state shall appoint members of the
23 general assembly as notaries public, upon request, and may
24 revoke an appointment for cause.
25 *b.* The secretary of state may appoint one or more employees
26 of a state agency as a notary public to perform notarial
27 acts associated with their positions, pursuant to conditions
28 established by the secretary of state. As used in this
29 paragraph, *"state agency"* means any executive, judicial,
30 or legislative department, commission, board, institution,
31 division, bureau, office, agency, or other entity of state
32 government.
33 5. The secretary of state may appoint as a notary public
34 a resident of a state bordering Iowa if that person's place
35 of work or business is within the state of Iowa. If a notary

S.F. _____

1 public who is a resident of a state bordering Iowa ceases
2 to work or maintain a place of business in Iowa, the notary
3 commission expires.
4 6. On compliance with this section, the secretary of state
5 shall issue a commission as a notary public to an applicant for
6 a term of three years. The term of a notarial officer who is a
7 resident of a state bordering Iowa and whose place of work or
8 business is in Iowa is one year. The term of a notary public
9 who is a member of the general assembly is the member's term of
10 office. The term of a notary public who is an employee of a
11 state agency designated to receive an appointment as provided
12 in subsection 4 shall terminate at the end of employment.
13 7. A commission to act as a notary public authorizes the
14 notary public to perform notarial acts. The commission does
15 not provide the notary public any immunity or benefit conferred
16 by law of this state on public officials or employees.
17 Sec. 20. NEW SECTION. **9B.21A Notice of expiration of term.**
18 The secretary of state, two months preceding the
19 expiration of a commission, shall notify the notary public
20 of the expiration date and furnish a blank application for
21 reappointment.
22 Sec. 21. NEW SECTION. **9B.23 Grounds to deny, refuse to**
23 **renew, revoke, suspend, or condition commission of notary public.**
24 1. The secretary of state may deny, refuse to renew, revoke,
25 suspend, or impose a condition on a commission as notary public
26 for any act or omission that demonstrates the individual lacks
27 the honesty, integrity, competence, or reliability to act
28 as a notary public, including any of the following acts or
29 omissions:
30 *a.* A failure to comply with this chapter.
31 *b.* A fraudulent, dishonest, or deceitful misstatement or
32 omission in the application for a commission as a notary public
33 submitted to the secretary of state.
34 *c.* A conviction of the applicant or notary public of any
35 felony or a crime involving fraud, dishonesty, or deceit.

S.F. _____

1 *d.* A finding against, or admission of liability by,
2 the applicant or notary public in any legal proceeding or
3 disciplinary action based on the applicant's or notary public's
4 fraud, dishonesty, or deceit.
5 *e.* A failure by the notary public to discharge any duty
6 required of a notary public, whether by this chapter, rules
7 adopted by the secretary of state, or any federal or state law.
8 *f.* The use of false or misleading advertising or
9 representation by the notary public representing that the
10 notary public has a duty, right, or privilege that the notary
11 public does not have.
12 *g.* A violation by the notary public of a rule adopted by the
13 secretary of state regarding a notary public.
14 *h.* A denial, refusal to renew, revocation, suspension, or
15 conditioning of a notary public commission in another state.
16 2. If the secretary of state denies, refuses to renew,
17 revokes, suspends, or imposes conditions on a commission as a
18 notary public, the applicant or notary public is entitled to
19 timely notice and hearing in accordance with rules adopted by
20 the secretary of state.
21 3. The authority of the secretary of state to deny, refuse
22 to renew, suspend, revoke, or impose conditions on a commission
23 as a notary public does not prevent either the secretary of
24 state or a person aggrieved by a notary public from seeking and
25 obtaining other criminal or civil remedies provided by law.
26 Sec. 22. NEW SECTION. **9B.24 Database of notaries public.**
27 The secretary of state shall maintain an electronic database
28 of notaries public which complies with all of the following:
29 1. Through which a person may verify the authority of a
30 notary public to perform notarial acts.
31 2. Which indicates whether a notary public has notified the
32 secretary of state that the notary public will be performing
33 notarial acts on electronic records.
34 Sec. 23. NEW SECTION. **9B.25 Prohibited acts.**
35 1. A commission as a notary public does not authorize an

S.F. _____

1 individual to do any of the following:
2 *a.* Assist persons in drafting legal records, give legal
3 advice, or otherwise practice law.
4 *b.* Act as an immigration consultant or an expert on
5 immigration matters.
6 *c.* Represent a person in a judicial or administrative
7 proceeding relating to immigration to the United States, United
8 States citizenship, or related matters.
9 *d.* Receive compensation for performing any of the activities
10 listed in this subsection.
11 2. A notary public shall not engage in false or deceptive
12 advertising.
13 3. A notary public, other than an attorney licensed to
14 practice law in this state, shall not use the term "notario" or
15 "notario publico".
16 4. A notary public, other than an attorney licensed to
17 practice law in this state, shall not advertise or represent
18 that the notary public may assist persons in drafting legal
19 records, give legal advice, or otherwise practice law. If
20 a notary public who is not an attorney licensed to practice
21 law in this state in any manner advertises or represents that
22 the notary public offers notarial services, whether orally
23 or in a record, including broadcast media, print media, or
24 the internet, the notary public shall include the following
25 statement, or an alternate statement authorized or required by
26 the secretary of state in the advertisement or representation,
27 prominently and in each language used in the advertisement or
28 representation:
29 I am not an attorney licensed to practice law in this state.
30 I am not allowed to draft legal records, give advice on legal
31 matters, including immigration, or charge a fee for those
32 activities.
33 If the form of advertisement or representation is not
34 broadcast media, print media, or the internet and does not
35 permit inclusion of the statement required by this subsection

S.F. _____

1 because of size, it must be displayed prominently or provided
2 at the place of performance of the notarial act before the
3 notarial act is performed.
4 5. Except as otherwise allowed by law, a notary public shall
5 not withhold access to or possession of an original record
6 provided by a person that seeks performance of a notarial act
7 by the notary public.
8 Sec. 24. NEW SECTION. **9B.26 Validity of notarial acts.**
9 1. Except as otherwise provided in section 9B.4, subsection
10 2, the failure of a notarial officer to perform a duty or meet
11 a requirement specified in this chapter does not invalidate a
12 notarial act performed by the notarial officer. The validity
13 of a notarial act under this chapter does not prevent an
14 aggrieved person from seeking to invalidate the record or
15 transaction that is the subject of the notarial act or from
16 seeking other remedies based on law of this state other than
17 this chapter or law of the United States. This section
18 does not validate a purported notarial act performed by an
19 individual who does not have the authority to perform notarial
20 acts.
21 2. The validity of a notarial act shall not be affected
22 or impaired by the fact that the notarial officer performing
23 the notarial act is an officer, director, or shareholder of
24 a corporation that may have a beneficial interest or other
25 interest in the subject matter of the notarial act.
26 Sec. 25. NEW SECTION. **9B.27 Rules.**
27 1. The secretary of state may adopt rules to administer this
28 chapter. Any rules adopted with respect to the performance of
29 notarial acts on electronic records shall not require or favor
30 one technology or technical specification over another.
31 Sec. 26. NEW SECTION. **9B.28 Notary public commission in**
32 **effect.**
33 A commission as a notary public in effect on January 1,
34 2013, continues until its date of expiration. A notary public
35 who applies to renew a commission as a notary public on or

S.F. _____

after January 1, 2013, is subject to and shall comply with this chapter. A notary public, in performing notarial acts on or after January 1, 2013, shall comply with this chapter.

Sec. 27. NEW SECTION. **9B.30 Uniformity of application and construction.**

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the revised uniform law on notarial acts.

Sec. 28. NEW SECTION. **9B.31 Relation to electronic signatures in global and national commerce act.**

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

Sec. 29. REPEAL. Chapter 9E, Code 2011, is repealed.

DIVISION II

COORDINATING AMENDMENTS

Sec. 30. Section 2C.7, subsection 1, Code 2011, is amended to read as follows:

1. Hold another public office of trust or profit under the laws of this state other than ~~the office of~~ notary public as provided in chapter 9B.

Sec. 31. Section 4.1, subsection 28, Code 2011, is amended to read as follows:

28. *Seal.* Where the seal of a court, public office, public officer, or public or private corporation may be required to be affixed to any paper, the word "*seal*" shall include an impression upon the paper alone, or upon wax, ~~or~~ a wafer affixed to the paper, or an official ~~ink~~ stamp ~~if a notarial seal~~ of a notarial officer as provided in chapter 9B. If the seal of a court is required, the word "*seal*" may also include a visible electronic image of the seal on an electronic document.

S.F. _____

1 Sec. 32. Section 29B.129, unnumbered paragraph 1, Code
2 2011, is amended to read as follows:
3 The following members of the state military forces may
4 administer oaths for the purposes of military administration
5 including military justice, and affidavits may be taken for
6 those purposes before persons having the general powers of a
7 notary public as provided in chapter 9B:
8 Sec. 33. Section 43.14, subsection 4, paragraph e, Code
9 2011, is amended to read as follows:
10 *e.* The signature of a notary public under chapter 9B or
11 other officer empowered to witness oaths.
12 Sec. 34. Section 45.5, subsection 5, paragraph d, Code 2011,
13 is amended to read as follows:
14 *d.* The signature of a notary public under chapter 9B or
15 other officer empowered to witness oaths.
16 Sec. 35. Section 144.12A, subsection 5, paragraph a, Code
17 2011, is amended to read as follows:
18 *a.* Information provided to the registry may be revoked by
19 the registrant by submission of a written statement signed
20 and acknowledged by the registrant before a notary public as
21 provided in chapter 9B.
22 Sec. 36. Section 144A.3, subsection 2, paragraph b, Code
23 2011, is amended to read as follows:
24 *b.* Is acknowledged before a notarial officer within this
25 state as provided in chapter 9B.
26 Sec. 37. Section 144B.3, subsection 1, paragraph b,
27 subparagraph (2), Code 2011, is amended to read as follows:
28 (2) Is acknowledged before a notarial officer within this
29 state as provided in chapter 9B.
30 Sec. 38. Section 144C.6, subsection 2, paragraph b, Code
31 Supplement 2011, is amended to read as follows:
32 *b.* Acknowledged before a notarial officer as provided in
33 chapter 9B.
34 Sec. 39. Section 252A.3A, subsection 5, paragraph h, Code
35 Supplement 2011, is amended to read as follows:

S.F. _____

1 *h.* The signature of a notary public under chapter 9B
2 attesting to the identities of the parties signing the
3 affidavit of paternity.
4 Sec. 40. Section 321.251, subsection 2, paragraph b, Code
5 2011, is amended to read as follows:
6 *b.* A written notice of election shall be filed with the
7 designated officials of the local authority whose ordinances,
8 rules, or regulations will govern the vehicular traffic. The
9 appropriate officials shall be the city clerk and chief of
10 police of the city in which the real property is located and
11 the county sheriff and the county recorder of the county in
12 which the real property is located. The notice shall include
13 the legal description of the real property, the street address,
14 if any, and the date and time when the owner wishes the
15 election to become effective. The notice shall be signed by
16 every titleholder of the real property and acknowledged by a
17 notary public as provided in chapter 9B.
18 Sec. 41. Section 321G.29, subsection 3, Code Supplement
19 2011, is amended to read as follows:
20 3. An owner of a snowmobile shall apply to the county
21 recorder for issuance of a certificate of title within thirty
22 days after acquisition. The application shall be on forms the
23 department prescribes and accompanied by the required fee.
24 The application shall be signed and sworn to before a ~~notary~~
25 ~~public~~ notarial officer as provided in chapter 9B or other
26 person who administers oaths, or shall include a certification
27 signed in writing containing substantially the representation
28 that statements made are true and correct to the best of the
29 applicant's knowledge, information, and belief, under penalty
30 of perjury. The application shall contain the date of sale
31 and gross price of the snowmobile or the fair market value if
32 no sale immediately preceded the transfer and any additional
33 information the department requires. If the application is
34 made for a snowmobile last previously registered or titled in
35 another state or foreign country, the application shall contain

S.F. _____

1 this information and any other information the department
2 requires.
3 Sec. 42. Section 321I.31, subsection 3, Code 2011, is
4 amended to read as follows:
5 3. An owner of an all-terrain vehicle shall apply to
6 the county recorder for issuance of a certificate of title
7 within thirty days after acquisition. The application shall
8 be on forms the department prescribes and accompanied by the
9 required fee. The application shall be signed and sworn to
10 before a notary public as provided in chapter 9B or other
11 person who administers oaths, or shall include a certification
12 signed in writing containing substantially the representation
13 that statements made are true and correct to the best of the
14 applicant's knowledge, information, and belief, under penalty
15 of perjury. The application shall contain the date of sale and
16 gross price of the all-terrain vehicle or the fair market value
17 if no sale immediately preceded the transfer and any additional
18 information the department requires. If the application is
19 made for an all-terrain vehicle last previously registered or
20 titled in another state or foreign country, the application
21 shall contain this information and any other information the
22 department requires.
23 Sec. 43. Section 462A.77, subsection 4, Code 2011, is
24 amended to read as follows:
25 4. Every owner of a vessel subject to titling under this
26 chapter shall apply to the county recorder for issuance of a
27 certificate of title for the vessel within thirty days after
28 acquisition. The application shall be on forms the department
29 prescribes, and accompanied by the required fee. The
30 application shall be signed and sworn to before a notary public
31 as provided in chapter 9B or other person who administers
32 oaths, or shall include a certification signed in writing
33 containing substantially the representation that statements
34 made are true and correct to the best of the applicant's
35 knowledge, information, and belief, under penalty of perjury.

S.F. _____

The application shall contain the date of sale and gross price of the vessel or the fair market value if no sale immediately preceded the transfer, and any additional information the department requires. If the application is made for a vessel last previously registered or titled in another state or foreign country, it shall contain this information and any other information the department requires.

Sec. 44. Section 535B.1, subsection 11, Code Supplement 2011, is amended to read as follows:

11. *"Real estate closing services"* means the administrative and clerical services required to carry out the conveyance or transfer of real estate or an interest in real estate located in this state to a purchaser or lender. *"Real estate closing services"* include but are not limited to preparing settlement statements, determining that all closing documents conform to the parties' contract requirements, ascertaining that the lender's instructions have been satisfied, conducting a closing conference, receiving and disbursing funds, and completing form documents and instruments selected by and in accordance with instructions of the parties to the transaction. *"Real estate closing services"* do not include performing solely ~~notary functions~~ notarial acts as provided in chapter 9B.

Sec. 45. Section 554.3505, subsection 2, Code 2011, is amended to read as follows:

2. A protest is a certificate of dishonor made by a United States consul or vice consul, or a notary public as provided in chapter 9B or other person authorized to administer oaths by the law of the place where dishonor occurs. It may be made upon information satisfactory to that person. The protest must identify the instrument and certify either that presentment has been made or, if not made, the reason why it was not made, and that the instrument has been dishonored by nonacceptance or nonpayment. The protest may also certify that notice of dishonor has been given to some or all parties.

Sec. 46. Section 558.15, Code 2011, is amended to read as

S.F. _____

1 follows:
2 **558.15 ~~Notarial~~ Official stamps ~~or seals~~ of ~~nonresidents~~**
3 **nonresident public notaries — presumption.**
4 Any ~~notarial~~ official stamp ~~or seal~~ purporting to have been
5 affixed to any instrument in writing, by any notary public as
6 provided in chapter 9B residing elsewhere than in this state,
7 shall be prima facie evidence that the words thereon engraved
8 conform to the requirements of the law of the place where such
9 certificate purports to have been made.
10 Sec. 47. Section 558.20, Code 2011, is amended to read as
11 follows:
12 **558.20 Acknowledgments.**
13 The acknowledgment of any deed, conveyance, or other
14 instrument in writing by which real estate in this state
15 is conveyed or encumbered, whether made within this state,
16 outside this state, outside the United States, or under federal
17 authority, shall comply with the provisions of chapter ~~9E~~ 9B.
18 Sec. 48. Section 558.40, Code 2011, is amended to read as
19 follows:
20 **558.40 Liability of officer.**
21 Any officer, who knowingly misstates a material fact in any
22 of the certificates mentioned in this chapter or chapter ~~9E~~ 9B,
23 shall be liable for all damages caused thereby, and shall be
24 guilty of a serious misdemeanor.
25 Sec. 49. Section 558.42, Code 2011, is amended to read as
26 follows:
27 **558.42 Acknowledgment as condition precedent.**
28 A document shall not be deemed lawfully recorded, unless
29 it has been previously acknowledged or proved in the manner
30 prescribed in chapter ~~9E~~ 9B, except that affidavits, and
31 certified copies of petitions in bankruptcy with or without the
32 schedules appended, of decrees of adjudication in bankruptcy,
33 and of orders approving trustees' bonds in bankruptcy, and
34 uniform commercial code financing statements and financing
35 statement changes as provided in chapter 554 need not be thus

S.F. _____

1 acknowledged.
2 Sec. 50. Section 589.4, Code 2011, is amended to read as
3 follows:
4 **589.4 Acknowledgments by corporation officers.**
5 The acknowledgments of all deeds, mortgages, or other
6 instruments in writing taken or certified more than ten years
7 earlier, which instruments have been recorded in the recorder's
8 office of any county of this state, including acknowledgments
9 of instruments made by a corporation, or to which the
10 corporation was a party, or under which the corporation was
11 a beneficiary, and which have been acknowledged before or
12 certified by a notary public as provided in chapter 9B who was
13 at the time of the acknowledgment or certifying a stockholder
14 or officer in the corporation, are legal and valid official
15 acts of the notaries public, and entitle the instruments to be
16 recorded, anything in the laws of the state of Iowa in regard
17 to acknowledgments to the contrary notwithstanding. This
18 section does not affect pending litigation.
19 Sec. 51. Section 589.5, Code 2011, is amended to read as
20 follows:
21 **589.5 Acknowledgments by stockholders.**
22 All deeds and conveyances of lands within this state
23 executed more than ten years earlier, but which have been
24 acknowledged or proved according to and in compliance with
25 the laws of this state before a notary public as provided
26 in chapter 9B or other official authorized by law to take
27 acknowledgments who was, at the time of the acknowledgment,
28 an officer or stockholder of a corporation interested in the
29 deed or conveyance, or otherwise interested in the deeds or
30 conveyances, are, if otherwise valid, valid in law as though
31 acknowledged or proved before an officer not interested in
32 the deeds or conveyances; and if recorded more than ten years
33 earlier, in the respective counties in which the lands are, the
34 records are valid in law as though the deeds and conveyances,
35 so acknowledged or proved and recorded, had, prior to being

S.F. _____

1 recorded, been acknowledged or proved before an officer having
2 no interest in the deeds or conveyances.
3 Sec. 52. Section 600.7, subsection 2, paragraph b, Code
4 2011, is amended to read as follows:
5 *b.* If by any other person, either in the presence of the
6 juvenile court or court in which the adoption petition is filed
7 or before a notary public as provided in chapter 9B.
8 Sec. 53. Section 602.8102, subsection 78, Code 2011, is
9 amended to read as follows:
10 78. Certify an acknowledgment of a written instrument
11 relating to real estate as provided in section ~~9E.10~~ 9B.10 or
12 558.20.
13 Sec. 54. Section 622.86, Code 2011, is amended to read as
14 follows:
15 **622.86 Foreign affidavits.**
16 Those taken out of the state before any judge or clerk of
17 a court of record, or before a notary public as provided in
18 chapter 9B, or a commissioner appointed by the governor of this
19 state to take acknowledgment of deeds in the state where such
20 affidavit is taken, are of the same credibility as if taken
21 within the state.
22 Sec. 55. Section 624.37, subsection 1, Code Supplement
23 2011, is amended to read as follows:
24 1. When the amount due upon judgment is paid off, or
25 satisfied in full, the party entitled to the proceeds thereof,
26 or those acting for that party, must acknowledge satisfaction
27 of the judgment by the execution of an instrument referring to
28 it, duly acknowledged or notarized in the manner prescribed
29 in chapter ~~9E~~ 9B, and filed in the office of the clerk in
30 every county wherein the judgment is a lien. A failure to
31 acknowledge satisfaction of the judgment in such manner within
32 thirty days after having been requested to do so in a writing
33 containing a draft release of the judgment shall subject the
34 delinquent party to a penalty of four hundred dollars to be
35 recovered by a motion filed in the court that rendered the

S.F. _____

1 original judgment requesting that the payor of the judgment,
2 if different from the judgment debtor, be subrogated to the
3 rights of the judgment creditor, that the court determine the
4 amount currently owed on the judgment, or any other relief as
5 may be necessary to accomplish payment and satisfaction of the
6 judgment. If the motion relates to a lien of judgment as to
7 specific property, the motion may be filed by a person with an
8 interest in the property.
9 Sec. 56. Section 633.279, subsection 2, paragraph a, Code
10 Supplement 2011, is amended to read as follows:
11 *a.* An attested will may be made self-proved at the time of
12 its execution, or at any subsequent date, by the acknowledgment
13 thereof by the testator and the affidavits of the witnesses,
14 each made before a person authorized to administer oaths
15 and take acknowledgments under the laws of this state, and
16 evidenced by such person's certificate, under seal, attached
17 or annexed to the will, in form and content substantially as
18 follows:
19 Affidavit
20 State of .....)
21 County of .....) ss
22 We, the undersigned, ..., ... and ....., the
23 testator and the witnesses, respectively, whose names are
24 signed to the attached or foregoing instrument, being first
25 duly sworn, declare to the undersigned authority that said
26 instrument is the testator's will and that the testator
27 willingly signed and executed such instrument, or expressly
28 directed another to sign the same in the presence of the
29 witnesses, as a free and voluntary act for the purposes therein
30 expressed; that said witnesses, and each of them, declare to
31 the undersigned authority that such will was executed and
32 acknowledged by the testator as the testator's will in their
33 presence and that they, in the testator's presence, at the
34 testator's request, and in the presence of each other, did
35 subscribe their names thereto as attesting witnesses on the

S.F. _____

1 date of the date of such will; and that the testator, at the
2 time of the execution of such instrument, was of full age and
3 of sound mind and that the witnesses were sixteen years of age
4 or older and otherwise competent to be witnesses.
5 .....
6 Testator
7 .....
8 Witness
9 .....
10 Witness
11 Subscribed, sworn and acknowledged before me by .....,
12 the testator; and subscribed and sworn before me by .....
13 and ....., witnesses, this ... day of ..... (month), ...
14 (year)
15 .....
16 Notary Public, or other notarial
17 officer
18 ~~(Seal)~~ (Stamp) authorized to take and certify
19 acknowledgments and
20 administer oaths
21 Sec. 57. Section 633.295, Code 2011, is amended to read as
22 follows:
23 **633.295 Testimony of witnesses.**
24 The proof may be made by the oral or written testimony of
25 one or more of the subscribing witnesses to the will. If such
26 testimony is in writing, it shall be substantially in the
27 following form executed and sworn to after the death of the
28 decedent:

S.F. _____

1 In the District Court of Iowa
2 In and for ..... County
3 In the Matter of the Estate of .....
4 ....., Deceased
5 Probate No. ....
6 Testimony of Subscribing
7 Witness on Probate of Will.
8 State of .....)
9 ..... County) ss
10 I, ..., being first duly sworn, state:
11 I reside in the County of ....., State of .....; I
12 knew the testator on the .... day of ..... (month), ...
13 (year), the date of the instrument, the original or exact
14 reproduction of which is attached hereto, now shown to me,
15 and purporting to be the last will and testament of the said
16 ....., deceased; I am one of the subscribing witnesses to
17 said instrument; at the said date of said instrument, I knew
18 ....., the other subscribing witness; that said instrument was
19 exhibited to me and to the other subscribing witness by the
20 testator, who declared the same to be the testator's last will
21 and testament, and was signed by the testator at .....,
22 in the County of ....., State of ....., on the date shown
23 in said instrument, in the presence of myself and the other
24 subscribing witness; and the other subscribing witness and I
25 then and there, at the request of the testator, in the presence
26 of said testator and in the presence of each other, subscribed
27 our names thereto as witnesses.
28 .....
29 Name of witness
30 .....
31 Address
32 Subscribed and sworn to before me this ... day of .....
33 (month), ... (year)
34 .....
35 Notary Public in and for

S.F. _____

1 the
2 ~~(Seal)~~ (Stamp) State of .....
3 Sec. 58. Section 633A.4604, subsection 2, Code 2011, is
4 amended to read as follows:
5 2. The certification must contain a statement that the trust
6 has not been revoked, modified, or amended in any manner which
7 would cause the representations contained in the certification
8 of trust to be incorrect and must contain a statement that it
9 is being signed by all of the currently acting trustees of the
10 trust and is sworn and subscribed to under penalty of perjury
11 before a notary public as provided in chapter 9B.
12 DIVISION III
13 EFFECTIVE DATE
14 Sec. 59. EFFECTIVE DATE. This Act takes effect January 1,
15 2013.
16 EXPLANATION
17 GENERAL. This bill is based in part on the Revised Uniform
18 Law on Notarial Acts as proposed by the national conference
19 of commissioners on uniform state laws (tentatively codified
20 under Code chapter 9B), repeals the "Iowa Law on Notarial
21 Acts" (currently codified under Code chapter 9E), and makes
22 conforming changes throughout the Code concerning notaries
23 public. The bill differs from the model act in several
24 respects. For example, it does not include optional provisions
25 requiring a notary public to maintain a journal or pass an
26 examination. The bill also includes provisions that are part
27 of the current law. For example, it requires the secretary
28 of state to notify a notary public of an upcoming expiration.
29 The secretary of state is responsible for administering
30 requirements applicable to notaries public.
31 NOTARIAL OFFICERS. Under the bill, a notarial officer
32 (a notary public or other authorized individual) may take
33 an acknowledgment, administer an oath or affirmation, take
34 a verification on oath or affirmation, witness or attest a
35 signature, certify or attest a copy, and note a protest of a

S.F. _____

1 negotiable instrument. The bill requires a notarial officer
2 to have personal knowledge or satisfactory evidence of the
3 identity of someone appearing before the officer for certain
4 notarial acts. The bill requires notaries public to use a
5 stamp, and sets requirements for the stamp and stamping device.
6 It establishes qualifications to become a notary public,
7 including requiring a notary public to be a citizen or legal
8 permanent resident. It provides grounds for the secretary of
9 state to deny, suspend, or otherwise limit a notary public's
10 appointment. It also requires a nonattorney notary public to
11 state in any advertisement that they are not authorized to give
12 legal advice. The bill replaces a reference to a notarial seal
13 with an official stamp.
14 NOTARIAL ACTS. The bill provides for the recognition
15 of notarial acts, under specified procedures, that are
16 performed both within and outside the state. It prescribes
17 requirements for different types of notarial acts as well as
18 certificates that must be executed along with such acts. The
19 bill authorizes a notarial act to be performed in Iowa by a
20 notary public or other designated person (a judge, clerk or
21 deputy clerk of a court, a person authorized by the law of this
22 state to administer oaths, an individual authorized to perform
23 a specific act by the law, or a registrar of vital statistics
24 or a designee). Under the bill, the signature and title of
25 someone performing a notarial act is prima facie evidence that
26 the signature is genuine and that the individual holds the
27 designated title. The bill recognizes a notarial act legally
28 performed in another state, territory, or insular possession
29 of the United States, or on the land of a federally recognized
30 Indian tribe. The bill specifically applies to a notarial act
31 performed with respect to a tangible or electronic record. It
32 requires a notary public who wishes to perform a notarial act
33 involving an electronic record to notify the secretary of state
34 regarding the technology that the notary public will use.
35 RULEMAKING. The bill authorizes the secretary of state to

S.F. _____

1 adopt rules necessary to administer the bill.
2 COORDINATING AMENDMENTS. The bill amends a number of
3 provisions which refer to a notary public, by expressly
4 referencing the bill's new Code chapter. The affected Code
5 chapters include those relating to the office of citizens'
6 aide, military justice, elections, vital statistics, health
7 care, family support, transportation and recreation, commercial
8 law, court administration, property conveyances, family law,
9 evidence, and probate.
10 EFFECTIVE DATE. The bill takes effect on January 1, 2013.

Senate Study Bill 3134 - Introduced

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

A BILL FOR

1 An Act relating to nonsubstantive Code corrections and
2 including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5517SC (8) 84
lh/rj

S.F. _____

DIVISION I
NONSUBSTANTIVE CHANGES

Section 1. Section 6B.14, subsection 2, Code 2011, is amended to read as follows:

2. Prior to the meeting of the commission, the commission or a commissioner shall not communicate with the applicant, property owner, or tenant, or their agents, regarding the condemnation proceedings. The commissioners shall meet in open session to view the property and to receive evidence, but may deliberate in closed session. When deliberating in closed session, the meeting is closed to all persons who are not commissioners except for personnel from the sheriff's office if such personnel ~~is~~ are requested by the commission. After deliberations commence, the commission and each commissioner is prohibited from communicating with any party to the proceeding. However, if the commission is deliberating in closed session, and after deliberations commence the commission requires further information from a party or a witness, the commission shall notify the property owner and the acquiring agency that they are allowed to attend the meeting at which such additional information shall be provided but only for that period of time during which the additional information is being provided. The property owner and the acquiring agency shall be given a reasonable opportunity to attend the meeting. The commission shall keep minutes of all its meetings showing the date, time, and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

Sec. 2. Section 8F.2, subsection 8, paragraph b, subparagraph (8), Code 2011, is amended to read as follows:

(8) A contract for services provided from resources made available under ~~Title~~ Tit. XVIII, XIX, or XXI of the federal

S.F. _____

1 Social Security Act.
2 Sec. 3. Section 10B.4, subsection 2, paragraph g, Code
3 Supplement 2011, is amended to read as follows:
4 *g.* If the reporting entity is a life science enterprise, as
5 provided in chapter 10C, Code 2011, as that chapter exists on
6 or before June 30, 2005, the total amount of commercial sale
7 of life science products and products other than life science
8 products which are produced from the agricultural land held by
9 the life science enterprise.
10 Sec. 4. Section 12.87, subsection 1, paragraph a, Code
11 Supplement 2011, is amended to read as follows:
12 *a.* The treasurer of state is authorized to issue and sell
13 bonds on behalf of the state to provide funds for certain
14 infrastructure projects and for purposes of the Iowa jobs
15 program established in section 16.194. The treasurer of state
16 shall have all of the powers which are necessary or convenient
17 to issue, sell, and secure bonds and carry out the treasurer of
18 state's duties, and exercise the treasurer of state's authority
19 under this section and sections 12.88 through 12.90. The
20 treasurer of state may issue and sell bonds in such amounts as
21 the treasurer of state determines to be necessary to provide
22 sufficient funds for certain infrastructure projects and the
23 revenue bonds capitals fund, the revenue bonds capitals II
24 fund, the payment of interest on the bonds, the establishment
25 of reserves to secure the bonds, the payment of costs of
26 issuance of the bonds, the payment of other expenditures of
27 the treasurer of state incident to and necessary or convenient
28 to carry out the issuance and sale of the bonds, and the
29 payment of all other expenditures of the treasurer of state
30 necessary or convenient to administer the funds and to carry
31 out the purposes for which the bonds are issued and sold. The
32 treasurer of state may issue and sell bonds as provided in
33 paragraph "*b*" in one or more series on the terms and conditions
34 the treasurer of state determines to be in the best interest of
35 the state, in accordance with this section in such amounts as

S.F. _____

1 the treasurer of state determines to be necessary to fund the
2 purposes for which such bonds are issued and sold ~~as follows:~~.
3 Sec. 5. Section 15.104, subsection 3, unnumbered paragraph
4 1, Code Supplement 2011, is amended to read as follows:
5 Review and approve or disapprove a life science enterprise
6 plan or amendments to that plan as provided in chapter 10C,
7 Code 2011, and according to rules adopted by the board. A
8 life science plan shall make a reasonable effort to provide
9 for participation by persons who are individuals or family
10 farm entities actively engaged in farming as defined in
11 section 10.1. The persons may participate in the life science
12 enterprise by holding an equity position in the life science
13 enterprise or providing goods or service to the enterprise
14 under contract. The plan must be filed with the board not
15 later than June 30, 2005. The life science enterprise may file
16 an amendment to a plan at any time. A life science enterprise
17 is not eligible to file a plan, unless the life science
18 enterprise files a notice with the board. The notice shall be
19 a simple statement indicating that the life science enterprise
20 may file a plan as provided in this section. The notice must be
21 filed with the board not later than June 1, 2005. The notice,
22 plan, or amendments shall be submitted by a life science
23 enterprise as provided by the board. The board shall consult
24 with the department of agriculture and land stewardship during
25 its review of a life science plan or amendments to that plan.
26 The plan shall include information regarding the life science
27 enterprise as required by rules adopted by the board, including
28 but not limited to all of the following:
29 Sec. 6. Section 15.117A, subsection 6, paragraph b, Code
30 Supplement 2011, is amended to read as follows:
31 *b.* Review annually all of the economic development programs
32 administered by the authority and the board that relate to the
33 targeted industries and make recommendations for adjustments
34 that enhance efficiency and effectiveness. In reviewing the
35 programs, the council shall, to the greatest extent possible,

S.F. _____

1 utilize economic development data and research in order to make
2 objective, fact-based recommendations.
3 Sec. 7. Section 15.247, subsection 8, paragraphs c and d,
4 Code Supplement 2011, are amended to read as follows:
5 *c.* A person within the third degree of consanguinity of an
6 employee of the authority, a person within the third degree
7 of consanguinity of a member of the targeted small business
8 financial assistance board or member's relative, or a business
9 with any financial ties to a member shall not be eligible for
10 financial assistance under the program during the employee's
11 employment or the member's tenure on the board, as applicable.
12 *d.* Members shall serve ~~two year~~ two-year terms and may be
13 reappointed. A member shall not serve more than two terms.
14 ~~*d.*~~ *e.* The targeted small business financial assistance
15 board shall consider all applications for financial assistance
16 under the program submitted on or after July 1, 2007.
17 Sec. 8. Section 15A.9, subsection 1, paragraph b, Code
18 Supplement 2011, is amended to read as follows:
19 *b.* (1) In order to assist a community or communities
20 located within the state to secure new industrial manufacturing
21 jobs, the state of Iowa makes economic development assistance
22 available within the zone or zones, and the department of
23 economic development shall designate a site or sites, which
24 shall not be larger than two thousand five hundred acres,
25 within thirty days of March 4, 1994, as a quality jobs
26 enterprise zone or zones for the purpose of attracting a
27 primary business and supporting businesses to locate facilities
28 within the state.
29 (2) The primary business or a supporting business shall not
30 be prohibited from participating in or receiving other economic
31 development programs or services or electing to utilize other
32 tax provisions to the extent authorized elsewhere by law.
33 Sec. 9. Section 34A.15, subsection 1, paragraphs c, e, and
34 h, Code Supplement 2011, are amended to read as follows:
35 *c.* One person appointed by the Iowa ~~association of chiefs of~~

S.F. _____

1 ~~police and~~ peace officers association.
2 *e.* One person appointed by the Iowa ~~association of~~
3 professional fire fighters.
4 *h.* One person appointed by the Iowa chapter of the
5 association of ~~public safety~~ public-safety communications
6 officials-international, inc.
7 Sec. 10. Section 80B.11A, Code 2011, is amended to read as
8 follows:
9 **80B.11A Jailer training standards.**
10 The director of the academy, subject to the approval of
11 the council, and in consultation with the Iowa department of
12 corrections, Iowa state sheriffs' and deputies' association,
13 and the Iowa ~~association of chiefs of police and~~ peace officers
14 association, shall adopt rules in accordance with this chapter
15 and chapter 17A establishing minimum standards for training of
16 jailers.
17 Sec. 11. Section 80B.11C, Code 2011, is amended to read as
18 follows:
19 **80B.11C Telecommunicator training standards.**
20 The director of the academy, subject to the approval of
21 the council, in consultation with the Iowa state sheriffs'
22 and deputies' association, the Iowa police executive forum,
23 the Iowa ~~association of chiefs of police and~~ peace officers
24 association, the Iowa state police association, the Iowa
25 ~~association of~~ professional fire fighters, the Iowa emergency
26 medical services association, the joint council of Iowa
27 fire service organizations, the Iowa department of public
28 safety, the Iowa chapter of the association of ~~public safety~~
29 public-safety communications officials-international, inc., the
30 Iowa chapter of the national emergency number association, the
31 homeland security and emergency management division of the Iowa
32 department of public defense, and the Iowa department of public
33 health, shall adopt rules pursuant to chapter 17A establishing
34 minimum standards for training of telecommunicators. For
35 purposes of this section, "*telecommunicator*" means a person who

S.F. _____

1 receives requests for, or dispatches requests to, emergency
2 response agencies which include, but are not limited to, law
3 enforcement, fire, rescue, and emergency medical services
4 agencies.
5 Sec. 12. Section 80E.2, subsection 1, paragraph m, Code
6 2011, is amended to read as follows:
7 *m.* A member representing the Iowa ~~association of chiefs of~~
8 ~~police and~~ peace officers association.
9 Sec. 13. Section 80E.2, subsection 2, Code 2011, is amended
10 to read as follows:
11 2. The prosecuting attorney, licensed substance abuse
12 treatment specialist, certified substance abuse prevention
13 specialist, substance abuse treatment program director, member
14 representing the Iowa ~~association of chiefs of police and~~
15 peace officers association, member representing the Iowa state
16 police association, and the member representing the Iowa state
17 sheriffs' and deputies' association shall be appointed by the
18 governor, subject to senate confirmation, for four-year terms
19 beginning and ending as provided in section 69.19. A vacancy
20 on the council shall be filled for the unexpired term in the
21 same manner as the original appointment was made.
22 Sec. 14. Section 96.21, Code 2011, is amended to read as
23 follows:
24 **96.21 Termination.**
25 If at any time ~~Title~~ Tit. IX of the Social Security Act,
26 as amended, shall be amended or repealed by Congress or held
27 unconstitutional by the supreme court of the United States,
28 with the result that no portion of the contributions required
29 under this chapter may be credited against the tax imposed
30 by said ~~Title~~ Tit. IX, in any such event the operation of
31 the provisions of this chapter requiring the payment of
32 contributions and benefits shall immediately cease, the
33 department shall thereupon requisition from the unemployment
34 trust fund all moneys therein standing to its credit, and such
35 moneys, together with any other moneys in the unemployment

S.F. _____

1 compensation fund shall be refunded, without interest and under
2 regulations prescribed by the department, to each employer
3 by whom contributions have been paid, proportionately to the
4 employer's pro rata share of the total contributions paid under
5 this chapter. Any interest or earnings of the fund shall be
6 available to the department to pay for the costs of making such
7 refunds. When the department shall have executed the duties
8 prescribed in this section and performed such other acts as are
9 incidental to the termination of its duties under this chapter,
10 the provisions of this chapter, in their entirety, shall cease
11 to be operative.
12 Sec. 15. Section 96.27, Code 2011, is amended to read as
13 follows:
14 **96.27 Approval of attorney general.**
15 An agreement made for the purchase or other acquisition of
16 the premises mentioned in section 96.25 ~~of this section~~ with
17 funds granted or credited to this state for such purpose under
18 the Social Security Act or the Wagner-Peyser Act shall be
19 subject to the approval of the attorney general of the state of
20 Iowa as to form and as to title thereto.
21 Sec. 16. Section 97C.5, Code 2011, is amended to read as
22 follows:
23 **97C.5 Tax on employees.**
24 Every employee whose services are covered by an agreement
25 entered into under section 97C.3 shall be required to pay
26 for the period of such coverage into the contribution fund
27 established by section 97C.12, a tax which is hereby imposed
28 with respect to wages received during the calendar year of
29 1953, equal to such percentum of the wages received by the
30 employee as imposed by Social Security Act, ~~Title~~ Tit. II,
31 as such Act has been and may from time to time be amended.
32 Such payment shall be considered a condition of employment
33 as a public employee. Taxes deducted from the wages of the
34 employee by the employer and taxes imposed upon the employer
35 shall be forwarded to the state agency for recording and shall

S.F. _____

be deposited with the treasurer of state to the credit of the contribution fund established by section 97C.12 of this chapter.

Sec. 17. Section 97C.10, Code 2011, is amended to read as follows:

97C.10 Tax on employer.

In addition to all other taxes there is hereby imposed upon each employer as defined in section 97C.2, subsection 2, a tax equal to such percentum of the wages paid by the employer to each employee as imposed by the Social Security Act, ~~Title~~ Tit. II, as such Act has been and may from time to time be amended. The employer shall pay its tax or contribution from funds available and is directed to pay same from tax money or from any other income available. The political subdivision is hereby authorized and directed to levy in addition to all other taxes a property tax sufficient to meet its obligations under the provisions of this chapter, if such tax levy is necessary because other funds are not available.

Sec. 18. Section 97C.15, Code 2011, is amended to read as follows:

97C.15 Payments to secretary of treasury.

From the contribution fund the custodian of the fund shall pay to the secretary of the treasury of the United States such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under section 97C.3 and the Social Security Act, ~~Title~~ Tit. II.

Sec. 19. Section 99D.11, subsections 2 and 3, Code Supplement 2011, are amended to read as follows:

2. Licensees shall only permit the pari-mutuel or certificate method of wagering, or the ~~advanced~~ advance deposit method of wagering, as defined in this section.

3. The licensee may receive wagers of money only from a person present in a licensed racetrack enclosure on a horse or dog in the race selected by the person making the wager to finish first in the race or from a person engaging in ~~advanced~~

S.F. _____

1 advance deposit wagering as defined in this section. The
2 person wagering shall acquire an interest in the total money
3 wagered on all horses or dogs in the race as first winners in
4 proportion to the amount of money wagered by the person.
5 Sec. 20. Section 99D.11, subsection 6, paragraph c, Code
6 Supplement 2011, is amended to read as follows:
7 *c.* (1) The commission shall authorize the licensee of the
8 horse racetrack located in Polk county to conduct ~~advanced~~
9 advance deposit wagering. An ~~advanced~~ advance deposit wager
10 may be placed in person at a licensed racetrack enclosure, or
11 from any other location via a telephone-type device or any
12 other electronic means. The commission may also issue an
13 ~~advanced~~ advance deposit wagering operator license to an entity
14 who complies with subparagraph (3) and section 99D.8A.
15 (2) For the purposes of this section, ~~*"advanced deposit*~~
16 ~~*wagering"*~~ *"advance deposit wagering"* means a method of
17 pari-mutuel wagering in which an individual may establish
18 an account, deposit money into the account, and use the
19 account balance to pay for pari-mutuel wagering. Of the net
20 revenue, less all taxes paid and expenses directly related to
21 account deposit wagering incurred by the licensee of the horse
22 racetrack located in Polk county, received through ~~advanced~~
23 advance deposit wagering, fifty percent shall be designated for
24 the horse purses created pursuant to section 99D.7, subsection
25 5, and fifty percent shall be designated for the licensee for
26 the pari-mutuel horse racetrack located in Polk county.
27 (3) Before granting an ~~advanced~~ advance deposit wagering
28 operator license to an entity other than the licensee of
29 the horse racetrack located in Polk county, the commission
30 shall enter into an agreement with the licensee of the
31 horse racetrack located in Polk county, the Iowa horsemen's
32 benevolent and protective association, and the prospective
33 ~~advanced~~ advance deposit wagering operator for the purpose
34 of determining the payment of statewide source market fees
35 and the host fees to be paid on all races subject to ~~advanced~~

S.F. _____

1 advance deposit wagering. The commission shall establish the
2 term of such an ~~advanced~~ advance deposit wagering operator
3 license. Such an ~~advanced~~ advance deposit wagering operator
4 licensee shall accept wagers on live races conducted at the
5 horse racetrack in Polk county from all of its account holders
6 if it accepts wagers from any residents of this state.
7 (4) An unlicensed ~~advanced~~ advance deposit wagering
8 operator or an individual taking or receiving wagers from
9 residents of this state on races conducted at the horse
10 racetrack located in Polk county is guilty of a class "D"
11 felony.
12 (5) For the purposes of this paragraph *"c"*, ~~*"advanced*~~
13 ~~*deposit wagering operator"*~~ *"advance deposit wagering operator"*
14 means an ~~advanced~~ advance deposit wagering operator licensed
15 by the commission who has entered into an agreement with the
16 licensee of the horse racetrack in Polk county and the Iowa
17 horsemen's benevolent and protective association to provide
18 ~~advanced~~ advance deposit wagering.
19 Sec. 21. Section 100B.1, subsection 1, paragraph a,
20 subparagraph (1), subparagraph division (c), Code Supplement
21 2011, is amended to read as follows:
22 (c) Two members from a list submitted by the Iowa
23 ~~association of~~ professional fire fighters.
24 Sec. 22. Section 105.2, subsection 8, Code Supplement 2011,
25 is amended to read as follows:
26 8. *"Hydronic"* means a heating or cooling system that
27 transfers heating or cooling by circulating fluid through
28 a closed system, including boilers, pressure vessels,
29 ~~refrigerated~~ refrigeration equipment in connection with chilled
30 water systems, all steam piping, hot or chilled water piping
31 together with all control devices and accessories, installed as
32 part of, or in connection with, any heating or cooling system
33 or appliance using a liquid, water, or steam as the heating
34 or cooling media. *"Hydronic"* includes all low-pressure and
35 high-pressure systems and all natural, propane, liquid propane,

S.F. _____

1 or other gas lines associated with any component of a hydronic
2 system.
3 Sec. 23. Section 124.401, subsection 4, paragraph e, Code
4 Supplement 2011, is amended to read as follows:
5 *e.* Red ~~phosphorous~~ phosphorus.
6 Sec. 24. Section 135.105, subsection 1, Code 2011, is
7 amended to read as follows:
8 1. Coordinate the childhood lead poisoning prevention
9 program with the department of natural resources, the
10 university of Iowa poison control program, the mobile and
11 regional child health ~~speciality~~ specialty clinics, and any
12 agency or program known for a direct interest in lead levels
13 in the environment.
14 Sec. 25. Section 135.159, subsection 2, paragraph a,
15 subparagraph (9), Code Supplement 2011, is amended to read as
16 follows:
17 (9) A representative of the ~~governor's~~ Iowa developmental
18 disabilities council.
19 Sec. 26. Section 161G.3, subsection 3, paragraph a, Code
20 2011, is amended to read as follows:
21 *a.* Provide for conservation systems that manage and optimize
22 nitrogen and ~~phosphorous~~ phosphorus within fields to minimize
23 runoff and reduce downstream nutrient loading.
24 Sec. 27. Section 162.20, subsection 5, paragraph c, Code
25 2011, is amended to read as follows:
26 *c.* The transfer of a dog or cat to a research facility as
27 defined in section 162.2 or a person licensed by the United
28 States department of agriculture as a class B dealer pursuant
29 to 9 C.F.R. ch. 1, subch. A, pt. 2. However, a class B dealer
30 who receives an unsterilized dog or cat from a pound or animal
31 shelter shall either sterilize the dog or cat or transfer the
32 unsterilized dog or cat to a research facility provided in this
33 paragraph. The class B dealer shall not transfer a dog to a
34 research facility if the dog is a greyhound registered with the
35 national greyhound association and the dog raced at a track

S.F. _____

1 associated with pari-mutuel racing unless the class B dealer
2 receives written approval of the transfer from a person who
3 owned an interest in the dog while the dog was racing.
4 Sec. 28. Section 225B.3, subsection 1, paragraphs b, c, and
5 d, Code 2011, are amended to read as follows:
6 *b.* Three providers of disability prevention services,
7 recommended by the ~~governor's~~ Iowa developmental disabilities
8 council, appointed by the governor, and confirmed by the
9 senate.
10 *c.* Three persons with expertise in priority prevention
11 areas, recommended by the ~~governor's~~ Iowa developmental
12 disabilities council, appointed by the governor, and confirmed
13 by the senate.
14 *d.* Three persons with disabilities or family members of a
15 person with disabilities, recommended by the ~~governor's~~ Iowa
16 developmental disabilities council, appointed by the governor
17 and confirmed by the senate.
18 Sec. 29. Section 225C.6, subsection 1, paragraph k, Code
19 Supplement 2011, is amended to read as follows:
20 *k.* Coordinate activities with the ~~governor's~~ Iowa
21 developmental disabilities council and the mental health
22 planning council, created pursuant to federal law. The
23 commission shall work with other state agencies on
24 coordinating, collaborating, and communicating concerning
25 activities involving persons with disabilities.
26 Sec. 30. Section 231E.4, subsection 3, paragraph e, Code
27 2011, is amended to read as follows:
28 *e.* Work with the department of human services, the Iowa
29 department of public health, the ~~governor's~~ Iowa developmental
30 disabilities council, and other agencies to establish a
31 referral system for the provision of substitute decision-making
32 services.
33 Sec. 31. Section 241.3, subsection 2, Code 2011, is amended
34 to read as follows:
35 2. The department shall consult and cooperate with the

S.F. _____

1 department of workforce development, the United States
2 commissioner of social security administration, the ~~division~~
3 ~~of~~ office on the status of women of the department of human
4 rights, the department of education, and other persons in the
5 executive branch of the state government as the department
6 considers appropriate to facilitate the coordination of
7 multipurpose service programs established under this chapter
8 with existing programs of a similar nature.
9 Sec. 32. Section 249A.4B, subsection 2, paragraph a,
10 subparagraph (39), Code Supplement 2011, is amended to read as
11 follows:
12 (39) The ~~governor's~~ Iowa developmental disabilities
13 council.
14 Sec. 33. Section 256.32, subsection 2, paragraph c, Code
15 Supplement 2011, is amended to read as follows:
16 *c.* The current postsecondary agriculture ~~students~~ student
17 organization of Iowa president.
18 Sec. 34. Section 256.35A, subsection 2, paragraph b, Code
19 2011, is amended to read as follows:
20 *b.* In addition, representatives of the department of
21 education, the division of vocational rehabilitation of the
22 department of education, the department of public health, the
23 department of human services, the ~~governor's~~ Iowa developmental
24 disabilities council, the division of insurance of the
25 department of commerce, and the state board of regents shall
26 serve as ex officio members of the advisory council. Ex
27 officio members shall work together in a collaborative manner
28 to serve as a resource to the advisory council. The council
29 may also form workgroups as necessary to address specific
30 issues within the technical purview of individual members.
31 Sec. 35. Section 256C.5, subsection 2, paragraph a, Code
32 Supplement 2011, is amended to read as follows:
33 *a.* For the initial school year for which a school district
34 approved to participate in the preschool program receives that
35 approval and implements the preschool program, the funding for

S.F. _____

the preschool foundation aid payable to that school district shall be paid from the appropriation made for that school year in section 256C.6, Code 2011, or in another appropriation made for purposes of this chapter. For that school year, the preschool foundation aid payable to the school district is the product of the regular program state cost per pupil for the school year multiplied by sixty percent of the school district's eligible student enrollment on the date in the school year determined by rule.

Sec. 36. Section 260H.2, Code Supplement 2011, is amended to read as follows:

260H.2 Pathways for academic career and employment program.

A pathways for academic career and employment program is established to provide funding to community colleges for the development of projects in coordination with the economic development authority, the department of education, ~~Iowa~~ the department of workforce development, regional advisory boards established pursuant to section 84A.4, and community partners to implement a simplified, streamlined, and comprehensive process, along with customized support services, to enable eligible participants to acquire effective academic and employment training to secure gainful, quality, in-state employment.

Sec. 37. Section 260H.8, Code Supplement 2011, is amended to read as follows:

260H.8 Rules.

The department of education, in consultation with the community colleges, the economic development authority, and ~~Iowa~~ the department of workforce development, shall adopt rules pursuant to chapter 17A and this chapter to implement the provisions of this chapter. Regional advisory boards established pursuant to section 84A.4 shall be consulted in the development and implementation of rules to be adopted pursuant to this chapter.

Sec. 38. Section 273.2, subsection 3, Code Supplement 2011,

S.F. _____

1 is amended to read as follows:
2 3. The area education agency board shall furnish
3 educational services and programs as provided in sections
4 273.1, this section, sections 273.3 to 273.9, and chapter 256B
5 to the pupils enrolled in public or nonpublic schools located
6 within its boundaries which are on the list of accredited
7 schools pursuant to section 256.11. The programs and services
8 provided shall be at least commensurate with programs and
9 services existing on July 1, 1974. The programs and services
10 provided to pupils enrolled in nonpublic schools shall be
11 comparable to programs and services provided to pupils enrolled
12 in public schools within constitutional guidelines.
13 Sec. 39. Section 273.3, subsections 2 and 12, Code
14 Supplement 2011, are amended to read as follows:
15 2. Be authorized to receive and expend money for providing
16 programs and services as provided in sections 273.1, 273.2,
17 this section, sections 273.4 to 273.9, and chapters 256B
18 and 257. All costs incurred in providing the programs and
19 services, including administrative costs, shall be paid from
20 funds received pursuant to sections 273.1 to 273.9 and chapters
21 256B and 257.
22 12. Prepare an annual budget estimating income and
23 expenditures for programs and services as provided in sections
24 273.1, 273.2, this section, sections 273.4 to 273.9, and
25 chapter 256B within the limits of funds provided under section
26 256B.9 and chapter 257. The board shall give notice of a
27 public hearing on the proposed budget by publication in an
28 official county newspaper in each county in the territory
29 of the area education agency in which the principal place
30 of business of a school district that is a part of the area
31 education agency is located. The notice shall specify the
32 date, which shall be not later than March 1 of each year, the
33 time, and the location of the public hearing. The proposed
34 budget as approved by the board shall then be submitted to the
35 state board of education, on forms provided by the department,

S.F. _____

no later than March 15 preceding the next fiscal year for approval. The state board shall review the proposed budget of each area education agency and shall before April 1, either grant approval or return the budget without approval with comments of the state board included. An unapproved budget shall be resubmitted to the state board for final approval not later than April 15. For the fiscal year beginning July 1, 1999, and each succeeding fiscal year, the state board shall give final approval only to budgets submitted by area education agencies accredited by the state board or that have been given conditional accreditation by the state board.

Sec. 40. Section 280.13C, subsection 3, Code Supplement 2011, is amended to read as follows:

3. ~~*a.*~~ A student who has been removed from participation shall not recommence such participation until the student has been evaluated by a licensed health care provider trained in the evaluation and management of concussions and other brain injuries and the student has received written clearance to return to participation from the health care provider.

~~*b.*~~ 4. For the purposes of this section~~, a *"licensed health care provider"*~~:

a. "Extracurricular interscholastic activity" means any extracurricular interscholastic activity, contest, or practice, including sports, dance, or cheerleading.

b. "Licensed health care provider" means a physician, physician assistant, chiropractor, advanced registered nurse practitioner, nurse, physical therapist, or athletic trainer licensed by a board designated under section 147.13.

~~*c.* For the purposes of this section, an *"extracurricular interscholastic activity"* means any extracurricular interscholastic activity, contest, or practice, including sports, dance, or cheerleading.~~

Sec. 41. Section 313.3, subsection 1, paragraph d, Code 2011, is amended to read as follows:

d. All revenue accrued or accruing to the state of Iowa

S.F. _____

on or after January 26, 1949, from the sale of public lands within the state, under Acts of Congress approved March 3, 1845, supplemental to the Act for the ~~admission~~ Admission of the ~~states~~ States of Iowa and Florida into the Union, chapters 75 and 76 ~~(Fifth Statutes, pages 788 and 790)~~, 5 Stat. 788, 790, shall be placed in the primary road fund.

Sec. 42. Section 331.512, subsection 1, paragraph e, Code 2011, is amended to read as follows:

e. The levy for taxes for the ~~county~~ brucellosis and tuberculosis eradication fund as provided in section 165.18.

Sec. 43. Section 331.559, subsection 2, Code 2011, is amended to read as follows:

2. Collect the tax levied for the ~~county~~ brucellosis and tuberculosis eradication fund as provided in section 165.18.

Sec. 44. Section 356.36, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The Iowa department of corrections, in consultation with the Iowa state sheriff's association, the Iowa ~~association of chiefs of police and~~ peace officers association, the Iowa league of cities, and the Iowa board of supervisors association, shall draw up minimum standards for the regulation of jails, alternative jails, facilities established pursuant to chapter 356A and municipal holding facilities. When completed by the department, the standards shall be adopted as rules pursuant to chapter 17A.

Sec. 45. Section 356.37, Code 2011, is amended to read as follows:

356.37 Confinement and detention report — design proposals.

The division of criminal and juvenile justice planning of the department of human rights, in consultation with the department of corrections, the Iowa county attorneys association, the Iowa state sheriff's association, the Iowa ~~association of chiefs of police and~~ peace officers association, a statewide organization representing rural property taxpayers, the Iowa league of cities, and the Iowa board of supervisors

S.F. _____

1 association, shall prepare a report analyzing the confinement
2 and detention needs of jails and facilities established
3 pursuant to this chapter and chapter 356A. The report for each
4 type of jail or facility shall include but is not limited to
5 an inventory of prisoner space, daily prisoner counts, options
6 for detention of prisoners with mental illness or substance
7 abuse service needs, and the compliance status under section
8 356.36 for each jail or facility. The report shall contain an
9 inventory of recent jail or facility construction projects in
10 which voters have approved the issuance of general obligation
11 bonds, essential county purpose bonds, revenue bonds, or
12 bonds issued pursuant to chapter 423B. The report shall be
13 revised periodically as directed by the administrator of the
14 division of criminal and juvenile justice planning. The first
15 submission of the report shall include recommendations on
16 offender data needed to estimate jail space needs in the next
17 two, three, and five years, on a county, geographic region, and
18 statewide basis, which may be based upon information submitted
19 pursuant to section 356.49.
20 Sec. 46. Section 403.21, subsection 3, Code Supplement
21 2011, is amended to read as follows:
22 3. The community college shall send a copy of the final
23 agreement prepared pursuant to section 260F.3 to the economic
24 development authority. For each year in which incremental
25 property taxes are used to retire debt service on a jobs
26 training advance issued for a project creating new jobs, the
27 community college shall provide to the economic development
28 authority a report of the incremental property taxes and new
29 jobs credits from withholding generated for that year, a
30 specific description of the training conducted, the number of
31 employees provided program services under the project, ~~and~~ the
32 median wage of employees in the new jobs in the project, and
33 the administrative costs directly attributable to the project.
34 Sec. 47. Section 410.1, unnumbered paragraph 5, Code 2011,
35 is amended to read as follows:

S.F. _____

The provisions of this chapter shall not apply to police officers and fire fighters who entered employment after March 2, 1934, except that any police officer or fire fighter who had been making payments of membership fees and assessments as provided in section 410.5 prior to July 1, 1971, shall on July 1, 1973, be fully restored and entitled to all pension rights and benefits, vested or not vested, under this chapter if the city has not returned to such police officer or fire fighter the membership fees and assessments paid by the police officer or fire fighter prior to July 1, 1971, and if such police officer or fire fighter pays to the city within six months after July 1, 1973, the amount of the fees and assessments that the police officer or fire fighter would have paid to the police officers' or fire fighters' pension fund from July 1, 1971, to July 1, 1973, if 1971 Iowa Acts ~~of the 1971 Session, Sixty-fourth General Assembly~~, ch. 108, had not been adopted. If the membership fees and assessments paid by such police officer or fire fighter prior to July 1, 1971, have been returned to the police officer or fire fighter, all pension rights and benefits, vested or not vested, under this chapter shall be fully restored to the police officer or fire fighter on July 1, 1973, if, within six months after July 1, 1973, such police officer or fire fighter repays the fees and assessments so returned and pays the amount of the fees and assessments to the city that the police officer or fire fighter would have paid to the appropriate pension fund from July 1, 1971, to July 1, 1973, if 1971 Iowa Acts ~~of the Sixty-fourth General Assembly, 1971 Session~~, ch. 108 had not been adopted.

Sec. 48. Section 411.36, subsection 1, paragraph a, subparagraph (1), Code 2011, is amended to read as follows:

(1) Two fire fighters from different participating cities, one of whom is an active member of the retirement system and one of whom is a retired member. The fire fighters shall be appointed by the governing body of the Iowa ~~association of~~ professional fire fighters.

S.F. _____

1 Sec. 49. Section 437A.3, subsection 14, Code Supplement
2 2011, is amended to read as follows:
3 14. *a.* *"Local amount"* means the first forty-four million
4 four hundred forty-four thousand four hundred forty-five
5 dollars of the acquisition cost of any major addition which is
6 an electric power generating plant and the total acquisition
7 cost of any other major addition.
8 *b.* *"Local amount"* for the purposes of determining the local
9 taxable value for a new electric power generating plant shall
10 annually be determined to be equal up to the first forty-four
11 million four hundred forty-four thousand four hundred
12 forty-five dollars of the taxable value of the new electric
13 power generating plant. *"Local amount"* for the purposes
14 of determining the local assessed value for a new electric
15 power generating plant shall be annually determined to be the
16 percentage share of the taxable value of the new electric power
17 generating plant allocated as the local amount multiplied by
18 the total assessed value of the new electric power generating
19 plant.
20 Sec. 50. Section 437A.3, subsection 18, paragraph b, Code
21 Supplement 2011, is amended to read as follows:
22 *b.* (1) Any acquisition on or after January 1, 2004, by
23 a taxpayer, by transfer of ownership, self-construction,
24 or capital lease of any interest in electric transmission
25 operating property within a local taxing district where the
26 acquisition cost of all interests acquired exceeds one million
27 dollars.
28 (2) For purposes of this chapter, the acquisition cost of
29 an asset acquired by capital lease is its capitalized value
30 determined under generally accepted accounting principles.
31 Sec. 51. Section 451.1, subsection 3, Code 2011, is amended
32 to read as follows:
33 3. *"Federal Estate Tax Act"* and all such similar terms,
34 means ~~Title~~ Tit. III of chapter 27 of the Acts of the
35 Sixty-ninth Congress of the United States, first session,

S.F. _____

appearing in 44 ~~Statutes at Large~~ Stat., ~~chapter~~ ch. 27, as of January 1, 2000, as amended.

Sec. 52. Section 452A.5, Code 2011, is amended to read as follows:

452A.5 Distribution allowance.

1. A supplier shall retain a distribution allowance of not more than one and six-tenths percent of all gallons of motor fuel and a distribution allowance of not more than seven-tenths percent of all gallons of undyed special fuel removed from the terminal during the reporting period for purposes of tax computation under section 452A.8.

2. The distribution allowance shall be prorated between the supplier and the distributor or dealer as follows:

~~1.~~ *a.* Motor fuel: four-tenths percent retained by the supplier, one and two-tenths percent to the distributor.

~~2.~~ *b.* Undyed special fuel: thirty-five hundredths percent retained by the supplier, thirty-five hundredths percent to the distributor or dealer purchasing directly from a supplier.

3. Gallons exported outside of the state shall not be included in the calculation of the distribution.

Sec. 53. Section 452A.8, subsection 2, paragraph e, Code 2011, is amended to read as follows:

e. (1) The tax for compressed natural gas and liquefied petroleum gas delivered by a licensed compressed natural gas or liquefied petroleum gas dealer for use in this state shall attach at the time of the delivery and shall be collected by the dealer from the consumer and paid to the department as provided in this chapter. The tax, with respect to compressed natural gas and liquefied petroleum gas acquired by a consumer in any manner other than by delivery by a licensed compressed natural gas or liquefied petroleum gas dealer into a fuel supply tank of a motor vehicle, attaches at the time of the use of the fuel and shall be paid over to the department by the consumer as provided in this chapter.

(2) The department shall adopt rules governing the

S.F. _____

1 dispensing of compressed natural gas and liquefied petroleum
2 gas by licensed dealers and licensed users. The director may
3 require by rule that reports and returns be filed by electronic
4 transmission. For purposes of this paragraph *"e"*, *"dealer"*
5 and *"user"* mean a licensed compressed natural gas or liquefied
6 petroleum gas dealer or user and *"fuel"* means compressed natural
7 gas or liquefied petroleum gas. The department shall require
8 that all pumps located at dealer locations and user locations
9 through which liquefied petroleum gas can be dispensed shall
10 be metered, inspected, tested for accuracy, and sealed and
11 licensed by the state department of agriculture and land
12 stewardship, and that fuel delivered into the fuel supply
13 tank of any motor vehicle shall be dispensed only through
14 tested metered pumps and may be sold without temperature
15 correction or corrected to a temperature of sixty degrees. If
16 the metered gallonage is to be temperature-corrected, only a
17 temperature-compensated meter shall be used. Natural gas used
18 as fuel shall be delivered into compressing equipment through
19 sealed meters certified for accuracy by the department of
20 agriculture and land stewardship.
21 (3) (a) All gallonage which is not for highway use,
22 dispensed through metered pumps as licensed under this section
23 on which fuel tax is not collected, must be substantiated by
24 exemption certificates as provided by the department or by
25 valid exemption certificates provided by the dealers, signed by
26 the purchaser, and retained by the dealer. A *"valid exemption*
27 *certificate provided by a dealer"* is an exemption certificate
28 which is in the form prescribed by the director to assist a
29 dealer to properly account for fuel dispensed for which tax is
30 not collected and which is complete and correct according to
31 the requirements of the director.
32 (b) For the privilege of purchasing liquefied petroleum
33 gas, dispensed through licensed metered pumps, on a basis
34 exempt from the tax, the purchaser shall sign exemption
35 certificates for the gallonage claimed which is not for highway

S.F. _____

1 use.
2 (c) The department shall disallow all sales of gallonage
3 which is not for highway use unless proof is established by the
4 certificate. Exemption certificates shall be retained by the
5 dealer for a period of three years.
6 ~~(1)~~ (4) (a) For the purpose of determining the amount
7 of liability for fuel tax, each dealer and each user shall
8 file with the department not later than the last day of the
9 month following the month in which this division becomes
10 effective and not later than the last day of each calendar
11 month thereafter a monthly tax return certified under penalties
12 for false certification. The return shall show, with reference
13 to each location at which fuel is delivered or placed by the
14 dealer or user into a fuel supply tank of any motor vehicle
15 during the next preceding calendar month, information as
16 required by the department.
17 ~~(2)~~ (b) The amount of tax due shall be computed by
18 multiplying the appropriate tax rate per gallon by the number
19 of gallons of fuel delivered or placed by the dealer or user
20 into supply tanks of motor vehicles.
21 ~~(3)~~ (c) The return shall be accompanied by remittance in
22 the amount of the tax due for the month in which the fuel was
23 placed into the supply tanks of motor vehicles.
24 Sec. 54. Section 453A.13, subsection 4, paragraph a,
25 unnumbered paragraph 1, Code Supplement 2011, is amended to
26 read as follows:
27 An unrevoked permit for which the holder has paid the full
28 annual fee may be surrendered during the first nine months of
29 said year to the officer issuing it, and the department, or the
30 city or county granting the permit shall make refunds to the
31 ~~said~~ holder as follows:
32 Sec. 55. Section 453A.13, subsection 4, paragraphs b and c,
33 Code Supplement 2011, are amended to read as follows:
34 *b.* An unrevoked permit for which the holder has paid
35 three-fourths of a full annual fee may be so surrendered during

S.F. _____

1 the first six months of the period covered by said payment and
2 the ~~said~~ department, city, or county shall make refunds to the
3 holder as follows:
4 (1) A sum equal to one-half of an annual fee if the
5 surrender is made during October, November, or December.
6 (2) A sum equal to one-fourth of an annual fee if the
7 surrender is made during January, February, or March.
8 *c.* An unrevoked permit for which the holder has paid
9 one-half of a full annual fee may be surrendered during the
10 first three months of the period covered by that payment, and
11 the department, city, or county~~,~~ shall refund to the holder a
12 sum equal to one-fourth of an annual fee.
13 Sec. 56. Section 455B.171, subsection 32, Code Supplement
14 2011, is amended to read as follows:
15 32. *"Sewage sludge"* means any solid, semisolid, or liquid
16 residue removed during the treatment of municipal waste water
17 or domestic sewage. *"Sewage sludge"* includes but is not limited
18 to solids removed during primary, secondary, or advanced waste
19 water treatment, scum septage, portable toilet pumpings, type
20 III marine device pumpings as defined in 33 C.F.R. ~~part~~ ch. 1,
21 subch. O, pt. 159, and sewage sludge products. *"Sewage sludge"*
22 does not include grit, screenings, or ash generated during the
23 incineration of sewage sludge.
24 Sec. 57. Section 455B.261, subsection 7, Code 2011, is
25 amended to read as follows:
26 7. *"Established average minimum flow"* means the average
27 minimum flow for a given watercourse at a given point
28 determined and established by the commission.
29 *a.* The "average minimum flow" for a given watercourse shall
30 be determined by the following factors:
31 ~~*a.*~~ (1) Average of minimum daily flows occurring during
32 the preceding years chosen by the commission as more nearly
33 representative of changing conditions and needs of a given
34 drainage area at a particular time.
35 ~~*b.*~~ (2) Minimum daily flows shown by experience to be the

S.F. _____

1 limit at which further withdrawals would be harmful to the
2 public interest in any particular drainage area.
3 *~~c.~~* (3) The minimum daily flows shown by established
4 discharge records and experiences to be definitely harmful to
5 the public interest.
6 *b.* The determination shall be based upon available data,
7 supplemented, when available data are incomplete, with whatever
8 evidence is available.
9 Sec. 58. Section 455B.423, subsection 2, paragraph a,
10 subparagraph (6), Code Supplement 2011, is amended to read as
11 follows:
12 (6) Through agreements or contracts with other state
13 agencies, to work with private industry to develop alternatives
14 to land disposal of hazardous waste or hazardous substances
15 including but not limited to resource recovery, recycling,
16 neutralization, and reduction.
17 Sec. 59. Section 455B.471, subsection 11, Code Supplement
18 2011, is amended to read as follows:
19 11. *a.* *"Underground storage tank"* means one or a
20 combination of tanks, including underground pipes connected
21 to the tanks which are used to contain an accumulation of
22 regulated substances and the volume of which, including the
23 volume of the underground pipes, is ten percent or more beneath
24 the surface of the ground.
25 *b.* (1) *"Underground storage tank"* does not include:
26 ~~(1)~~ (a) Farm or residential tanks of one thousand one
27 hundred gallons or less capacity used for storing motor fuel
28 for noncommercial purposes.
29 ~~(2)~~ (b) Tanks used for storing heating oil for consumptive
30 use on the premises where stored.
31 ~~(3)~~ (c) Residential septic tanks.
32 ~~(4)~~ (d) Pipeline facilities regulated under the Natural
33 Gas Pipeline Safety Act of 1968, as amended to January 1, 1985,
34 codified at 49 U.S.C. § 1671 et seq., the Hazardous Liquid
35 Pipeline Safety Act of 1979, as amended to January 1, 1985,

S.F. _____

1 codified at 49 U.S.C. § 2001 et seq., or an intrastate pipeline
2 facility regulated under chapter 479.
3 ~~(5)~~ (e) A surface impoundment, pit, pond, or lagoon.
4 ~~(6)~~ (f) A storm water or wastewater collection system.
5 ~~(7)~~ (g) A flow-through process tank.
6 ~~(8)~~ (h) A liquid trap or associated gathering lines
7 directly related to oil or gas production and gathering
8 operations.
9 ~~(9)~~ (i) A storage tank situated in an underground area
10 including but not limited to a basement, cellar, mineworking,
11 drift, shaft, or tunnel if the storage tank is situated upon or
12 above the surface of the floor.
13 ~~*b.*~~ (2) *"Underground storage tank"* does not include
14 pipes connected to a tank described in paragraph ~~*"a"*~~ *"b"*,
15 ~~subparagraphs~~ subparagraph (1) ~~through (9)~~.
16 Sec. 60. Section 455B.474, subsection 1, paragraph a,
17 subparagraph (6), subparagraph division (g), Code Supplement
18 2011, is amended to read as follows:
19 (g) An owner or operator may elect to proceed with
20 additional corrective action on the site. However, any action
21 taken in addition to that required pursuant to this ~~paragraph~~
22 ~~*"a"*,~~ subparagraph (6), shall be solely at the expense of the
23 owner or operator and shall not be considered corrective action
24 for purposes of section 455G.9, unless otherwise previously
25 agreed to by the board and the owner or operator pursuant to
26 section 455G.9, subsection 7. Corrective action taken by an
27 owner or operator due to the department's failure to meet the
28 time requirements provided in subparagraph division (e) shall
29 be considered corrective action for purposes of section 455G.9.
30 Sec. 61. Section 455B.474, subsection 1, paragraph a,
31 subparagraph (8), subparagraph division (c), Code Supplement
32 2011, is amended to read as follows:
33 (c) A certificate shall be recorded with the county
34 recorder. The owner or operator of a site who has been issued
35 a certificate under this ~~paragraph *"a"*,~~ subparagraph (8), or

S.F. _____

1 a subsequent purchaser of the site shall not be required to
2 perform further corrective action because action standards are
3 changed at a later date. A certificate shall not prevent the
4 department from ordering corrective action of a new release.
5 Sec. 62. Section 455B.474, subsection 2, paragraph a,
6 subparagraph (2), Code Supplement 2011, is amended to read as
7 follows:
8 (2) A person who establishes financial responsibility
9 by self-insurance shall not require or shall not enforce an
10 indemnification agreement with an operator or owner of the tank
11 covered by the self-insurance obligation, unless the owner
12 or operator has committed a substantial breach of a contract
13 between the self-insurer and the owner or operator, and that
14 substantial breach relates directly to the operation of the
15 tank in an environmentally sound manner. This ~~paragraph~~
16 subparagraph applies to all contracts between a self-insurer
17 and an owner or operator entered into on or after May 5, 1989.
18 Sec. 63. Section 456A.33B, subsection 2, paragraph c,
19 subparagraph (4), unnumbered paragraph 1, Code Supplement 2011,
20 is amended to read as follows:
21 Delivery of ~~phosphorous~~ phosphorus and sediment from
22 the watershed will be controlled and in place before lake
23 restoration begins. Loads of ~~phosphorous~~ phosphorus and
24 sediment, in conjunction with in-lake management, will meet or
25 exceed the following water quality targets:
26 Sec. 64. Section 462A.52, subsection 3, Code 2011, is
27 amended to read as follows:
28 3. The commission shall submit a written report to the
29 general assembly by December 31, 2007, and by December 31 of
30 each year thereafter through December 31, 2013, summarizing the
31 activities of the department in administering and enforcing
32 programs to control aquatic invasive species and administering
33 and enforcing navigation laws and water safety upon the inland
34 waters of the state. The report shall include information
35 concerning the amount of revenues collected pursuant to this

S.F. _____

1 section as a result of fee increases pursuant to 2005 Iowa
2 Acts, ch. 137, and how the revenues were expended. The report
3 shall also include information concerning the amount and source
4 of all other funds expended by the commission during the year
5 for the purposes of administering and enforcing programs
6 to control aquatic invasive species and administering and
7 enforcing navigation laws and water safety upon the inland
8 waters of the state and how the funds were expended.
9 Sec. 65. Section 466B.3, subsection 4, paragraph k,
10 unnumbered paragraph 1, Code Supplement 2011, is amended to
11 read as follows:
12 The secretary of agriculture, who shall be the chairperson,
13 or the secretary's designee. As the chairperson, and in
14 order to further the coordination efforts of the council, the
15 secretary may invite representatives from any other public
16 agency, private organization, business, citizen group, or
17 nonprofit entity to give public input at council meetings,
18 provided the entity has an interest in the coordinated
19 management of land resources, soil conservation, flood
20 mitigation, or water quality. The secretary shall also invite
21 and solicit advice from the following:
22 Sec. 66. Section 468.174, Code 2011, is amended to read as
23 follows:
24 **468.174 Membership in the national drainage association.**
25 1. Any drainage district may join and become a member of
26 the national drainage association. A drainage district may
27 pay a membership fee and annual dues upon the approval of the
28 drainage board of such district, but not in excess of the
29 following:
30 *a.* One hundred dollars for drainage districts having
31 indebtedness in excess of one million dollars.
32 *b.* Fifty dollars for drainage districts having an
33 indebtedness of five hundred thousand dollars and less than one
34 million dollars.
35 *c.* Twenty-five dollars for drainage districts having an

S.F. _____

1 indebtedness of two hundred fifty thousand dollars and less
2 than five hundred thousand dollars.
3 *d.* Ten dollars for drainage districts having an indebtedness
4 less than two hundred fifty thousand dollars.
5 2. The annual dues for any district shall not exceed
6 one-twentieth of one percent of the outstanding indebtedness of
7 the district.
8 Sec. 67. Section 476.1, Code 2011, is amended to read as
9 follows:
10 **476.1 Applicability of authority.**
11 1. The utilities board within the utilities division of the
12 department of commerce shall regulate the rates and services of
13 public utilities to the extent and in the manner hereinafter
14 provided.
15 2. As used in this chapter, *"board"* or *"utilities board"*
16 means the utilities board within the utilities division of the
17 department of commerce.
18 3. As used in this chapter, *"public utility"* shall include
19 any person, partnership, business association, or corporation,
20 domestic or foreign, owning or operating any facilities for:
21 ~~1.~~ *a.* Furnishing gas by piped distribution system or
22 electricity to the public for compensation.
23 ~~2.~~ *b.* Furnishing communications services to the public for
24 compensation.
25 ~~3.~~ *c.* Furnishing water by piped distribution system to the
26 public for compensation.
27 4. Mutual telephone companies in which at least fifty
28 percent of the users are owners, cooperative telephone
29 corporations or associations, telephone companies having less
30 than fifteen thousand customers and less than fifteen thousand
31 access lines, municipally owned utilities, and unincorporated
32 villages which own their own distribution systems are not
33 subject to the rate regulation provided for in this chapter.
34 5. This chapter does not apply to waterworks having less
35 than two thousand customers, municipally owned waterworks,

S.F. _____

1 joint water utilities established pursuant to chapter 389,
2 rural water districts incorporated and organized pursuant
3 to chapters 357A and 504, cooperative water associations
4 incorporated and organized pursuant to chapter 499, or to
5 a person furnishing electricity to five or fewer customers
6 either by secondary line or from an alternate energy production
7 facility or small hydro facility, from electricity that is
8 produced primarily for the person's own use.
9 6. A telephone company otherwise exempt from rate
10 regulation and having telephone exchange facilities which cross
11 state lines may elect, in a writing filed with the board, to
12 have its rates regulated by the board. When a written election
13 has been filed with the board, the board shall assume rate
14 regulation jurisdiction over the company.
15 7. The jurisdiction of the board under this chapter
16 shall include efforts designed to promote the use of energy
17 efficiency strategies by rate or service-regulated gas and
18 electric utilities.
19 Sec. 68. Section 476.1D, subsection 1, paragraph c,
20 subparagraph (3), Code Supplement 2011, is amended to read as
21 follows:
22 (3) Effective July 1, 2008, the retail rate jurisdiction
23 of the board shall not be applicable to single line flat-rated
24 residential and business service rates unless the board during
25 the first six calendar months of 2008 extends its retail rate
26 jurisdiction over single line flat-rated residential and
27 business service rates provided by a previously rate-regulated
28 telephone utility. The board may extend its jurisdiction
29 pursuant to this ~~paragraph~~ subparagraph for not more than two
30 years and may do so only after the board finds that such action
31 is necessary for the public interest. The board shall provide
32 the general assembly with a copy of any order to extend its
33 jurisdiction and shall permit any telephone utility subject to
34 the extension to increase single line flat-rated residential
35 and business monthly service rates by an amount up to two

S.F. _____

1 dollars during each twelve-month period of the extension. If a
2 telephone utility fails to impose such a rate increase during
3 any twelve-month period, the utility may not impose the unused
4 increase in any subsequent year.
5 Sec. 69. Section 499.47B, subsection 3, paragraph a, Code
6 Supplement 2011, is amended to read as follows:
7 *a.* Except as provided in paragraph *"b"*, the sale, lease,
8 exchange, or other disposition must be approved by a two-thirds
9 vote of the members in which vote a majority of all voting
10 members participate.
11 Sec. 70. Section 499.47B, subsection 3, paragraph b,
12 subparagraph (1), Code Supplement 2011, is amended to read as
13 follows:
14 (1) If the cooperative association's articles of
15 incorporation require approval by more than two-thirds of
16 its members in which vote a majority of all voting members
17 participate, the sale, lease, exchange, or other disposition
18 must be approved by the greater number as provided in the
19 articles of incorporation.
20 Sec. 71. Section 499.64, subsection 2, paragraph a, Code
21 Supplement 2011, is amended to read as follows:
22 *a.* Except as provided in paragraph *"b"*, the proposed plan of
23 merger or consolidation must be approved by a two-thirds vote
24 of the members in which vote a majority of all voting members
25 participate.
26 Sec. 72. Section 499.64, subsection 2, paragraph b,
27 subparagraph (1), Code Supplement 2011, is amended to read as
28 follows:
29 (1) If the cooperative association's articles of
30 incorporation require approval by more than two-thirds of
31 its members in which vote a majority of all voting members
32 participate, the proposed plan of merger or consolidation must
33 be approved by the greater number as provided in the articles
34 of incorporation.
35 Sec. 73. Section 501.203, subsection 4, Code Supplement

S.F. _____

1 2011, is amended to read as follows:
2 4. If the board does not recommend the amendment or
3 restatement to the members, then the amendment or restatement
4 must be adopted by the members by a vote of two-thirds of the
5 votes cast in which vote a majority of all votes are cast.
6 Sec. 74. Section 501.204, Code Supplement 2011, is amended
7 to read as follows:
8 **501.204 Bylaws.**
9 The board may adopt or amend the cooperative's bylaws by a
10 vote of three-fourths of the board. The members may adopt or
11 amend the cooperative's bylaws by a vote of three-fourths of
12 the votes cast in which vote a majority of all votes are cast.
13 A bylaw provision adopted by the members shall not be amended
14 or repealed by the directors.
15 Sec. 75. Section 501.601, subsection 2, paragraph b, Code
16 Supplement 2011, is amended to read as follows:
17 *b.* The members must approve the plan of conversion by ~~the~~ a
18 vote of two-thirds of the votes cast in which vote a majority
19 of all votes are cast.
20 Sec. 76. Section 501.603, subsection 2, Code Supplement
21 2011, is amended to read as follows:
22 2. A cooperative may sell, lease, exchange, or otherwise
23 dispose of all, or substantially all, of its property, with
24 or without the goodwill, on the terms and conditions and for
25 the consideration determined by the board, which consideration
26 may include the interests of another cooperative, if the board
27 recommends the proposed transaction to the members, and the
28 members approve it by ~~the~~ a vote of two-thirds of the votes
29 cast in which vote a majority of all votes are cast. The board
30 may condition its submission of the proposed transaction on any
31 basis.
32 Sec. 77. Section 501.614, subsection 2, Code Supplement
33 2011, is amended to read as follows:
34 2. At the meeting, a vote of the members who are entitled
35 to vote in the affairs of the association shall be taken on

S.F. _____

1 the proposed plan of merger or consolidation. The plan of
2 merger or consolidation shall be approved if two-thirds of
3 the members vote affirmatively ~~in which~~ and a majority of all
4 voting members participate in the voting.
5 Sec. 78. Section 509B.1, subsection 6, Code 2011, is amended
6 to read as follows:
7 6. *"Medicare"* means ~~Title~~ Tit. XVIII of the United States
8 Social Security Act.
9 Sec. 79. Section 513C.3, subsection 14, paragraph a, Code
10 2011, is amended to read as follows:
11 *a.* Loss of eligibility for medical assistance provided
12 pursuant to chapter 249A or Medicare coverage provided pursuant
13 to ~~Title~~ Tit. XVIII of the federal Social Security Act.
14 Sec. 80. Section 514G.103, subsection 16, paragraph a,
15 subparagraph (2), Code 2011, is amended to read as follows:
16 (2) The contract does not pay or reimburse expenses incurred
17 for services or items to the extent that the expenses are
18 reimbursable under ~~Title~~ Tit. XVIII of the federal Social
19 Security Act, as amended, or would be reimbursable but for
20 the application of a deductible or coinsurance amount. The
21 requirements of this subparagraph do not apply to expenses that
22 are reimbursable under ~~Title~~ Tit. XVIII of the federal Social
23 Security Act only as a secondary payor. A contract does not
24 fail to satisfy the requirements of this subparagraph because
25 payments are made on a per diem or other periodic basis without
26 regard to the expenses incurred during the period to which the
27 payments relate.
28 Sec. 81. Section 524.221, subsection 3, Code Supplement
29 2011, is amended to read as follows:
30 3. The provisions of this section, insofar as applicable,
31 shall apply to the records of a national bank or a federally
32 chartered savings bank or a federally ~~charted~~ chartered savings
33 and loan association.
34 Sec. 82. Section 558.66, subsection 3, paragraph b,
35 subparagraph (2), Code Supplement 2011, is amended to read as

S.F. _____

1 follows:
2 (2) The name of the surviving joint tenant or owner of the
3 remainder interest, as applicable, in whose name the county
4 records should reflect ownership of title.
5 Sec. 83. Section 602.4201, subsection 3, paragraph h, Code
6 2011, as amended by 2011 Iowa Acts, chapter 121, section 60,
7 is amended to read as follows:
8 *h.* Involuntary commitment or treatment of persons with ~~a~~
9 substance-related disorders.
10 Sec. 84. Section 634A.1, subsection 1, paragraph a, Code
11 2011, is amended to read as follows:
12 *a.* Is considered to be a person with a disability under the
13 disability criteria specified in ~~Title~~ Tit. II or ~~Title~~ Tit.
14 XVI of the federal Social Security Act.
15 Sec. 85. Section 714G.8, subsection 4, Code 2011, is amended
16 to read as follows:
17 4. Child support enforcement officials when investigating a
18 child support case pursuant to ~~Title~~ Tit. IV-D or ~~Title~~ Tit.
19 XIX of the federal Social Security Act.
20 Sec. 86. Section 717.5, subsection 3, paragraph a,
21 subparagraph (1), Code Supplement 2011, is amended to read as
22 follows:
23 (1) For livestock neglected under section 717.2, the
24 amount shall not be more than for expenses incurred by the
25 local authority in maintaining and disposing of the neglected
26 livestock rescued pursuant to section 717.2A, and reasonable
27 attorney fees and expenses related to the investigation of the
28 case. The remaining amount of a bond or other security posted
29 pursuant to subsection 1 shall be used to reimburse the local
30 authority.
31 DIVISION II
32 VOLUME V RENUMBERING
33 Sec. 87. Section 490.202, subsection 2, paragraph d, Code
34 2011, is amended to read as follows:
35 *d.* (1) A provision eliminating or limiting the liability

S.F. _____

of a director to the corporation or its shareholders for money damages for any action taken, or any failure to take any action, as a director, except liability for any of the following:

~~(1)~~ (a) The amount of a financial benefit received by a director to which the director is not entitled.

~~(2)~~ (b) An intentional infliction of harm on the corporation or the shareholders.

~~(3)~~ (c) A violation of section 490.833.

~~(4)~~ (d) An intentional violation of criminal law.

(2) A provision shall not eliminate or limit the liability of a director for an act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

Sec. 88. Section 490.1110, subsection 2, Code 2011, is amended to read as follows:

2. *a.* This section does not apply in any of the following circumstances:

~~*a.*~~ (1) The corporation does not have a class of voting stock that is listed on a national securities exchange, authorized for quotation on the national association of securities dealers automated quotations — national market system, or held of record by more than two thousand shareholders, unless any of the foregoing results from action taken, directly or indirectly, by an interested shareholder or from a transaction in which a person becomes an interested shareholder.

~~*b.*~~ (2) The corporation's original articles of incorporation contain a provision expressly electing not to be governed by this section.

~~*c.*~~ (3) The corporation, by action of its board of directors, adopts an amendment to its bylaws by no later than September 29, 1997, expressly electing not to be governed by this section, which amendment shall not be further amended by the board of directors.

S.F. _____

1 ~~d.~~ (4) (a) The corporation, by action of its shareholders,
2 adopts an amendment to its articles of incorporation or bylaws
3 expressly electing not to be governed by this section, provided
4 that, in addition to any other vote required by law, such
5 amendment to the articles of incorporation or bylaws must be
6 approved by the affirmative vote of a majority of the shares
7 entitled to vote. An amendment adopted pursuant to this
8 ~~paragraph~~ subparagraph is effective immediately in the case of
9 a corporation that has never had a class of voting stock that
10 falls within any of the three categories set out in ~~paragraph~~
11 ~~"a"~~ subparagraph (1) and has not elected by a provision in its
12 original articles of incorporation or any amendment to such
13 articles to be governed by this section. In all other cases,
14 an amendment adopted pursuant to this ~~paragraph~~ subparagraph
15 is not effective until twelve months after the adoption of
16 the amendment and does not apply to any business combination
17 between the corporation and any person who became an interested
18 shareholder of the corporation on or prior to such adoption.
19 (b) An amendment to the bylaws adopted pursuant to this
20 ~~paragraph~~ subparagraph shall not be further amended by the
21 board of directors.
22 ~~e.~~ (5) A shareholder becomes an interested shareholder
23 inadvertently and both of the following apply:
24 ~~(1)~~ (a) As soon as practicable the shareholder divests
25 itself of ownership of sufficient shares so that the
26 shareholder ceases to be an interested shareholder.
27 ~~(2)~~ (b) The shareholder would not, at any time within the
28 three-year period immediately prior to a business combination
29 between the corporation and such shareholder, have been an
30 interested shareholder but for the inadvertent acquisition of
31 ownership.
32 ~~f.~~ ~~(1)~~ (6) (a) The business combination is proposed prior
33 to the consummation or abandonment of and subsequent to the
34 earlier of the public announcement or the notice required in
35 this ~~paragraph~~ subparagraph of a proposed transaction which

S.F. _____

1 satisfies all of the following:
2 ~~(a)~~ (i) Constitutes a transaction described in
3 ~~subparagraph (2)~~ subparagraph division (b).
4 ~~(b)~~ (ii) Is with or by a person who either was not an
5 interested shareholder during the previous three years or who
6 became an interested shareholder with the approval of the
7 corporation's board of directors or who became an interested
8 shareholder during the time period described in ~~paragraph "g"~~
9 subparagraph (7).
10 ~~(c)~~ (iii) Is approved or not opposed by a majority of
11 the members of the board of directors then in office who
12 were directors prior to any person becoming an interested
13 shareholder during the previous three years, or who were
14 recommended for election or elected to succeed such directors
15 by a majority of such directors.
16 ~~(2)~~ (b) A proposed transaction under subparagraph ~~(1)~~
17 division (a) is limited to the following:
18 ~~(a)~~ (i) A merger of the corporation, other than a merger
19 pursuant to section 490.1105.
20 ~~(b)~~ (ii) A sale, lease, exchange, mortgage, pledge,
21 transfer, or other disposition, in one or more transactions
22 and whether as part of a dissolution or otherwise, of assets
23 of the corporation or of any direct or indirect majority-owned
24 subsidiary of the corporation, other than to a direct or
25 indirect wholly owned subsidiary of the corporation or to
26 the corporation itself, which has an aggregate market value
27 equal to fifty percent or more of either the aggregate market
28 value of all of the assets of the corporation determined on a
29 consolidated basis, or the aggregate market value of all the
30 outstanding stock of the corporation.
31 ~~(c)~~ (iii) A proposed tender or exchange offer for fifty
32 percent or more of the outstanding voting stock of the
33 corporation.
34 ~~(3)~~ (c) The corporation shall give no less than twenty
35 days' notice to all interested shareholders prior to

S.F. _____

1 the consummation of any of the transactions described in
2 subparagraph ~~(2)~~ division (b), subparagraph ~~division (a) or (b)~~
3 subdivision (i) or (ii).
4 ~~*g.*~~ (7) The business combination is with an interested
5 shareholder who becomes an interested shareholder of the
6 corporation at a time when the corporation is not subject
7 to this section pursuant to ~~paragraph *"a"*, *"b"*, *"c"*, or *"d"*~~
8 subparagraph (1), (2), (3), or (4).
9 *b.* Notwithstanding ~~paragraphs *"a"* through *"d"*~~
10 paragraph *"a"*, subparagraphs (1) through (4), a corporation
11 may elect under its original articles of incorporation
12 or any amendment to such articles to be subject to this
13 section. However, such amendment shall not apply to restrict a
14 business combination between the corporation and an interested
15 shareholder of the corporation if the interested shareholder
16 became such prior to the effective date of the amendment.
17 Sec. 89. Section 490.1110, subsection 3, paragraph e, Code
18 2011, is amended to read as follows:
19 *e.* *"Interested shareholder"* means any person, other than
20 the corporation and any direct or indirect majority-owned
21 subsidiary of the corporation, that is the owner of ten percent
22 or more of the outstanding voting stock of the corporation, or
23 is an affiliate or associate of the corporation and was the
24 owner of ten percent or more of the outstanding voting stock
25 of the corporation at any time within the three-year period
26 immediately prior to the date on which it is sought to be
27 determined whether such person is an interested shareholder,
28 and the affiliates and associates of such person. *"Interested*
29 *shareholder"* does not include a person whose ownership of shares
30 in excess of the ten percent limitation is the result of action
31 taken solely by the corporation, provided that such person
32 is an interested shareholder if, after such action by the
33 corporation, the person acquires additional shares of voting
34 stock of the corporation, other than as a result of further
35 corporate action not caused, directly or indirectly, by such

S.F. _____

1 person. For purposes of determining whether a person is an
2 interested shareholder, the outstanding voting stock of the
3 corporation does not include any other unissued stock of the
4 corporation which may be issuable pursuant to any agreement,
5 arrangement, or understanding, or upon exercise of conversion
6 rights, warrants, or options, or otherwise.
7 ~~For purposes of determining whether a person is an~~
8 ~~interested shareholder, the outstanding voting stock of the~~
9 ~~corporation does not include any other unissued stock of the~~
10 ~~corporation which may be issuable pursuant to any agreement,~~
11 ~~arrangement, or understanding, or upon exercise of conversion~~
12 ~~rights, warrants, or options, or otherwise.~~
13 Sec. 90. Section 491.102, Code 2011, is amended to read as
14 follows:
15 **491.102 Procedure for merger.**
16 1. Any two or more corporations whether heretofore or
17 hereafter organized may merge into one of such corporations in
18 the ~~following~~ manner~~:~~ provided in this section.
19 2. The board of directors of each corporation shall, by
20 resolution adopted by a majority vote of the members of each
21 such board, approve a plan of mergers setting forth:
22 ~~1.~~ *a.* The names of the corporations proposing to merge, and
23 the name of the corporation into which they propose to merge,
24 which is hereinafter designated as the surviving corporation.
25 ~~2.~~ *b.* The terms and conditions of the proposed merger.
26 ~~3.~~ *c.* The manner and basis of converting the shares of
27 each merging corporation into shares or other securities or
28 obligations of the surviving corporation.
29 ~~4.~~ *d.* A statement of any changes in the articles of
30 incorporation of the surviving corporation to be effected by
31 such merger.
32 ~~5.~~ *e.* Such other provisions with respect to the proposed
33 merger as are deemed necessary or desirable.
34 Sec. 91. Section 491.103, Code 2011, is amended to read as
35 follows:

S.F. _____

491.103 Procedure for consolidation.

1. Any two or more corporations whether heretofore or hereafter organized may consolidate into a new corporation in the ~~following~~ manner~~:~~ provided in this section.

2. The board of directors of each corporation, shall, by a resolution adopted by a majority vote of the members of each such board, approve a plan of consolidation setting forth:

~~1.~~ *a.* The names of the corporations proposing to consolidate, and the name of the new corporation into which they propose to consolidate, which is hereinafter designated as the new corporation.

~~2.~~ *b.* The terms and conditions of the proposed consolidation.

~~3.~~ *c.* The manner and basis of converting the shares of each corporation into shares, or other securities, or obligations of the new corporation.

~~4.~~ *d.* With respect to the new corporation, all of the statements required to be set forth in articles of incorporation for corporations organized under this chapter.

~~5.~~ *e.* Such other provisions with respect to the proposed consolidation as are deemed necessary or desirable.

Sec. 92. Section 499.48, Code 2011, is amended to read as follows:

499.48 Distribution in liquidation.

1. On dissolution or liquidation, the assets of the association shall be used to pay liquidation expenses first, next the association's obligations other than patronage dividends or patronage dividend certificates which it has issued, and the remainder shall be distributed in the following priority:

~~1.~~ *a.* To pay to each person the full amount originally paid by that person in cash for stock or other equity interest in the association.

~~2.~~ *b.* To pay to each person in proportion to the total of each person's revolving fund, stock, or other equity interest

S.F. _____

in the association remaining after the payment under ~~subsection 1~~ paragraph *"a"*.

2. In applying ~~subsections~~ subsection 1 ~~and 2~~, paragraphs *"a"* and *"b"*, all classes of stock, all revolving funds, and all other equity interests in the association shall be treated equally based on their stated values. However, an association may establish its own method of distributing the assets remaining, after paying liquidation expenses and obligations other than patronage dividends or patronage dividend certificates which it has issued, in articles of incorporation adopted, amended, or restated after July 1, 1986.

Sec. 93. Section 499.62, Code 2011, is amended to read as follows:

499.62 Merger.

1. Any two or more cooperative associations may merge into one cooperative association in the ~~following~~ manner~~:~~ provided in this section.

2. The board of directors of each cooperative association shall, by resolution adopted by a majority vote of all members of each board, approve a plan of merger which shall set forth:

~~1.~~ *a.* The names of the cooperative associations proposing to merge and the name of the surviving association.

~~2.~~ *b.* The terms and conditions of the proposed merger.

~~3.~~ *c.* A statement of any changes in the articles of incorporation of the surviving association.

~~4.~~ *d.* Other provisions deemed necessary or desirable.

Sec. 94. Section 499.63, Code 2011, is amended to read as follows:

499.63 Consolidation.

1. Any two or more cooperative associations may be consolidated into a new cooperative association in the ~~following~~ manner~~:~~ provided in this section.

2. The board of directors of each cooperative association shall, by resolution adopted by a majority vote of all members of each board, approve a plan of consolidation setting forth:

S.F. _____

1 ~~1.~~ *a.* The names of the cooperative associations proposing
2 to consolidate and the name of the new association.
3 ~~2.~~ *b.* The terms and conditions of the proposed
4 consolidation.
5 ~~3.~~ *c.* With respect to the new association, all of
6 the statements required to be set forth in articles of
7 incorporation for cooperative associations.
8 ~~4.~~ *d.* Other provisions deemed necessary or desirable.
9 Sec. 95. Section 499.68, unnumbered paragraphs 1 and 2, Code
10 2011, are amended to read as follows:
11 A merger or consolidation shall become effective upon the
12 date that the certificate of merger or the certificate of
13 consolidation is issued by the secretary of state, or the
14 effective date specified in the articles of merger or articles
15 of consolidation, whichever is later. When a merger or
16 consolidation has become effective:
17 ~~When a merger or consolidation has become effective:~~
18 Sec. 96. Section 499.69, Code 2011, is amended to read as
19 follows:
20 **499.69 Foreign and domestic mergers or consolidations.**
21 1. One or more foreign cooperative associations and one
22 or more domestic cooperative associations may be merged
23 or consolidated in the following manner, if such merger or
24 consolidation is permitted by the laws of the state under which
25 each foreign cooperative association is organized:
26 ~~1.~~ *a.* Each domestic cooperative association shall comply
27 with the provisions of this division with respect to the merger
28 or consolidation of domestic cooperative associations, and
29 each foreign cooperative association shall comply with the
30 applicable provisions of the laws of the state under which it
31 is organized.
32 ~~2.~~ *b.* If the surviving or new association is to be governed
33 by the laws of any state other than this state, it shall comply
34 with the provisions of the laws of this state with respect to
35 the qualifications of foreign cooperative associations if it is

S.F. _____

1 to transact business in this state, and in every case it shall
2 file with the secretary of state of this state:
3 ~~a.~~ (1) An agreement that it may be served with process
4 in this state in any proceeding for the enforcement of any
5 obligation of any domestic cooperative association which is a
6 party to the merger or consolidation, and in any proceeding
7 for the enforcement of the rights of a dissenting shareholder
8 of any such domestic cooperative association, against the
9 surviving or new association.
10 ~~b.~~ (2) An irrevocable appointment of the secretary of state
11 of this state as its agent to accept service of process in any
12 proceeding.
13 ~~c.~~ (3) An agreement that it will promptly pay to the
14 dissenting shareholders of any domestic cooperative association
15 the amount to which they are entitled under the provisions of
16 this division with respect to the rights of dissenters.
17 2. The effect of such merger or consolidation shall be the
18 same as the effect of the merger or consolidation of domestic
19 cooperative associations, if the surviving or new association
20 is to be governed by the laws of this state. If the surviving
21 or new association is to be governed by the laws of any other
22 state, the effect of merger or consolidation shall be the same
23 as in the case of the merger or consolidation of domestic
24 cooperative associations, except as the laws of the other state
25 otherwise provide.
26 Sec. 97. Section 499A.22, subsections 1, 2, and 3, Code
27 2011, are amended to read as follows:
28 1. *a.* The cooperative has a lien on a member's interest in
29 the cooperative for all operating charges or other assessments
30 payable by the member pursuant to the member's proprietary
31 lease from the time the operating charge or other assessment
32 becomes due. If carrying charges and assessments are payable
33 in installments, the full amount of the charge or assessment is
34 a lien from the first time the first installment becomes due.
35 Upon nonpayment of a carrying charge or assessment, the member

S.F. _____

may be evicted from the member's apartment unit in the same manner as provided by law in the case of an unlawful holdover by a tenant and the lien may be foreclosed by judicial sale in like manner as a mortgage on real estate, or may be foreclosed by the power of sale provided in this section.

b. A lien under this section is prior to all other liens and encumbrances on a member's cooperative interest except liens and encumbrances on the cooperative's real property which the cooperative creates, assumes, or takes subject to, and liens for real estate taxes and other governmental assessments or charges against the cooperative or the member's cooperative interest.

2. The cooperative, upon a member's nonpayment of carrying charges and assessments and the cooperative's compliance with this section, may sell the defaulting member's cooperative interest. Sale may be at a public sale or by private negotiation, and at any time and place, but every aspect of the sale, including the method, advertising, time, place, and terms must be reasonable. The cooperative shall give to the member and any sublessees of the member reasonable written notice of the time and place of a public sale or, if a private sale is intended, of the intention of entering into a contract to sell and of the time after which a private disposition may be made. The same notice shall also be sent to any other person who has a recorded interest in the defaulting member's cooperative interest which would be extinguished by the sale. The notices required by this ~~paragraph~~ subsection may be sent to any address reasonable under the circumstances. Sale may not be held until five weeks after the sending of the notice. The cooperative may buy at a public sale, and, if the sale is conducted by a fiduciary or other person not related to the cooperative, at a private sale.

3. *a.* The proceeds of a sale under the preceding ~~paragraph~~ subsection shall be applied in the following order:

~~*a.*~~ (1) The reasonable expenses of sale.

S.F. _____

1 ~~b.~~ (2) The reasonable expenses of securing possession
2 before sale, and the reasonable expenses of holding,
3 maintaining, and preparing the cooperative interest for sale.
4 These expenses include, but are not limited to, the payment of
5 taxes and other governmental charges, premiums on liability
6 insurance, and to the extent provided for by agreement between
7 the cooperative and the member, reasonable attorney fees and
8 other legal expenses incurred by the cooperative.
9 ~~c.~~ (3) Satisfaction of the cooperative's lien.
10 ~~d.~~ (4) Satisfaction in the order of priority of any
11 subordinate claim of record.
12 ~~e.~~ (5) Remittance of any excess to the member.
13 *b.* Unless otherwise agreed, the member is liable for any
14 deficiency.
15 Sec. 98. Section 501.618, unnumbered paragraphs 1 and 2,
16 Code 2011, are amended to read as follows:
17 A merger or consolidation shall become effective upon the
18 date that the certificate of merger or the certificate of
19 consolidation is issued by the secretary of state, or the
20 effective date specified in the articles of merger or articles
21 of consolidation, whichever is later. When a merger or
22 consolidation has become effective:
23 ~~When a merger or consolidation has become effective:~~
24 Sec. 99. Section 501A.715, subsection 2, paragraph a,
25 subparagraph (2), subparagraph division (b), Code 2011, is
26 amended to read as follows:
27 (b) In the case of an act or omission occurring in the
28 official capacity described in subsection 1, paragraph
29 *"a"*, subparagraph (3), the person reasonably believed that
30 the conduct was not opposed to the best interests of the
31 cooperative. If the person's acts or omissions complained of
32 in the proceeding relate to conduct as a director, officer,
33 trustee, employee, or agent of an employee benefit plan, the
34 conduct is not considered to be opposed to the best interests
35 of the cooperative if the person reasonably believed that

S.F. _____

1 the conduct was in the best interests of the participants or
2 beneficiaries of the employee benefit plan.
3 ~~If the person's acts or omissions complained of in the~~
4 ~~proceeding relate to conduct as a director, officer, trustee,~~
5 ~~employee, or agent of an employee benefit plan, the conduct~~
6 ~~is not considered to be opposed to the best interests of the~~
7 ~~cooperative if the person reasonably believed that the conduct~~
8 ~~was in the best interests of the participants or beneficiaries~~
9 ~~of the employee benefit plan.~~
10 Sec. 100. Section 502A.3, Code 2011, is amended to read as
11 follows:
12 **502A.3 Exempt person transactions.**
13 1. The prohibitions in section 502A.2 do not apply to a
14 transaction in which any of the following persons, or any
15 employee, officer, or director of a listed person acting solely
16 in that capacity, is the purchaser or seller:
17 ~~1.~~ *a.* A person registered with the commodity futures
18 trading commission as a futures commission merchant or as a
19 leverage transaction merchant whose activities require such
20 registration.
21 ~~2.~~ *b.* A person registered with the securities and exchange
22 commission as a broker-dealer whose activities require such
23 registration.
24 ~~3.~~ *c.* A person affiliated with, and whose obligations and
25 liabilities under the transaction are guaranteed by, a person
26 referred to in ~~subsection 1 or 2~~ paragraph *"a"* or *"b"*.
27 ~~4.~~ *d.* A person who is a member of a contract market
28 designated by the commodity futures trading commission, or any
29 CFTC clearinghouse.
30 ~~5.~~ *e.* A financial institution.
31 ~~6.~~ *f.* A person registered under the laws of this state
32 as a securities broker-dealer whose activities require such
33 registration.
34 2. This exemption provided by this section does not apply
35 to any transaction or activity which is prohibited by the

S.F. _____

1 Commodity Exchange Act or CFTC rule.
2 Sec. 101. Section 507B.4, Code 2011, is amended to read as
3 follows:
4 **507B.4 Unfair methods of competition and unfair or deceptive**
5 **acts or practices defined.**
6 1. For purposes of subsection 3, paragraph *"p"*, *"insurer"*
7 means an entity providing a plan of health insurance, health
8 care benefits, or health care services, or an entity subject
9 to the jurisdiction of the commissioner performing utilization
10 review, including an insurance company offering sickness and
11 accident plans, a health maintenance organization, an organized
12 delivery system authorized under 1993 Iowa Acts, ch. 158, and
13 licensed by the department of public health, a nonprofit health
14 service corporation, a plan established pursuant to chapter
15 509A for public employees, or any other entity providing a
16 plan of health insurance, health care benefits, or health care
17 services. However, *"insurer"* does not include an entity that
18 sells disability income or long-term care insurance.
19 2. For purposes of subsection 3, paragraphs *"k"*, *"l"*, and
20 *"m"*, *"personal lines property and casualty insurance"* means
21 insurance sold to individuals and families primarily for
22 noncommercial purposes as provided in chapter 522B.
23 3. The following are hereby defined as unfair methods of
24 competition and unfair or deceptive acts or practices in the
25 business of insurance:
26 ~~1.~~ *a. Misrepresentations and false advertising of insurance*
27 *policies.* Making, issuing, circulating, or causing to be made,
28 issued or circulated, any estimate, illustration, circular,
29 statement, sales presentation, omission, or comparison which
30 does any of the following:
31 ~~a.~~ (1) Misrepresents the benefits, advantages, conditions,
32 or terms of any insurance policy.
33 ~~b.~~ (2) Misrepresents the dividends or share of the surplus
34 to be received on any insurance policy.
35 ~~c.~~ (3) Makes any false or misleading statements as to the

S.F. _____

1 dividends or share of surplus previously paid on any insurance
2 policy.
3 ~~d.~~ (4) Is misleading or is a misrepresentation as to the
4 financial condition of any person, or as to the legal reserve
5 system upon which any life insurer operates.
6 ~~e.~~ (5) Uses any name or title of any insurance policy or
7 class of insurance policies misrepresenting the true nature
8 thereof.
9 ~~f.~~ (6) Is a misrepresentation for the purpose of inducing
10 or tending to induce the lapse, forfeiture, exchange,
11 conversion, or surrender of any insurance policy.
12 ~~g.~~ (7) Is a misrepresentation for the purpose of effecting
13 a pledge or assignment of or effecting a loan against any
14 insurance policy.
15 ~~h.~~ (8) Misrepresents any insurance policy as being shares
16 of stock.
17 ~~i.~~ (9) Misrepresents any insurance policy to consumers
18 by using the terms "burial insurance", "funeral insurance",
19 "burial plan", or "funeral plan" in its names or titles, unless
20 the policy is made with a funeral provider as beneficiary who
21 specifies and fixes a price under contract with an insurance
22 company. This ~~paragraph~~ subparagraph does not prevent insurers
23 from stating or advertising that insurance benefits may provide
24 cash for funeral or burial expenses.
25 ~~j.~~ (10) Is a misrepresentation, including any intentional
26 misquote of premium rate, for the purpose of inducing or
27 tending to induce the purchase of an insurance policy.
28 ~~2.~~ *b. False information and advertising.*
29 ~~a.~~ (1) *Generally.* Making, publishing, disseminating,
30 circulating, or placing before the public, or causing, directly
31 or indirectly, to be made, published, disseminated, circulated,
32 or placed before the public in a newspaper, magazine, or other
33 publication, or in the form of a notice, circular, pamphlet,
34 letter, or poster, or over any radio or television station, or
35 in any other way, an advertisement, announcement, or statement

S.F. _____

1 containing any assertion, representation, or statement with
2 respect to the business of insurance or with respect to any
3 person in the conduct of the person's insurance business, which
4 is untrue, deceptive, or misleading.
5 ~~b.~~ (2) *False statement of assets.* In the case of a company
6 transacting the business of fire insurance within the state,
7 stating or representing by advertisement in any newspaper,
8 magazine, or periodical, or by any sign, circular, card, policy
9 of insurance, or renewal certificate thereof or otherwise, that
10 any funds or assets are in its possession and held available
11 for the protection of holders of its policies unless so held,
12 except the policy of insurance or certificate of renewal
13 thereof may state, as a single item, the amount of capital
14 set forth in the charter, or articles of incorporation, or
15 association, or deed of settlement under which it is authorized
16 to transact business.
17 ~~c.~~ (3) *Statement of capital and surplus.* In the case of a
18 foreign company transacting the business of casualty insurance
19 in the state, or an officer, producer, or representative of
20 such a company, issuing or publishing an advertisement, public
21 announcement, sign, circular, or card that purports to disclose
22 the company's financial standing and fails to exhibit: the
23 capital actually paid in cash, and the amount of net surplus
24 of assets over all the company's liabilities actually held
25 and available for the payment of losses by fire and for the
26 protection of holders of fire policies; and the amount of net
27 surplus of assets over all liabilities in the United States
28 actually available for the payment of losses by fire and held
29 in the United States for the protection of holders of fire
30 policies in the United States, including in such liabilities
31 the fund reserved for reinsurance of outstanding risks. The
32 amounts stated for capital and net surplus shall correspond
33 with the latest verified statement made by the company or
34 association to the commissioner of insurance.
35 ~~3.~~ c. *Defamation.* Making, publishing, disseminating,

S.F. _____

1 or circulating, directly or indirectly, or aiding, abetting
2 or encouraging the making, publishing, disseminating, or
3 circulating of any oral or written statement or any pamphlet,
4 circular, article or literature which is false, or maliciously
5 critical of or derogatory to the financial condition of any
6 person, and which is calculated to injure such person.
7 ~~4.~~ *d. Boycott, coercion and intimidation.* Entering into
8 any agreement to commit, or by any concerted action committing,
9 any act of boycott, coercion or intimidation resulting in or
10 tending to result in unreasonable restraint of, or monopoly in,
11 the business of insurance.
12 ~~5.~~ *e. False statements and entries.*
13 ~~a.~~ (1) Knowingly filing with any supervisory or
14 other public official, or knowingly making, publishing,
15 disseminating, circulating or delivering to any person, or
16 placing before the public, or knowingly causing directly or
17 indirectly, to be made, published, disseminated, circulated,
18 delivered to any person, or placed before the public, any false
19 material statement of fact as to the financial condition of a
20 person.
21 ~~b.~~ (2) Knowingly making any false entry of a material fact
22 in any book, report or statement of any person or knowingly
23 omitting to make a true entry of any material fact pertaining
24 to the business of such person in any book, report or statement
25 of such person.
26 ~~6.~~ *f. Stock operations and advisory board contracts.*
27 Issuing or delivering or permitting agents, officers or
28 employees to issue or deliver, agency company stock or other
29 capital stock, or benefit certificates or shares in any common
30 law corporation, or securities or any special or advisory board
31 contracts or other contracts of any kind promising returns and
32 profits as an inducement to insurance.
33 ~~7.~~ *g. Unfair discrimination.*
34 ~~a.~~ (1) Making or permitting any unfair discrimination
35 between individuals of the same class and equal expectation of

S.F. _____

1 life in the rates charged for any contract of life insurance or
2 of life annuity or in the dividends or other benefits payable
3 thereon, or in any other of the terms and conditions of such
4 contract.
5 ~~*b.*~~ (2) Making or permitting any unfair discrimination
6 between insureds of the same class for essentially the same
7 hazard in the amount of premium, policy fees, or rates charged
8 for any policy or contract of insurance other than life or in
9 the benefits payable thereunder, or in any of the terms or
10 conditions of such contract, or in any other manner whatever.
11 ~~*c.*~~ (3) Making or permitting any discrimination in the sale
12 of insurance solely on the basis of domestic abuse as defined
13 in section 236.2.
14 ~~8.~~ *h.* *Release or use of genetic information.* Failure of a
15 person to comply with section 729.6, subsection 4.
16 ~~9.~~ *i.* *Rebates.*
17 ~~*a.*~~ (1) Except as otherwise expressly provided by law,
18 knowingly permitting or offering to make or making any
19 contract of life insurance, life annuity or accident and health
20 insurance, or agreement as to such contract other than as
21 plainly expressed in the contract issued thereon, or paying
22 or allowing, or giving or offering to pay, allow, or give,
23 directly or indirectly, as inducement to such insurance, or
24 annuity, any rebate of premiums payable on the contract, or any
25 special favor or advantage in the dividends or other benefits
26 thereon, or any valuable consideration or inducement whatever
27 not specified in the contract; or giving, or selling, or
28 purchasing or offering to give, sell, or purchase as inducement
29 to such insurance or annuity or in connection therewith, any
30 stocks, bonds, or other securities of any insurance company
31 or other corporation, association, or partnership, or any
32 dividends or profits accrued thereon, or any thing of value
33 whatsoever not specified in the contract.
34 ~~*b.*~~ (2) Nothing in ~~subsection 7~~ paragraph *"g"* or ~~paragraph~~
35 ~~*"a"*~~ subparagraph (1) of this ~~subsection~~ paragraph *"i"* shall be

S.F. _____

1 construed as including within the definition of discrimination
2 or rebates any of the following practices:
3 ~~(1)~~ (a) In the case of any contract of life insurance or
4 life annuity, paying bonuses to policyholders or otherwise
5 rebating their premiums in whole or in part out of surplus
6 accumulated from nonparticipating insurance, provided that
7 any such bonuses or rebatement of premiums shall be fair and
8 equitable to policyholders and for the best interests of the
9 company and its policyholders.
10 ~~(2)~~ (b) In the case of life insurance policies issued on
11 the industrial debit plan, making allowance to policyholders
12 who have continuously for a specified period made premium
13 payments directly to an office of the insurer in an amount
14 which fairly represents the saving in collection expenses.
15 ~~(3)~~ (c) Readjustment of the rate of premium for a group
16 insurance policy based on the loss or expense experienced
17 thereunder, at the end of the first or any subsequent policy
18 year of insurance thereunder, which may be made retroactive
19 only for such policy year.
20 ~~c.~~ (3) (a) Paying, allowing, or giving, or offering to
21 pay, allow, or give, directly or indirectly, as an inducement
22 to purchase or acquire insurance other than life insurance,
23 life annuity, or accident and health insurance, or after
24 insurance has been effected, any rebate, discount, abatement,
25 credit, or reduction of the premium named in a policy of
26 insurance, or any special favor or advantage in the dividends
27 or other benefits to accrue on the policy, or any valuable
28 consideration or inducement, not specified in the policy,
29 except to the extent provided for in an applicable filing.
30 An insured named in a policy, or an employee of the insured,
31 shall not knowingly receive or accept, directly or indirectly,
32 any rebate, discount, abatement, credit, or reduction of
33 premium, or any such special favor or advantage or valuable
34 consideration or inducement.
35 (b) This ~~paragraph "c"~~ subparagraph (3) shall not be

S.F. _____

1 construed to prohibit the payment of commissions or other
2 compensation to duly licensed producers, or to prohibit
3 any insurer from allowing or returning to its participating
4 policyholders, members, or subscribers, dividends, savings, or
5 unabsorbed premium deposits. As used in this ~~paragraph "c"~~
6 subparagraph (3), *"insurance"* includes suretyship and *"policy"*
7 includes bond.
8 ~~10.~~ *j.* *Unfair claim settlement practices.* Committing
9 or performing with such frequency as to indicate a general
10 business practice any of the following:
11 ~~*a.*~~ (1) Misrepresenting pertinent facts or insurance policy
12 provisions relating to coverages of issue.
13 ~~*b.*~~ (2) Failing to acknowledge and act reasonably promptly
14 upon communications with respect to claims arising under
15 insurance policies.
16 ~~*c.*~~ (3) Failing to adopt and implement reasonable standards
17 for the prompt investigation of claims arising under insurance
18 policies.
19 ~~*d.*~~ (4) Refusing to pay claims without conducting a
20 reasonable investigation based upon all available information.
21 ~~*e.*~~ (5) Failing to affirm or deny coverage of claims within
22 a reasonable time after proof of loss statements have been
23 completed.
24 ~~*f.*~~ (6) Not attempting in good faith to effectuate prompt,
25 fair, and equitable settlements of claims in which liability
26 has become reasonably clear, or failing to include interest on
27 the payment of claims when required under ~~subsection 16~~
28 paragraph *"p"* or section 511.38.
29 ~~*g.*~~ (7) Compelling insureds to institute litigation to
30 recover amounts due under an insurance policy by offering
31 substantially less than the amounts ultimately recovered in
32 actions brought by such insureds.
33 ~~*h.*~~ (8) Attempting to settle a claim for less than the
34 amount to which a reasonable person would have believed
35 the person was entitled by reference to written or printed

S.F. _____

1 advertising material accompanying or made part of an
2 application.
3 ~~*i.*~~ (9) Attempting to settle claims on the basis of an
4 application which was altered without notice to, or knowledge
5 or consent of the insured.
6 ~~*j.*~~ (10) Making claims payments to insureds or beneficiaries
7 not accompanied by a statement setting forth the coverage under
8 which payments are being made.
9 ~~*k.*~~ (11) Making known to insureds or claimants a policy
10 of appealing from arbitration awards in favor of insureds
11 or claimants for the purpose of compelling them to accept
12 settlements or compromises less than the amount awarded in
13 arbitration.
14 ~~*l.*~~ (12) Delaying the investigation or payment of claims
15 by requiring an insured, claimant, or the physician of either
16 to submit a preliminary claim report and then requiring the
17 subsequent submission of formal proof of loss forms, both of
18 which submissions contain substantially the same information.
19 ~~*m.*~~ (13) Failing to promptly settle claims, where liability
20 has become reasonably clear, under one portion of the insurance
21 policy coverage in order to influence settlements under other
22 portions of the insurance policy coverage.
23 ~~*n.*~~ (14) Failing to promptly provide a reasonable
24 explanation of the basis in the insurance policy in relation
25 to the facts or applicable law for denial of a claim or for the
26 offer of a compromise settlement.
27 ~~*o.*~~ (15) Failing to comply with the procedures for auditing
28 claims submitted by health care providers as set forth by rule
29 of the commissioner. However, this ~~paragraph~~ subparagraph
30 shall have no applicability to liability insurance, workers'
31 compensation or similar insurance, automobile or homeowners'
32 medical payment insurance, disability income, or long-term care
33 insurance.
34 ~~*11.*~~ *k.* *Use of inquiries.* Considering either of the
35 following events for purposes of surcharging, declining,

S.F. _____

1 nonrenewing, or canceling personal lines property and casualty
2 insurance coverage or a binder for personal lines property and
3 casualty insurance coverage:
4 ~~a.~~ (1) An applicant's or insured's inquiry into the type
5 or level of coverage of a policy, or an inquiry into whether a
6 policy will cover a loss.
7 ~~b.~~ (2) An insured's inquiry regarding coverage of a policy
8 for a loss if the insured does not file a claim.
9 ~~12.~~ *l.* *History of a property.* Declining to insure a
10 property not previously owned by an applicant for personal
11 lines property and casualty insurance, based solely on the loss
12 history of a previous owner of the property, unless the insurer
13 can provide evidence that the previous owner did not repair
14 damage to the property.
15 ~~13.~~ *m.* *Disclosure of use of claims history.* Failing
16 to inform an applicant at the time that an application for
17 personal lines property and casualty insurance is made, in
18 writing or in the same medium as the application is made, that
19 the insurer will consider the applicant's or insured's claims
20 history in determining whether to decline, cancel, nonrenew,
21 or surcharge such a policy, and that a claim made by an insured
22 will be reported to an insurance support organization.
23 ~~14.~~ *n.* *Misrepresentation in insurance applications.* Making
24 false or fraudulent statements or representations on or
25 relative to an application for an insurance policy, for the
26 purpose of obtaining a fee, commission, money, or other benefit
27 from any insurer, agent, broker, or individual.
28 ~~15.~~ *o.* *Omission from insurance application.* Failing to
29 designate on an insurance policy application the licensee who
30 has solicited and written the policy.
31 ~~16.~~ *p.* *Payment of interest.* Failure of an insurer to pay
32 interest at the rate of ten percent per annum on all health
33 insurance claims that the insurer fails to timely accept and
34 pay pursuant to section 507B.4A, subsection 2, paragraph *"d"*.
35 Interest shall accrue commencing on the thirty-first day after

S.F. _____

1 receipt of all properly completed proof of loss forms.
2 ~~For purposes of this subsection, "*insurer*" means an entity~~
3 ~~providing a plan of health insurance, health care benefits, or~~
4 ~~health care services, or an entity subject to the jurisdiction~~
5 ~~of the commissioner performing utilization review, including~~
6 ~~an insurance company offering sickness and accident plans, a~~
7 ~~health maintenance organization, an organized delivery system~~
8 ~~authorized under 1993 Iowa Acts, ch. 158, and licensed by~~
9 ~~the department of public health, a nonprofit health service~~
10 ~~corporation, a plan established pursuant to chapter 509A~~
11 ~~for public employees, or any other entity providing a plan~~
12 ~~of health insurance, health care benefits, or health care~~
13 ~~services. However, "*insurer*" does not include an entity that~~
14 ~~sells disability income or long-term care insurance.~~
15 ~~17.~~ *q.* *Rating organizations.* Any violation of section
16 515F.16.
17 ~~18.~~ *r.* *Minor traffic violations.* Failure of a person to
18 comply with section 516B.3.
19 ~~19.~~ *s.* *Information.* Failing or refusing to furnish any
20 policyholder or applicant, upon reasonable request, information
21 to which that individual is entitled.
22 ~~For purposes of subsections 11, 12, and 13, "*personal lines*~~
23 ~~*property and casualty insurance*" means insurance sold to~~
24 ~~individuals and families primarily for noncommercial purposes~~
25 ~~as provided in chapter 522B.~~
26 Sec. 102. Section 507C.2, subsection 15, Code 2011, is
27 amended to read as follows:
28 15. *a.* "*Insolvency*" or "*insolvent*" means any of the
29 following:
30 ~~*a.*~~ (1) For an insurer issuing only assessable fire
31 insurance policies, either of the following:
32 ~~(1)~~ (a) The inability to pay any obligation within thirty
33 days after it becomes payable.
34 ~~(2)~~ (b) If an assessment is made, the inability to pay the
35 assessment within thirty days following the date specified in

S.F. _____

1 the first assessment notice issued after the date of loss.
2 ~~*b.*~~ (2) For any other insurer that it is unable to pay its
3 obligations when they are due, or when its admitted assets do
4 not exceed its liabilities plus the greater of:
5 ~~(1)~~ (a) Any capital and surplus required by law for its
6 organization.
7 ~~(2)~~ (b) The total par or stated value of its authorized and
8 issued capital stock.
9 ~~*c.*~~ (3) As to an insurer licensed to do business in this
10 state as of July 1, 1984, which does not meet the standard
11 established under ~~paragraph "*b*"~~ subparagraph (2), the term
12 "*insolvency*" or "*insolvent*" shall mean, for a period not to
13 exceed three years from July 1, 1984, that it is unable to
14 pay its obligations when they are due or that its admitted
15 assets do not exceed its liabilities plus any required capital
16 contribution ordered by the commissioner under provisions of
17 the insurance law.
18 *b.* For purposes of this subsection "*liabilities*" includes
19 but is not limited to reserves required by statute or by
20 the division's rules or specific requirements imposed by the
21 commissioner upon a company at the time of or subsequent to
22 admission.
23 Sec. 103. Section 508.8, Code 2011, is amended to read as
24 follows:
25 **508.8 Insurance company officers — conflicts of interest —**
26 **exceptions.**
27 1. As used in this section, "*employee*" includes but is not
28 limited to the officers of a life insurance company.
29 2. A director or officer of a life insurance company shall
30 not receive, in addition to fixed salary or compensation,
31 money or other valuable thing, either directly or indirectly,
32 or through a substantial interest in another corporation or
33 business unit, for negotiating, procuring, recommending or
34 aiding in the purchase or sale of property, or loan, made
35 by the insurer or an affiliate or subsidiary of the insurer;

S.F. _____

nor shall a director or officer be pecuniarily interested, either as principal, coprincipal, agent or beneficiary, either directly or indirectly, or through a substantial interest in another corporation or business unit, in the purchase, sale or loan. However, a life insurance company, in connection with the relocation of the place of employment of an employee including relocation upon the initial employment of the employee, may do either of the following:

~~1.~~ *a.* Make a mortgage loan on real property owned by the employee which is to serve as the employee's dwelling.

~~2.~~ *b.* Acquire at not more than fair market value the dwelling which the employee vacates upon relocation.

~~As used in this section, "*employee*" includes but is not limited to the officers of a life insurance company.~~

Sec. 104. Section 508.36, subsection 3, paragraphs e and f, Code 2011, are amended to read as follows:

e. (1) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, the following:

~~(1)~~ (a) For policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit, or any tables of disablement rates and termination rates adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for such policies.

~~(2)~~ (b) For policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either of the tables identified under subparagraph ~~(1)~~ division (a), or at the option of the company, the class (3) disability table (1926).

~~(3)~~ (c) For policies issued prior to January 1, 1961, the class (3) disability table (1926).

(2) A table used under this paragraph "*e*" shall, for

S.F. _____

1 active lives, be combined with a mortality table permitted for
2 calculating the reserves for life insurance policies.
3 *f.* (1) For accidental death benefits in or supplementary to
4 policies, the following:
5 ~~(1)~~ (a) For policies issued on or after January 1, 1966,
6 the 1959 accidental death benefits table, or any accidental
7 death benefits table adopted after 1980 by the national
8 association of insurance commissioners and approved by rule
9 adopted by the commissioner for use in determining the minimum
10 standard of valuation for such policies.
11 ~~(2)~~ (b) For policies issued on or after January 1, 1961,
12 and prior to January 1, 1966, either of the tables identified
13 under subparagraph ~~(1)~~ division (a), or at the option of the
14 company, the intercompany double indemnity mortality table.
15 ~~(3)~~ (c) For policies issued prior to January 1, 1961, the
16 intercompany double indemnity mortality table.
17 (2) A table used under this paragraph *"f"* shall be combined
18 with a mortality table for calculating the reserves for life
19 insurance policies.
20 Sec. 105. Section 508.37, subsection 5, paragraphs a and c,
21 Code 2011, are amended to read as follows:
22 *a.* (1) This subsection does not apply to policies issued
23 on or after the operative date of subsection 6 as defined
24 in paragraph *"k"* of that subsection. Except as provided in
25 paragraph *"c"*, the adjusted premiums for any policy shall
26 be calculated on an annual basis and shall be such uniform
27 percentage of the respective premiums specified in the policy
28 for each policy year, excluding any extra premiums charged
29 because of impairments or special hazards, that the present
30 value, at the date of issue of the policy, of all such adjusted
31 premiums is equal to the sum of the following:
32 ~~(1)~~ (a) The then present value of the future guaranteed
33 benefits provided for by the policy.
34 ~~(2)~~ (b) Two percent of the amount of the insurance, if the
35 insurance is uniform in amount, or of the equivalent uniform

S.F. _____

1 amount, as defined in paragraph *"b"*, if the amount of insurance
2 varies with duration of the policy.
3 ~~(3)~~ (c) Forty percent of the adjusted premium for the first
4 policy year.
5 ~~(4)~~ (d) Twenty-five percent of either the adjusted premium
6 for the first policy year or the adjusted premium for a whole
7 life policy of the same uniform or equivalent uniform amount
8 with uniform premiums for the whole of life issued at the same
9 age for the same amount of insurance, whichever is less.
10 (2) However, in applying the percentages specified in
11 ~~subparagraphs (3) and (4)~~ subparagraph divisions (c) and (d),
12 no adjusted premium shall be deemed to exceed four percent of
13 the amount of insurance or an equivalent uniform amount. The
14 date of issue of a policy for the purpose of this subsection
15 is the date as of which the rated age of the insured is
16 determined.
17 *c.* The adjusted premiums for a policy providing term
18 insurance benefits by rider or supplemental policy provision
19 shall be equal to (1) the adjusted premiums for an otherwise
20 similar policy issued at the same age without such term
21 insurance benefits, increased during the period for which
22 premiums for such term insurance benefits are payable, by (2)
23 the adjusted premiums for such term insurance, the foregoing
24 items (1) and (2) being calculated separately and as specified
25 in paragraphs *"a"* and *"b"* of this subsection except that, for
26 the purposes of ~~subparagraphs (2), (3), and (4)~~ of paragraph
27 *"a"*, subparagraph (1), subparagraph divisions (b), (c), and
28 (d), the amount of insurance or equivalent uniform amount of
29 insurance used in the calculation of the adjusted premiums
30 referred to in item (2) in this paragraph shall be equal to the
31 excess of the corresponding amount determined for the entire
32 policy over the amount used in the calculation of the adjusted
33 premiums in item (1) in this paragraph.
34 Sec. 106. Section 508.38, subsection 3, paragraphs a and b,
35 Code 2011, are amended to read as follows:

S.F. _____

1 *a.* (1) The minimum nonforfeiture amount at any time at
2 or prior to the commencement of any annuity payments shall be
3 equal to an accumulation up to such time at rates of interest
4 as indicated in paragraph "*b*" of the net considerations (as
5 hereinafter defined) paid prior to such time, decreased by the
6 sum of all of the following:
7 ~~(1)~~ (a) Any prior withdrawals from or partial surrenders
8 of the contract accumulated at rates of interest as indicated
9 in paragraph "*b*".
10 ~~(2)~~ (b) An annual contract charge of fifty dollars,
11 accumulated at rates of interest as indicated in paragraph "*b*".
12 ~~(3)~~ (c) The amount of any indebtedness to the company on
13 the contract, including interest due and accrued.
14 (2) The net considerations for a given contract year
15 used to define the minimum nonforfeiture amount shall be an
16 amount equal to eighty-seven and one-half percent of the gross
17 considerations credited to the contract during the contract
18 year.
19 *b.* (1) The interest rate used in determining minimum
20 nonforfeiture amounts shall be an annual rate of interest
21 determined as the lesser of three percent per annum and all of
22 the following, which shall be specified in the contract if the
23 interest rate will be reset:
24 ~~(1)~~ (a) The five-year constant maturity treasury rate
25 reported by the federal reserve as of a date, or average over a
26 period, rounded to the nearest one-twentieth of one percent,
27 specified in the contract no longer than fifteen months prior
28 to the contract issue date or redetermination date under
29 subparagraph ~~(4)~~ division (d).
30 ~~(2)~~ (b) The result of subparagraph ~~(1)~~ division (a) shall
31 be reduced by one hundred twenty-five basis points.
32 ~~(3)~~ (c) The resulting interest guarantee shall not be less
33 than one percent.
34 ~~(4)~~ (d) The interest rate shall apply for an initial
35 period and may be redetermined for additional periods. The

S.F. _____

1 redetermination date, basis, and period, if any, shall be
2 stated in the contract. The basis is the date or average
3 over a specified period that produces the value of the
4 five-year constant maturity treasury rate to be used at each
5 redetermination date.
6 (2) During the period or term that a contract provides
7 substantive participation in an equity indexed benefit, it
8 may increase the reduction described in subparagraph ~~(2)~~
9 (1), subparagraph division (b), by up to an additional one
10 hundred basis points to reflect the value of the equity index
11 benefit. The present value at the contract issue date and
12 at each redetermination date thereafter of the additional
13 reduction shall not exceed the market value of the benefit.
14 The commissioner may require a demonstration that the present
15 value of the reduction does not exceed the market value of the
16 benefit. Lacking such a demonstration that is acceptable to
17 the commissioner, the commissioner may disallow or limit the
18 additional reduction.
19 (3) The commissioner may adopt rules to implement the
20 provisions of subparagraph ~~(4)~~ (1), subparagraph division (d),
21 and to provide for further adjustments to the calculation
22 of minimum nonforfeiture amounts for contracts that provide
23 substantive participation in an equity index benefit and for
24 other contracts that the commissioner determines adjustments
25 are justified.
26 Sec. 107. Section 508C.12, subsection 1, paragraph a, Code
27 Supplement 2011, is amended to read as follows:
28 *a.* (1) Notify the commissioners or insurance departments
29 of other states or territories of the United States and the
30 District of Columbia when any of the following actions against
31 a member insurer is taken:
32 ~~(1)~~ (a) A license is revoked.
33 ~~(2)~~ (b) A license is suspended.
34 ~~(3)~~ (c) A formal order is made that a company restrict its
35 premium writing, obtain additional contributions to surplus,

S.F. _____

1 withdraw from the state, reinsure all or any part of its
2 business, or increase capital, surplus, or any other account
3 for the security of policyholders or creditors.
4 (2) Notice shall be mailed to the commissioners or
5 departments within thirty days following the earlier of when
6 the action was taken or the date on which the action occurs.
7 This subparagraph does not supersede section 507C.9, subsection
8 5.
9 Sec. 108. Section 509.1, subsection 2, Code 2011, is amended
10 to read as follows:
11 2. *a.* A policy issued to any one of the following to be
12 considered the policyholder:
13 ~~*a.*~~ (1) An advisory, supervisory, or governing body or
14 bodies of a regularly organized religious denomination to
15 insure its clergy, priests, or ministers of the gospel.
16 ~~*b.*~~ (2) A teachers' association, to insure its members.
17 ~~*c.*~~ (3) A lawyers' association, to insure its members.
18 ~~*d.*~~ (4) A volunteer fire company, to insure all of its
19 members.
20 ~~*e.*~~ (5) A fraternal society or association, or any
21 subordinate lodge or branch thereof, to insure its members.
22 ~~*f.*~~ (6) A common principal of any group of persons similarly
23 engaged between whom there exists a contractual relationship,
24 to insure the members of such group.
25 ~~*g.*~~ (7) An association, the members of which are students,
26 teachers, administrators or officials of any elementary or
27 secondary school or of any college, to insure the members
28 thereof. For the purpose of this ~~paragraph~~ subparagraph, the
29 students, teachers, administrators or officials of or for any
30 such school or college shall constitute an association.
31 *b.* ~~Provided that the~~ The provisions and requirements
32 of subsection 1 ~~of this section~~ shall apply to ~~such~~ the
33 policy and the policyholder and insured in ~~like~~ the same
34 manner as ~~said~~ subsection 1 ~~of this section~~ applies to
35 employers and employees, except that if a policy is issued

S.F. _____

to a volunteer fire company or an association, the members of which are students, teachers, administrators or officials of any elementary or secondary school or of any college, the requirement for twenty-five members shall not apply, and, if issued to a teachers' association or lawyers' association, not less than sixty-five percent of the members thereof may be insured.

Sec. 109. Section 509A.15, subsections 1 and 4, Code 2011, are amended to read as follows:

1. *a.* Within ninety days following the end of a fiscal year, the governing body of a self-insurance plan of a political subdivision or a school corporation shall file with the commissioner of insurance a certificate of compliance, actuarial opinion, and an annual financial report. The filing shall be accompanied by a fee of one hundred dollars. A penalty of fifteen dollars per day shall be assessed for failure to comply with the ninety-day filing requirement, except that the commissioner may waive the penalty upon a showing that special circumstances exist which justify the waiver. The certificate shall be signed and dated by the appropriate public official representing the governing body, and shall certify the following:

~~*a.*~~ (1) That the plan meets the requirements of this chapter and the applicable provisions of the Iowa administrative code.

~~*b.*~~ (2) That an actuarial opinion has been attached to the certificate which attests to the adequacy of reserves, rates, and financial condition of the plan. ~~The actuarial opinion must include, but is not limited to, a brief commentary about the adequacy of the reserves, rates, and the financial condition of the plan, a test of the prior year claim reserve, a brief description of how the reserves were calculated, and whether or not the plan is able to cover all reasonably anticipated expenses. The actuarial opinion shall be prepared, signed, and dated by a person who is a member of the American academy of actuaries. If necessary, the actuary should assist~~

S.F. _____

1 ~~the public body in preparing the annual financial report. The~~
2 ~~annual financial report shall be in a format as prescribed by~~
3 ~~the commissioner.~~
4 ~~c.~~ (3) That a written complaint procedure has been
5 implemented. The certificate shall also list the number of
6 complaints filed by participants under the written complaint
7 procedure, and the percentage of participants filing written
8 complaints, in the prior fiscal year.
9 ~~d.~~ (4) That the governing body has contracted or otherwise
10 arranged with a third-party administrator who holds a current
11 certificate of registration issued by the commissioner pursuant
12 to section 510.21, or with a person not required to obtain
13 the certificate as a third-party administrator as defined in
14 section 510.11, subsection 2.
15 *b.* The actuarial opinion must include but is not limited to
16 a brief commentary about the adequacy of the reserves, rates,
17 and the financial condition of the plan, a test of the prior
18 year claim reserve, a brief description of how the reserves
19 were calculated, and whether or not the plan is able to cover
20 all reasonably anticipated expenses. The actuarial opinion
21 shall be prepared, signed, and dated by a person who is a
22 member of the American academy of actuaries.
23 *c.* If necessary, the actuary should assist the public body
24 in preparing the annual financial report. The annual financial
25 report shall be in a format as prescribed by the commissioner.
26 4. *a.* One or more political subdivisions of the state
27 or one or more school corporations maintaining self-insured
28 plans with yearly claims that do not exceed two percent of
29 each entity's general fund budget shall be exempt from the
30 requirements of this section where the plan insures employees
31 for all or part of a deductible, coinsurance payments, drug
32 costs, short-term disability benefits, vision benefits, or
33 dental benefits.
34 *b.* The yearly claim amount shall be determined annually on
35 the policy renewal date, or an alternative date established

S.F. _____

1 by rule, by a plan administrator or political subdivision
2 or school corporation employee to be designated by the plan
3 administrator. The exemption shall not apply for the year
4 following a year in which yearly claims are determined to
5 exceed two percent of the political subdivision's or school
6 corporation's general fund budget.
7 Sec. 110. Section 511.8, unnumbered paragraphs 1 and 2, Code
8 Supplement 2011, are amended to read as follows:
9 A company organized under chapter 508 shall, at all times,
10 have invested in the securities provided in this section,
11 funds equivalent to its legal reserve. Legal reserve is the
12 net present value of all outstanding policies and contracts
13 involving life contingencies. This section does not prohibit
14 a company or association from holding a portion of its
15 legal reserve in cash. The investment programs developed
16 by companies shall take into account the safety of the
17 company's principal, investment yield and return, stability
18 in the value of the investment, and liquidity necessary to
19 meet the company's expected business needs and investment
20 diversification.
21 ~~The investment programs developed by companies shall take~~
22 ~~into account the safety of the company's principal, investment~~
23 ~~yield and return, stability in the value of the investment, and~~
24 ~~liquidity necessary to meet the company's expected business~~
25 ~~needs and investment diversification.~~
26 Sec. 111. Section 511.8, subsections 6, 8, 13, 15, 17, 19,
27 and 20, Code Supplement 2011, are amended to read as follows:
28 6. *Preferred and guaranteed stocks.*
29 *a.* Subject to the restrictions contained in subsection
30 8 hereof, preferred stocks of, or stocks guaranteed by, a
31 corporation incorporated under the laws of the United States
32 of America, or of any state, district, insular or territorial
33 possession thereof; or of the Dominion of Canada, or any
34 province thereof; and which meet the following qualifications:
35 ~~*a.*~~ (1) Preferred stocks.

S.F. _____

1 ~~(1)~~ (a) All of the obligations and preferred stocks of
2 the issuing corporation, if any, prior to the preferred stock
3 acquired must be eligible as investments under this section as
4 of the date of acquisition; and
5 ~~(2)~~ (b) The net earnings available for fixed charges and
6 preferred dividends of the issuing corporation shall have
7 been, for each of the five fiscal years immediately preceding
8 the date of acquisition, not less than one and one-half times
9 the sum of the annual fixed charges and contingent interest,
10 if any, and the annual preferred dividend requirements as of
11 the date of acquisition; or at the date of acquisition the
12 preferred stock has investment qualities and characteristics
13 wherein speculative elements are not predominant.
14 (i) The term *"preferred dividend requirements"* shall mean
15 cumulative or noncumulative dividends whether paid or not.
16 (ii) The term *"fixed charges"* shall be construed in
17 accordance with subsection 5 ~~above~~.
18 (iii) The term *"net earnings available for fixed charges and*
19 *preferred dividends"* as used herein shall mean the net income
20 after deducting all operating and maintenance expenses, taxes,
21 including any income taxes, depreciation and depletion, but
22 nonrecurring items may be excluded.
23 ~~*b.*~~ (2) Guaranteed stocks.
24 ~~(1)~~ (a) All of the fixed interest-bearing obligations of
25 the guaranteeing corporation, if any, must be eligible under
26 this section as of the date of acquisition; and
27 ~~(2)~~ (b) The net earnings available for fixed charges
28 of the guaranteeing corporation shall meet the requirements
29 outlined in paragraph *"a"* of subsection 5 ~~above~~, except that all
30 guaranteed dividends shall be included in *"fixed charges"*.
31 *b.* Any investments in preferred stocks or guaranteed
32 stocks made under the provisions of this subsection shall be
33 considered as moneys and credits for purposes of taxation
34 and their assessment shall be subject to deductions for
35 indebtedness as provided by law in the case of assessment

S.F. _____

1 of moneys and credits in general. This provision shall be
2 effective as to assessments made during the year 1947 and
3 thereafter.
4 8. *Further restrictions.* Securities included under
5 subsections 5, 6, and 7 shall not be eligible:
6 *a.* If the corporation is in default on fixed obligations as
7 of the date of acquisition. Securities provided in ~~paragraph~~
8 ~~"a" of~~ subsection 6, paragraph "a", subparagraph (1), shall
9 not be eligible if the issuing corporation is in arrears with
10 respect to the payment of any preferred dividends as of the
11 date of acquisition.
12 *b.* The investments of any company or association in
13 such securities shall not be eligible in excess of the
14 following percentages of the legal reserve of such company or
15 association:
16 (1) With the exception of public securities, two percent
17 of the legal reserve in the securities of any one corporation.
18 Five percent of the legal reserve in the securities of any one
19 public utility corporation.
20 (2) Seventy-five percent of the legal reserve in the
21 securities described in subsection 5 issued by other than
22 public utility corporations. Fifty percent of the legal
23 reserve in the securities described in subsection 5 issued by
24 public utility corporations.
25 (3) Ten percent of the legal reserve in the securities
26 described in subsection 6.
27 (4) Ten percent of the legal reserve in the securities
28 described in subsection 7.
29 *c.* Statements adjusted to show the actual condition at
30 the time of acquisition or the effect of new financing,
31 known commercially as pro forma statements, may be used in
32 determining whether investments under subsections 5 and 6 are
33 in compliance with requirements. Statements so adjusted or
34 consolidated statements may be used in order to include the
35 earnings of all predecessor, merged, consolidated, or purchased

S.F. _____

1 companies.
2 *d.* In addition to the restrictions contained in paragraphs
3 *"a"* and *"b"*, the investments of any company or association in
4 securities included under subsection 5, paragraph *"c"*, are not
5 eligible in excess of two percent of the legal reserve, but not
6 more than one-eighth of one percent of the legal reserve shall
7 be invested in the securities of any one corporation.
8 13. *Collateral loans.* Loans secured by collateral
9 consisting of any securities qualified in this section,
10 provided the amount of the loan is not in excess of ninety
11 percent of the value of the securities. Provided further that
12 subsection 8 shall apply to the collateral securities pledged
13 to the payment of loans authorized in this subsection.
14 ~~Provided further that subsection 8 of this section shall~~
15 ~~apply to the collateral securities pledged to the payment of~~
16 ~~loans authorized in this subsection.~~
17 15. *Railroad obligations.*
18 *a.* Bonds or other evidences of indebtedness which carry a
19 fixed rate of interest and are issued, assumed or guaranteed
20 by any railroad company incorporated under the laws of the
21 United States of America, or of any state, district, insular
22 or territorial possessions thereof, not in reorganization or
23 receivership at the time of such investment, provided that the
24 railroad company:
25 ~~*a.*~~ (1) Shall have had for the three-year period immediately
26 preceding investment, for which the necessary data for the
27 railroad company shall have been published, a balance of income
28 available for fixed charges which shall have averaged per year
29 not less than one and one-quarter times the fixed charges for
30 the latest year of the period; and
31 ~~*b.*~~ (2) Shall have had for the three-year period immediately
32 preceding investment, for which the necessary data for both
33 the railroad company and all class I railroads shall have been
34 published:
35 ~~(1)~~ (a) A balance of income available for the payment of

S.F. _____

1 fixed charges at least as many times greater than the fixed
2 charges for the latest year of the period as the balance of
3 income available for the payment of fixed charges of all class
4 I railroads for the same three-year period is times greater
5 than the amount of all fixed charges for such class I railroads
6 for the latest year of the period; and
7 ~~(2)~~ (b) An amount of railway operating revenues remaining
8 after deduction of three times the fixed charges for the
9 latest year of the period from the balance of income available
10 for the payment of fixed charges for the three-year period,
11 which amount is as great a proportion of its railway operating
12 revenues for the same three-year period as is the proportion of
13 railway operating revenues remaining for all class I railroads,
14 determined in the same manner and for the same period as for
15 the railroad.
16 *b.* The terms *"class I railroads"*, *"balance of income*
17 *available for the payment of fixed charges"*, *"fixed charges"*
18 and *"railway operating revenues"* when used in this subsection,
19 are to be given the same meaning as in the accounting reports
20 filed by a railroad company in accordance with the regulations
21 for common carriers by rail of the Interstate Commerce Act,
22 24 Stat. 379, codified at 49 U.S.C. § 1 — 40, 1001 — 1100,
23 provided that the *"balance of income available for the payment*
24 *of fixed charges"* and *"railway operating revenues remaining"*,
25 as the terms are used in this subsection, shall be computed
26 before deduction of federal income or excess profits taxes;
27 and that in computing *"fixed charges"* there shall be excluded
28 interest and amortization charges applicable to debt called for
29 redemption or which will otherwise mature within six months
30 from the time of investment and for the payment of which funds
31 have been or currently are being specifically set aside.
32 *c.* The eligibility of railroad obligations described
33 in ~~the first sentence of this subsection~~ paragraph *"a"*,
34 unnumbered paragraph 1, shall be determined exclusively
35 as provided herein, without regard to the provisions for

S.F. _____

1 qualification contained in subsections 5 and 8 ~~of this section~~.
2 Provisions for qualification contained in this section shall
3 not be construed as applying to equipment trust obligations,
4 guaranteed stocks, or contingent interest bonds of railroad
5 companies. Investments made in accordance with the provisions
6 of this subsection shall not be eligible in excess of ten
7 percent of the legal reserve.
8 17. *Rules of valuation.*
9 *a.* (1) All bonds or other evidences of debt having a fixed
10 term and rate of interest, if amply secured and not in default
11 as to principal or interest, may be valued as follows:
12 ~~(1)~~ (a) If purchased at par, at the par value.
13 ~~(2)~~ (b) If purchased above or below par, on the basis of
14 the purchase price adjusted so as to bring the value to par at
15 maturity and so as to yield in the meantime the effective rate
16 of interest at which the purchase was made.
17 (2) In applying the ~~above~~ rule contained in subparagraph
18 (1), the purchase price shall in no case be taken at a higher
19 figure than the actual market value at the time of purchase.
20 *b.* Certificates of sale obtained by foreclosure of liens on
21 real estate shall be valued in an amount not greater than the
22 unpaid principal of the defaulted indebtedness plus any amounts
23 actually expended for taxes and acquisition costs.
24 *c.* (1) All investments, except those for which a specific
25 rule is provided in this subsection, shall be valued at
26 their market value, or at their appraised value, or at prices
27 determined by the commissioner of insurance as representing
28 their fair market value, or at a value as determined under
29 rules adopted by the national association of insurance
30 commissioners.
31 (2) The commissioner of insurance shall have full
32 discretion in determining the method of calculating values
33 according to the foregoing rules, but no company or association
34 shall be prevented from valuing any asset at an amount less
35 than that provided by this subsection.

S.F. _____

1 19. *Other foreign government or corporate obligations.* Bonds
2 or other evidences of indebtedness, not to include currency,
3 issued, assumed, or guaranteed by a foreign government other
4 than Canada, or by a corporation incorporated under the laws
5 of a foreign government other than Canada. Such governmental
6 obligations must be valid, legally authorized and issued,
7 and on the date of acquisition have predominantly investment
8 qualities and characteristics as provided by rule. Such
9 corporate obligations must meet the qualifications established
10 in subsection 5 for bonds and other evidences of indebtedness
11 issued, assumed, or guaranteed by a corporation incorporated
12 under the laws of the United States or Canada. Foreign
13 investments authorized by this subsection are not eligible
14 in excess of twenty percent of the legal reserve of the life
15 insurance company or association. Investments in obligations
16 of a foreign government, other than Canada and the United
17 Kingdom, are not eligible in excess of two percent of the
18 legal reserve in the securities of foreign governments of any
19 one foreign nation. Investments in obligations of the United
20 Kingdom are not eligible in excess of four percent of the legal
21 reserve. Investments in a corporation incorporated under the
22 laws of a foreign government other than Canada are not eligible
23 in excess of two percent of the legal reserve in the securities
24 of any one foreign corporation.
25 *a.* Eligible investments in foreign obligations under this
26 subsection are limited to the types of obligations specifically
27 referred to in this subsection. This subsection in no way
28 limits or restricts investments in Canadian obligations and
29 securities specifically authorized in other subsections of this
30 section.
31 *b.* This subsection shall not authorize investment in
32 evidences of indebtedness issued, assumed, or guaranteed by a
33 foreign government which engages in a consistent pattern of
34 gross violations of human rights.
35 20. *Venture capital funds.*

S.F. _____

1 *a.* Shares or equity interests in venture capital funds which
2 agree to invest an amount equal to at least fifty percent of
3 the funds in small businesses having their principal offices
4 within this state and having either more than one half of
5 their assets within this state or more than one half of their
6 employees employed within this state. A company shall not
7 invest more than five percent of its legal reserve under this
8 subsection.
9 *b.* For purposes of this subsection, *"venture capital*
10 *fund"* means a corporation, partnership, proprietorship, or
11 other entity formed under the laws of the United States, or
12 a state, district, or territory of the United States, whose
13 principal business is or will be the making of investments in,
14 and the provision of significant managerial assistance to,
15 small businesses which meet the small business administration
16 definition of small business. *"Equity interests"* means limited
17 partnership interests and other equity interests in which
18 liability is limited to the amount of the investment, but does
19 not mean general partnership interests or other interests
20 involving general liability. *"Venture capital fund"* includes an
21 equity interest in the Iowa fund of funds as defined in section
22 15E.62.
23 ~~*"Venture capital fund"* includes an equity interest in the~~
24 ~~Iowa fund of funds as defined in section 15E.62.~~
25 Sec. 112. Section 512B.6, subsection 1, Code 2011, is
26 amended to read as follows:
27 1. *a.* A society shall operate for the benefit of members
28 and their beneficiaries by fulfilling both of the following
29 purposes:
30 ~~*a.*~~ (1) Providing benefits as specified in section 512B.16.
31 ~~*b.*~~ (2) Operating for one or more social, intellectual,
32 educational, charitable, benevolent, moral, fraternal,
33 patriotic, or religious purposes for the benefit of its
34 members, which may also be extended to others.
35 *b.* The purposes listed in this subsection may be carried

S.F. _____

1 out directly by the society, or indirectly through subsidiary
2 corporations or affiliated organizations.
3 Sec. 113. Section 512B.19, subsection 4, Code 2011, is
4 amended to read as follows:
5 4. *a.* A society shall provide in its laws that if its
6 reserves as to all or any class of certificates become
7 impaired, its supreme governing body or board of directors may
8 require that there be paid by the owners to the society the
9 amount of the owners' equitable proportion of the deficiency
10 as ascertained by its governing body or board, and that if the
11 payment is not made either of the following will apply:
12 ~~*a.*~~ (1) The required payment or assessment shall stand as
13 an indebtedness against the certificate and draw interest not
14 to exceed the rate specified for certificate loans under the
15 certificates.
16 ~~*b.*~~ (2) In lieu of or in combination with ~~paragraph~~
17 ~~"*a*"~~ subparagraph (1), the owner may accept a proportionate
18 reduction in benefits under the certificate.
19 *b.* The society may specify the manner of the election and
20 which alternative is to be presumed if no election is made.
21 Sec. 114. Section 512B.23, subsection 2, Code 2011, is
22 amended to read as follows:
23 2. *a.* The minimum standards of valuation for certificates
24 issued on or after January 1, 1991, shall be based on the
25 following tables:
26 ~~*a.*~~ (1) For certificates of life insurance, the
27 commissioner's 1980 standard ordinary mortality table or any
28 more recent table made applicable to life insurers.
29 ~~*b.*~~ (2) For annuity and pure endowment certificates, for
30 total and permanent disability benefits, for accidental death
31 benefits and for noncancelable accident and health benefits,
32 the tables authorized for use by life insurers in this state.
33 *b.* ~~Paragraphs "*a*" and "*b*"~~ Paragraph "*a*", subparagraphs (1)
34 and (2) are under valuation methods and standards, including
35 interest assumptions, in accordance with the laws of this state

S.F. _____

1 applicable to life insurers issuing policies containing like
2 benefits.
3 Sec. 115. Section 514A.1, Code 2011, is amended to read as
4 follows:
5 **514A.1 Definition of accident and sickness insurance policy.**
6 1. ~~*"Policy of accident and sickness insurance"* as used in~~
7 ~~this chapter~~ As used in this chapter, *"policy of accident and*
8 *sickness insurance"* includes a policy or contract covering
9 insurance against loss resulting from sickness, or from bodily
10 injury or death by accident, or both. For the purposes of this
11 chapter the words *"policy of accident and sickness insurance"*
12 are interchangeable without deviation of meaning with the words
13 *"policy of accident and health insurance"* or the words ~~*"policy*~~
14 ~~*of accident or health insurance."*~~ *"policy of accident or health*
15 *insurance"*.
16 2. This chapter applies to all individual policies of such
17 accident and sickness insurance written by Iowa or non-Iowa
18 companies or associations duly licensed under chapter 508, 515,
19 or 520 and, societies, orders, or associations licensed under
20 chapter 512B writing sickness and accident policies providing
21 benefits for loss of time.
22 3. Orders, societies or associations which admit to
23 membership only persons engaged in one or more crafts or
24 hazardous occupations in the same or similar lines of business
25 and the societies or auxiliaries to such orders shall not
26 be subject to the provisions of this chapter nor shall any
27 religious order be subject to the provisions of this chapter.
28 Sec. 116. Section 514B.3, Code 2011, is amended to read as
29 follows:
30 **514B.3 Application for a certificate of authority.**
31 1. An application for a certificate of authority shall be
32 verified by an officer or authorized representative of the
33 health maintenance organization, shall be in a form prescribed
34 by the commissioner, and shall set forth or be accompanied by
35 the following:

S.F. _____

1 ~~1.~~ *a.* A copy of the basic organizational document, if
2 any, of the applicant such as the articles of incorporation,
3 articles of association, partnership agreement, trust
4 agreement, or other applicable documents, and all of its
5 amendments.
6 ~~2.~~ *b.* A copy of the bylaws, rules or similar document,
7 if any, regulating the conduct of the internal affairs of the
8 applicant.
9 ~~3.~~ *c.* A list of the names, addresses and official positions
10 of the persons who are to be responsible for the conduct of
11 the affairs of the applicant, including all members of the
12 board of directors, board of trustees, executive committee, or
13 other governing board or committee, the principal officers if
14 a corporation and the partners or members if a partnership or
15 association.
16 ~~4.~~ *d.* A copy of any contract made or to be made between any
17 providers or persons listed in ~~subsection 3~~ paragraph *"c"* and
18 the applicant.
19 ~~5.~~ *e.* A statement generally describing the health
20 maintenance organization including, but not limited to, a
21 description of its facilities and personnel.
22 ~~6.~~ *f.* A copy of the form of evidence of coverage.
23 ~~7.~~ *g.* A copy of the form of the group contract, if any,
24 which is to be issued to employers, unions, trustees or other
25 organizations.
26 ~~8.~~ *h.* Financial statements showing the applicant's
27 assets, liabilities and sources of financial support. If the
28 applicant's financial affairs are audited by an independent
29 certified public accountant, a copy of the applicant's most
30 recent regular certified financial statement shall satisfy this
31 requirement unless the commissioner directs that additional
32 financial information is required for the proper administration
33 of this chapter.
34 ~~9.~~ *i.* A description of the proposed method of marketing the
35 plan, a financial plan which includes a three-year projection

S.F. _____

1 of operating results anticipated, and a statement as to the
2 sources of funding.
3 ~~10.~~ *j.* A power of attorney executed by any applicant
4 appointing the commissioner, the commissioner's successors in
5 office, and deputies to receive process in any legal action or
6 proceeding against the health maintenance organization on a
7 cause of action arising in this state.
8 ~~11.~~ *k.* A statement reasonably describing the geographic
9 area to be served.
10 ~~12.~~ *l.* A description of the complaint procedures to be
11 utilized as required under section 514B.14.
12 ~~13.~~ *m.* A description of the procedures and programs to be
13 implemented to meet the requirements for quality of health care
14 as determined by the director of public health under section
15 514B.4.
16 ~~14.~~ *n.* A description of the mechanism by which enrollees
17 shall be allowed to participate in matters of policy and
18 operation as required by section 514B.7.
19 ~~15.~~ *o.* Other information the commissioner finds reasonably
20 necessary to make the determinations required in section
21 514B.5.
22 2. A health maintenance organization shall, unless
23 otherwise provided for in this chapter, file notice with the
24 commissioner and receive approval from the commissioner before
25 modifying the operations described in the information required
26 by this section.
27 3. Upon receipt of an application for a certificate
28 of authority, the commissioner shall immediately transmit
29 copies of the application and accompanying documents to the
30 director of public health and the affected regional health
31 planning council, as authorized by Pub L. No. 89-749, 42 U.S.C.
32 § 246(b)2b, for their nonbinding consultation and advice.
33 Sec. 117. Section 514B.5, Code 2011, is amended to read as
34 follows:
35 **514B.5 Issuance and denial of a certificate of authority.**

S.F. _____

1 1. The commissioner shall issue or deny a certificate
2 of authority to any person filing an application pursuant to
3 section 514B.3 within a reasonable period of time. Issuance
4 of a certificate of authority shall be granted upon payment
5 of the application fee prescribed in section 514B.22 if the
6 commissioner is satisfied that the following conditions are
7 met:
8 ~~1.~~ *a.* The persons responsible for the conduct of the
9 affairs of the applicant are competent and trustworthy.
10 ~~2.~~ *b.* The commissioner finds that the health maintenance
11 organization's proposed plan of operation meets the
12 requirements of section 514B.4.
13 ~~3.~~ *c.* The health maintenance organization provides or
14 arranges for the provision of basic health care services
15 on a prepaid basis, except that the health maintenance
16 organization may impose deductible and coinsurance charges
17 subject to approval by the commissioner. The commissioner
18 has the authority to promulgate rules pursuant to chapter 17A
19 establishing reasonable maximum deductible and coinsurance
20 charges which may be imposed by health maintenance
21 organizations.
22 ~~4.~~ *d.* The health maintenance organization is fiscally
23 sound and may reasonably be expected to meet its obligations
24 to enrollees. In making this determination, the commissioner
25 may consider:
26 ~~a.~~ (1) The financial soundness of the health maintenance
27 organization's arrangements for health care services in
28 relation to its schedule of charges.
29 ~~b.~~ (2) The adequacy of the health maintenance
30 organization's working capital.
31 ~~c.~~ (3) Any agreement made by the health maintenance
32 organization with an insurer, a corporation authorized under
33 chapter 514 or any other organization for insuring the payment
34 of the cost of health care services or for providing immediate
35 alternative coverage in the event of discontinuance of the

S.F. _____

1 health maintenance organization.
2 ~~d.~~ (4) Any agreement made with providers for the provision
3 of health care services.
4 ~~e.~~ (5) Any surety bond or deposit of cash or securities
5 submitted in accordance with section 514B.16.
6 ~~5.~~ *e.* The enrollees may participate in matters of policy
7 and operation pursuant to section 514B.7.
8 ~~6.~~ *f.* Nothing in the proposed method of operation as shown
9 by the information submitted pursuant to section 514B.3 or by
10 independent investigation is contrary to the public interest.
11 2. A certificate of authority shall be denied only after
12 compliance with the requirements of section 514B.26.
13 Sec. 118. Section 514B.6, Code 2011, is amended to read as
14 follows:
15 **514B.6 Powers of health maintenance organizations.**
16 1. The powers of a health maintenance organization include,
17 but are not limited to, the following:
18 ~~1.~~ *a.* The purchase, lease, construction, renovation,
19 operation or maintenance of hospitals, medical facilities,
20 or both, and their ancillary equipment, and such property as
21 may reasonably be required for transacting the business of the
22 organization.
23 ~~2.~~ *b.* The making of loans to a medical group under contract
24 with it or to a corporation under its control for the purpose
25 of acquiring or constructing medical facilities and hospitals
26 or in furtherance of a program providing health care services
27 to enrollees.
28 ~~3.~~ *c.* The furnishing of health care services to the public
29 through providers which are under contract with or employed by
30 the health maintenance organization.
31 ~~4.~~ *d.* The contracting with any person for the performance
32 on its behalf of certain functions such as marketing,
33 enrollment and administration.
34 ~~5.~~ *e.* The contracting with an insurance company authorized
35 to insure groups or individuals in this state for the cost of

S.F. _____

health care or with a corporation authorized under chapter 514 for the provision of insurance, indemnity, or reimbursement against the cost of health care services provided by the health maintenance organization.

~~6.~~ *f.* The offering, in addition to basic health care services, of health care services and indemnity benefits to enrollees or groups of enrollees.

~~7.~~ *g.* The acceptance from any person of payments covering all or part of the charges made to enrollees of the health maintenance organization.

2. A health maintenance organization shall file notice with the commissioner before the exercise of any power granted in ~~subsections 1 and 2~~ subsection 1, paragraphs *"a"* and *"b"*. The commissioner shall disapprove the exercise of power if in the commissioner's opinion it would substantially and adversely affect the financial soundness of the health maintenance organization and endanger its ability to meet its obligations. The commissioner may adopt rules exempting from the filing requirement of this section those activities having a minimum effect.

Sec. 119. Section 514B.9, Code 2011, is amended to read as follows:

514B.9 Evidence of coverage.

1. Every enrollee shall receive an evidence of coverage and any amendments. If the enrollee obtains coverage through an insurance policy or a contract issued by a corporation authorized under chapter 514, the insurer or the corporation shall issue the evidence of coverage. No evidence of coverage or amendment shall be issued or delivered to any person in this state until a copy of the form of the evidence of coverage or amendment has been filed with and approved by the commissioner.

2. An evidence of coverage shall contain a clear and complete statement of:

~~1.~~ *a.* The health care services and the insurance or other benefits, if any, to which the enrollee is entitled in the

S.F. _____

1 total context of the organizational structure of the health
2 maintenance organization.
3 ~~2.~~ *b.* Any limitations on the services or benefits to be
4 provided, including any deductible or coinsurance charges
5 permitted under section 514B.5, subsection ~~3~~ 1, paragraph *"c"*.
6 ~~3.~~ *c.* The manner in which information is available on the
7 method of obtaining health care services.
8 ~~4.~~ *d.* The total amount of payment for health care services
9 and indemnity or service benefits, if any, which the enrollee
10 is obligated to pay with respect to individual contracts, or
11 an indication whether the plan offered through the health
12 maintenance organization is contributory or noncontributory
13 with respect to group contracts.
14 ~~5.~~ *e.* The health maintenance organization's method for
15 resolving enrollee complaints.
16 ~~6.~~ *f.* The mechanism by which enrollees shall be allowed to
17 participate in matters of policy and operation.
18 3. A copy of the form of the evidence of coverage to be
19 used in this state and any amendment shall be subject to the
20 filing and approval requirements of this section unless it
21 is subject to the jurisdiction of the commissioner under the
22 laws governing health insurance or corporations authorized
23 under chapter 514 in which event the filing and approval
24 provisions of such laws apply. To the extent, however, that
25 those provisions are less strict than those provided under this
26 section, then the requirements of this section shall apply.
27 4. Enrollees shall be entitled to receive the most recent
28 annual statement of the financial condition of the health
29 maintenance organization in which they are enrolled, which
30 statement shall include a balance sheet and summary of receipts
31 and disbursements.
32 Sec. 120. Section 515.35, subsection 4, paragraphs a and e,
33 Code 2011, are amended to read as follows:
34 *a. United States government obligations.* Obligations
35 issued or guaranteed by the United States or an agency or

S.F. _____

instrumentality of the United States. Bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality of the United States of America include investments in an open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, and operated in accordance with 17 C.F.R. § 270.2a-7, the portfolio of which is limited to the United States government obligations described in this paragraph *"a"*, and which are included in the national association of insurance commissioners' securities valuation office's United States direct obligation — full faith and credit list.

~~Bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality of the United States of America include investments in an open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, and operated in accordance with 17 C.F.R. § 270.2a-7, the portfolio of which is limited to the United States government obligations described in this paragraph *"a"*, and which are included in the national association of insurance commissioners' securities valuation office's United States direct obligation — full faith and credit list.~~

e. Corporate and business trust obligations. Obligations issued, assumed, or guaranteed by a corporation or business trust organized under the laws of the United States or a state of the United States, or the laws of Canada or a province of Canada, provided that a company shall not invest more than five percent of its admitted assets in the obligations of any one corporation or business trust. Aggregate investments in below investment grade bonds shall not exceed five percent of assets.

~~Aggregate investments in below investment grade bonds shall not exceed five percent of assets.~~

S.F. _____

1 Sec. 121. Section 515.35, subsection 4, paragraph h,
2 subparagraph (1), Code 2011, is amended to read as follows:
3 (1) (a) Except as provided in subparagraphs (2), (3), and
4 (4) of this paragraph, a company may acquire, hold, and convey
5 real estate only as follows:
6 ~~(a)~~ (i) Real estate mortgaged to it in good faith as
7 security for loans previously contracted, or for moneys due.
8 ~~(b)~~ (ii) Real estate conveyed to it in satisfaction of
9 debts previously contracted in the course of its dealings.
10 ~~(c)~~ (iii) Real estate purchased at sales on judgments,
11 decrees, or mortgages obtained or made for debts previously
12 contracted in the course of its dealings.
13 ~~(d)~~ (iv) Real estate subject to a contract for deed under
14 which the company holds the vendor's interest to secure the
15 payments the vendee is required to make under the contract.
16 (b) All real estate specified in subparagraph ~~divisions~~
17 ~~(a), (b), and (c)~~ division (a), subparagraph subdivisions (i),
18 (ii), and (iii) shall be sold and disposed of within three
19 years after the company acquires title to it, or within three
20 years after the real estate ceases to be necessary for the
21 accommodation of the company's business, and the company shall
22 not hold any of those properties for a longer period unless the
23 company elects to hold the property under another paragraph of
24 this section, or unless the company procures a certificate from
25 the commissioner of insurance that its interest will suffer
26 materially by the forced sale of those properties and that the
27 time for the sale is extended to the time the commissioner
28 directs in the certificate.
29 Sec. 122. Section 515.35, subsection 4, paragraph m, Code
30 2011, is amended to read as follows:
31 *m. Venture capital funds.* Shares or equity interests in
32 venture capital funds which agree to invest an amount equal to
33 at least fifty percent of the investments by a company in small
34 businesses having their principal offices within this state and
35 having either more than one-half of their assets within this

S.F. _____

1 state or more than one-half of their employees employed within
2 this state. A company shall not invest more than five percent
3 of its capital and surplus under this paragraph. For purposes
4 of this paragraph, *"venture capital fund"* means a corporation,
5 partnership, proprietorship, or other entity formed under the
6 laws of the United States, or a state, district, or territory
7 of the United States, whose principal business is or will be
8 the making of investments in, and the provision of significant
9 managerial assistance to, small businesses which meet the small
10 business administration definition of small business. *"Equity*
11 *interests"* means limited partnership interests and other equity
12 interests in which liability is limited to the amount of the
13 investment, but does not mean general partnership interests or
14 other interests involving general liability. *"Venture capital*
15 *fund"* includes an equity interest in the Iowa fund of funds as
16 defined in section 15E.62.
17 ~~*"Venture capital fund"* includes an equity interest in the~~
18 ~~Iowa fund of funds as defined in section 15E.62.~~
19 Sec. 123. Section 515B.9, subsection 1, Code 2011, is
20 amended to read as follows:
21 1. *a.* Any person having a claim under an insurance policy,
22 and the claim under such other policy alleges the same damages
23 or arises from the same facts, injury, or loss that gives rise
24 to a covered claim against the association, shall be required
25 to first exhaust all coverage provided by that policy, whether
26 such coverage is on a primary, excess, or pro rata basis and
27 any obligation of the association shall not be considered other
28 insurance.
29 (1) Any amount payable on a covered claim shall be reduced
30 by the full applicable limits of such other insurance policy
31 and the association shall receive full credit for such limits
32 or where there are no applicable limits, the claim shall be
33 reduced by the total recovery.
34 ~~*a.*~~ (2) A policy providing liability coverage to a person
35 who may be jointly and severally liable with, or a joint

S.F. _____

1 tortfeasor with, the person covered under the policy of the
2 insolvent insurer shall be first exhausted before any claim is
3 made against the association and the association shall receive
4 credit for the same as provided above.
5 *b.* For purposes of this section, an insurance policy means a
6 policy issued by an insurance company, whether or not a member
7 insurer, which policy insures any of the types of risks insured
8 by an insurance company authorized to write insurance under
9 chapter 515, 516A, or 520, or comparable statutes of another
10 state, except those types of risks set forth in chapters 508
11 and 514.
12 Sec. 124. Section 515E.2, subsections 2, 6, and 7, Code
13 2011, are amended to read as follows:
14 2. *a.* *"Completed operations liability"* means liability
15 arising out of the installation, maintenance, or repair of any
16 product at a site which is not owned or controlled by either of
17 the following:
18 ~~*a.*~~ (1) A person who performs that work.
19 ~~*b.*~~ (2) A person who hires an independent contractor to
20 perform that work.
21 *b.* However, liability for activities which are completed or
22 abandoned before the date of the occurrence giving rise to the
23 liability is included.
24 6. *a.* *"Liability"* means legal liability for damages,
25 including costs of defense, legal costs and fees, and other
26 claims expenses, because of injuries to other persons, damage
27 to their property, or other damage or loss to other persons
28 resulting from or arising out of either of the following:
29 ~~*a.*~~ (1) A business, whether profit or nonprofit, trade,
30 product, services, including professional services, premises,
31 or operations.
32 ~~*b.*~~ (2) An activity of a state or local government, or an
33 agency or political subdivision of state or local government.
34 *b.* *"Liability"* does not include personal risk liability and
35 an employer's liability with respect to its employees other

S.F. _____

1 than an employer's legal liability under the federal Employers'
2 Liability Act, 45 U.S.C. § 51 et seq.
3 7. *"Personal risk liability"* means liability for damages
4 because of injury to a person, damage to property, or
5 other loss or damage resulting from personal, familial, or
6 household responsibilities or activities, rather than from
7 responsibilities or activities referred to in subsection 6,
8 ~~paragraphs *"a"* and *"b"*~~ paragraph *"a"*, subparagraphs (1) and (2).
9 Sec. 125. Section 515E.4, unnumbered paragraphs 1 and 2,
10 Code Supplement 2011, are amended to read as follows:
11 Risk retention groups chartered in other states and seeking
12 to do business as a risk retention group in this state must
13 observe and abide by the laws of this state as provided in this
14 section. However, a risk retention group failing to qualify
15 under the definitional requirement of the federal Act, will not
16 benefit from this exemption from state law. The commissioner,
17 therefore, may apply any of the laws that otherwise may be
18 preempted by the federal Act because the nonexempt group will
19 not qualify for the preemption.
20 ~~However, a risk retention group failing to qualify under~~
21 ~~the definitional requirement of the federal Act, will not~~
22 ~~benefit from this exemption from state law. The commissioner,~~
23 ~~therefore, may apply any of the laws that otherwise may be~~
24 ~~preempted by the federal Act because the nonexempt group will~~
25 ~~not qualify for the preemption.~~
26 Sec. 126. Section 515F.6, subsection 3, unnumbered
27 paragraph 2, Code 2011, is amended to read as follows:
28 4. If, after hearing, the commissioner finds that the
29 filing does not meet the requirements of this chapter, the
30 commissioner shall issue an order specifying in what respects
31 the filing fails to meet the requirements of this chapter, and
32 stating when, within a reasonable period after the order is
33 issued, the filing shall no longer be in effect. Copies of the
34 order shall be sent to the applicant and to every insurer and
35 advisory organization which made that filing. The order shall

S.F. _____

not affect a contract or policy made or issued prior to the expiration of the period set forth in the order.

Sec. 127. Section 516D.4, Code 2011, is amended to read as follows:

516D.4 Collision damage and loss.

1. *a.* A rental company shall not hold, or attempt to hold, an authorized driver liable for physical damage to a rental vehicle, loss due to theft of a rental vehicle, or damages resulting from the loss of use of a rental vehicle, unless the rental company offers the customer a collision damage waiver under the terms and conditions described in subsection 2 ~~of this section~~, or unless one or more of the following applies:

~~*a.*~~ (1) The damage or loss is caused intentionally by an authorized driver or is a result of the authorized driver's willful, abusive, reckless, or wanton misconduct.

~~*b.*~~ (2) The damage or loss arises out of the authorized driver's operation of the rental vehicle while intoxicated or under the influence of a drug.

~~*c.*~~ (3) The damage or loss is caused while the authorized driver is engaged in a race, training activity, contest, or use of the rental vehicle for an illegal purpose.

~~*d.*~~ (4) The rental agreement is based on false or misleading information supplied by the customer or an authorized driver.

~~*e.*~~ (5) The damage or loss is caused by operating the rental vehicle other than on regularly maintained hard surface roadways, including private driveways and parking lots.

~~*f.*~~ (6) The damage or loss arises out of the use of the rental vehicle to transport persons or property for hire or to push or tow anything.

~~*g.*~~ (7) The damage or loss occurs while the rental vehicle is operated by a driver other than an authorized driver.

~~*h.*~~ (8) The damage or loss arises out of the use of the rental vehicle outside the continental United States unless such use is specifically authorized by the rental agreement.

~~*i.*~~ (9) The damage or loss is attributable to theft which

S.F. _____

1 occurs with the prior knowledge or knowing participation of an
2 authorized driver, or which is attributable to the authorized
3 driver leaving the rental vehicle unattended with the keys in
4 the rental vehicle.
5 *b.* This section does not alter the liability of a customer
6 or authorized driver for bodily injury or the death of another
7 and for property damage other than to the rental vehicle in
8 accordance with the rental agreement. This section does not
9 prohibit a rental company from accepting or negotiating master
10 contracts with companies or government entities in advance of
11 need whereby the companies or government entities specifically
12 agree to assume liability in exchange for rate concessions.
13 This section does not prohibit a rental company from entering
14 into agreements with insurance companies to provide replacement
15 vehicles to insurance company customers whereby the insurance
16 company agrees to assume the risk of loss.
17 *c.* If the rental vehicle is not repaired, damages shall not
18 exceed the fair market value of the vehicle, as determined in
19 the customary market for that vehicle, less salvage or actual
20 sale value, plus additional license and tax fees incurred
21 because of the sale, plus administrative fees. A claim shall
22 not be made for loss of use if the rental vehicle is not
23 repaired.
24 2. *a.* A rental company may offer a collision damage waiver
25 under the following terms and conditions:
26 ~~*a.*~~ (1) All restrictions, conditions, and exclusions must
27 be printed in the rental agreement, or on a separate sheet or
28 document, in ten point type, or larger; or written in pen and
29 ink or typewritten in or on the face of the rental agreement
30 in a blank space provided for such restrictions, conditions,
31 and exclusions. The rental agreement may provide that the
32 collision damage waiver may be voided under the conditions set
33 forth in subsection 1, ~~paragraphs "*a*" through "*i*"~~ paragraph "*a*",
34 subparagraphs (1) through (9).
35 ~~*b.*~~ (2) The rental agreement, separate sheet, or document

S.F. _____

1 must clearly and conspicuously state both the daily and
2 estimated total charge for the collision damage waiver.
3 *~~c.~~* (3) (a) The rental agreement, separate sheet, or
4 document given to the customer prior to entering into the
5 rental agreement must display in ten point type, or larger, the
6 following notice:
7 NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE,
8 A COLLISION DAMAGE WAIVER TO COVER ALL OR PART OF YOUR
9 RESPONSIBILITY FOR DAMAGE TO THE RENTAL VEHICLE.
10 BEFORE DECIDING WHETHER TO PURCHASE THE COLLISION DAMAGE
11 WAIVER, YOU MAY WISH TO DETERMINE WHETHER YOUR OWN AUTOMOBILE
12 INSURANCE AFFORDS YOU COVERAGE FOR DAMAGE TO THE RENTAL VEHICLE
13 AND THE AMOUNT OF THE DEDUCTIBLE UNDER YOUR OWN INSURANCE
14 COVERAGE. THE PURCHASE OF THIS COLLISION DAMAGE WAIVER IS NOT
15 MANDATORY AND MAY BE DECLINED.
16 (b) The customer must separately acknowledge that the
17 customer received the above notice, that the customer desires
18 to purchase the collision damage waiver, and the terms of the
19 collision damage waiver to which the customer agrees.
20 *~~d.~~* (4) The car rental company shall not pay commissions to
21 a rental counter agent or representative for selling collision
22 damage waivers and is prohibited from considering volume of
23 sales of collision damage waivers in an employee evaluation or
24 determination of promotion.
25 *b.* However, notwithstanding whether a rental company
26 offers a collision damage waiver under the provisions of this
27 subsection, the rental company shall not hold an authorized
28 driver liable for damage or loss due to theft except where
29 subsection 1, paragraph *~~"i"~~* *"a"*, subparagraph (9) applies.
30 Sec. 128. Section 518C.3, subsection 4, paragraph b, Code
31 Supplement 2011, is amended to read as follows:
32 *b.* (1) *"Covered claim"* does not include any of the
33 following:
34 ~~(1)~~ (a) An amount due a reinsurer, insurer, insurance pool,
35 underwriting association, or other group assuming insurance

S.F. _____

1 risks, as subrogation, contribution, indemnity recoveries, or
2 otherwise.
3 ~~(2)~~ (b) An amount that constitutes the portion of a
4 claim that is within an insured's deductible or self-insured
5 retention.
6 ~~(3)~~ (c) A fee or other amount relating to goods or services
7 sought by or on behalf of an attorney, adjuster, witness, or
8 other provider of goods or services retained by the insolvent
9 insurer or by an insured prior to the date the insurer was
10 declared insolvent.
11 ~~(4)~~ (d) An amount that constitutes a fine, penalty,
12 interest, or punitive or exemplary damages.
13 ~~(5)~~ (e) A fee or other amount sought by or on behalf of
14 an attorney, adjuster, witness, or other provider of goods or
15 services retained by the insured or claimant in connection with
16 the assertion of any claim, covered or otherwise, against the
17 association.
18 ~~(6)~~ (f) A claim filed with the association or with a
19 liquidator for protection afforded under the insured's policy
20 or contract for incurred but not reported losses or expenses.
21 ~~(7)~~ (g) An amount that is an obligation owed to or on
22 behalf of an affiliate of, as defined in section 521A.1, an
23 insolvent insurer.
24 (2) Notwithstanding ~~subparagraphs (1) through (7)~~
25 subparagraph (1), subparagraph divisions (a) through (g), a
26 person is not prevented from presenting a noncovered claim
27 to the insolvent insurer or its liquidator. However, the
28 noncovered claim shall not be asserted against any other
29 person, including the person to whom benefits were paid or the
30 insured of the insolvent insurer, except to the extent that
31 the claim is outside the coverage of the policy issued by the
32 insolvent insurer.
33 Sec. 129. Section 521A.3, subsections 1 and 2, Code 2011,
34 are amended to read as follows:
35 1. *Filing requirements.*

S.F. _____

1 *a.* No person other than the issuer shall make a tender offer
2 for or a request or invitation for tenders of, or enter into
3 any agreement to exchange securities for, seek to acquire, or
4 acquire, in the open market or otherwise, any voting security
5 of a domestic insurer if, after the consummation thereof,
6 such person would, directly or indirectly, or by conversion
7 or by exercise of any right to acquire, be in control of such
8 insurer, and no person shall enter into an agreement to merge
9 with or otherwise to acquire control of a domestic insurer
10 unless, at the time any such offer, request, or invitation
11 is made or any such agreement is entered into, or prior to
12 the acquisition of such securities if no offer or agreement
13 is involved, such person has filed with the commissioner and
14 has sent to such insurer, and such insurer has sent to its
15 shareholders, a statement containing the information required
16 by this section and such offer, request, invitation, agreement
17 or acquisition has been approved by the commissioner in the
18 manner hereinafter prescribed.
19 *b.* For purposes of this section a domestic insurer shall
20 include any other person controlling a domestic insurer unless
21 the other person is either directly or through its affiliates
22 primarily engaged in business other than the business of
23 insurance. However, for purposes of this section *"person"*
24 does not include a securities broker holding, in the usual and
25 customary broker's function, less than twenty percent of the
26 voting securities of an insurance company or of a person which
27 controls an insurance company.
28 2. *Content of statement.*
29 *a.* The statement to be filed with the commissioner hereunder
30 shall be made under oath or affirmation and shall contain the
31 following information:
32 ~~*a.*~~ (1) The name and address of each person by whom or
33 on whose behalf the merger or other acquisition of control
34 referred to in subsection 1 ~~of this section~~ is to be effected,
35 hereinafter called *"acquiring party"*.

S.F. _____

1 ~~(1)~~ (a) If such person is an individual, the individual's
2 principal occupation and all offices and positions held during
3 the past five years, and any conviction of crimes other than
4 minor traffic violations during the past ten years.
5 ~~(2)~~ (b) If such person is not an individual, a report
6 of the nature of its business operations during the past
7 five years or for such lesser period as such person and
8 any predecessors thereof shall have been in existence; an
9 informative description of the business intended to be done
10 by such person and such person's subsidiaries; and a list of
11 all individuals who are or who have been selected to become
12 directors or executive officers of such person, or who perform
13 or will perform functions appropriate to such positions. Such
14 list shall include for each such individual the information
15 required by subparagraph ~~(1) of this paragraph~~ division (a).
16 ~~b.~~ (2) The source, nature and amount of the consideration
17 used or to be used in effecting the merger or other acquisition
18 of control, a description of any transaction in which funds
19 were or are to be obtained for any such purpose including a
20 pledge of the insurer's stock, or the stock of any of its
21 subsidiaries or controlling affiliates, and the identity of
22 persons furnishing the consideration. However, if a source
23 of the consideration is a loan made in the lender's ordinary
24 course of business, the identity of the lender shall remain
25 confidential, if the person filing the statement so requests.
26 ~~c.~~ (3) Fully audited financial information as to the
27 earnings and financial condition of each acquiring party for
28 the preceding five fiscal years of each such acquiring party,
29 or for such lesser period as such acquiring party and any
30 predecessors thereof shall have been in existence, and similar
31 unaudited information as of a date not earlier than ninety days
32 prior to the filing of the statement.
33 ~~d.~~ (4) Any plans or proposals which each acquiring party
34 may have to liquidate such insurer, to sell its assets or
35 merge or consolidate it with any person, or to make any other

S.F. _____

1 material change in its business or corporate structure or
2 management.
3 ~~e.~~ (5) The number of shares of any security referred to
4 in subsection 1 ~~of this section~~ which each acquiring party
5 proposes to acquire, and the terms of the offer, request,
6 invitation, agreement, or acquisition referred to in subsection
7 1 ~~of this section~~, and a statement as to the method by which the
8 fairness of the proposal was arrived at.
9 ~~f.~~ (6) The amount of each class of any security referred
10 to in subsection 1 ~~of this section~~ which is beneficially owned
11 or concerning which there is a right to acquire beneficial
12 ownership by each acquiring party.
13 ~~g.~~ (7) A full description of any contracts, arrangements
14 or understandings with respect to any security referred to
15 in subsection 1 ~~of this section~~ in which any acquiring party
16 is involved, including but not limited to transfer of any of
17 the securities, joint ventures, loan or option arrangements,
18 puts or calls, guarantees of loans, guarantees against loss
19 or guarantees of profits, division of losses or profits, or
20 the giving or withholding of proxies. Such description shall
21 identify the persons with whom such contracts, arrangements or
22 understandings have been entered into.
23 ~~h.~~ (8) A description of the purchase of any security
24 referred to in subsection 1 ~~of this section~~ during the twelve
25 calendar months preceding the filing of the statement, by any
26 acquiring party, including the dates of purchase, names of
27 the purchasers, and consideration paid or agreed to be paid
28 therefor.
29 ~~i.~~ (9) A description of any recommendations to purchase
30 any security referred to in subsection 1 ~~of this section~~ made
31 during the twelve calendar months preceding the filing of the
32 statement, by any acquiring party, or by anyone based upon
33 interview or at the suggestion of such acquiring party.
34 ~~j.~~ (10) Copies of all tender offers for, requests or
35 invitations for tenders of, exchange offers for, and agreements

S.F. _____

1 to acquire or exchange any securities referred to in subsection
2 1 ~~of this section~~, and, if distributed, of additional
3 soliciting material relating thereto.
4 ~~*k.*~~ (11) The terms of any agreement, contract or
5 understanding made with any broker-dealer as to solicitation
6 of securities referred to in subsection 1 ~~of this section~~
7 for tender, and the amount of any fees, commissions or other
8 compensation to be paid to broker-dealers with regard thereto.
9 ~~*l.*~~ (12) Additional information as the commissioner may by
10 rule prescribe as necessary or appropriate for the protection
11 of policyholders of the insurer or in the public interest.
12 *b.* If the person required to file the statement referred
13 to in subsection 1 ~~of this section~~ is a partnership, limited
14 partnership, syndicate or other group, the commissioner may
15 require that the information called for by ~~paragraphs *"a"*~~
16 ~~through *"l"* of this subsection~~ paragraph *"a"*, subparagraphs
17 (1) through (12) shall be given with respect to each partner
18 of such partnership or limited partnership, each member of
19 such syndicate or group, and each person who controls such
20 partner or member. If any such partner, member or person is
21 a corporation or the person required to file the statement
22 referred to in subsection 1 ~~of this section~~ is a corporation,
23 the commissioner may require that the information called for
24 by ~~paragraphs *"a"* through *"l"* of this subsection~~ paragraph
25 *"a"*, subparagraphs (1) through (12) shall be given with
26 respect to such corporation, each officer and director of such
27 corporation, and each person who is directly or indirectly the
28 beneficial owner of more than ten percent of the outstanding
29 voting securities of such corporation. If any material change
30 occurs in the facts set forth in the statement filed with the
31 commissioner and sent to such insurer pursuant to this section,
32 an amendment setting forth such change, together with copies of
33 all documents and other material relevant to such change, shall
34 be filed with the commissioner and sent to such insurer within
35 two business days after the person learns of such change. Such

S.F. _____

1 insurer shall send such amendment to its shareholders.
2 Sec. 130. Section 521B.2, unnumbered paragraph 1, Code
3 2011, is amended to read as follows:
4 Credit for reinsurance is allowed a domestic ceding insurer
5 as either an asset or a deduction from liability on account of
6 reinsurance ceded only if the reinsurer meets the requirements
7 of subsection 1, 2, 3, 4, or 5. If the reinsurer meets
8 the requirements of subsection 3 or 4, the requirements of
9 subsection 6 must also be met. This section does not apply to
10 reinsurance ceded and assumed pursuant to pooling arrangements
11 among insurers in the same holding company system.
12 Sec. 131. Section 521B.2, subsection 2, Code 2011, is
13 amended to read as follows:
14 2. *a.* Credit is allowed if the reinsurance is ceded to an
15 assuming insurer which is accredited as a reinsurer in this
16 state. An accredited reinsurer is one which satisfies all of
17 the following conditions:
18 ~~*a.*~~ (1) Files with the commissioner evidence of submission
19 to the jurisdiction of this state.
20 ~~*b.*~~ (2) Submits to the authority of this state to examine
21 its books and records.
22 ~~*c.*~~ (3) Is licensed to transact reinsurance in at least one
23 state, or in the case of a United States branch of an alien
24 assuming insurer, is entered through and licensed to transact
25 the business of reinsurance in at least one state.
26 ~~*d.*~~ (4) Files annually with the commissioner a copy of
27 its annual statement filed with the insurance department of
28 its state of domicile and a copy of its most recent audited
29 financial statement and does either of the following:
30 ~~(1)~~ (a) Maintains a surplus with respect to policyholders
31 in an amount which is not less than twenty million dollars and
32 whose accreditation has not been denied by the commissioner
33 within ninety days of its submission to the jurisdiction of
34 this state.
35 ~~(2)~~ (b) Maintains a surplus with respect to policyholders

S.F. _____

in an amount less than twenty million dollars and whose accreditation has been approved by the commissioner. Credit shall not be allowed a domestic ceding insurer, if the accreditation of the assuming insurer is revoked by the commissioner after notice and hearing.

b. To qualify as an accredited reinsurer, an assuming insurer must meet all of the requirements and the standards set forth in this subsection. If the commissioner determines that the assuming insurer has failed to continue to meet any of these requirements or standards, the commissioner may upon written notice and hearing revoke accreditation of the assuming insurer.

~~This section does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.~~

Sec. 132. Section 521C.3, subsection 5, Code 2011, is amended to read as follows:

5. *a.* The commissioner may refuse to issue a reinsurance intermediary license if, in the commissioner's judgment, any of the following conditions are present:

~~*a.*~~ (1) The applicant, anyone named in the application, or any member, principal, officer, or director of the applicant, is not trustworthy.

~~*b.*~~ (2) A controlling person of such applicant is not trustworthy to act as a reinsurance intermediary.

~~*c.*~~ (3) Conditions present in ~~paragraph "*a*" or "*b*"~~ subparagraph (1) or (2) have given cause for revocation or suspension of a license, or a person referred to in ~~paragraph "*a*" or "*b*"~~ subparagraph (1) or (2) has failed to comply with any prerequisite for the issuance of a license.

b. Upon written request, the commissioner shall furnish a written summary of the basis for refusal to issue a license, which document is privileged and not subject to disclosure under chapter 22.

Sec. 133. Section 521D.4, subsection 3, Code 2011, is

S.F. _____

amended to read as follows:

3. *a.* A report required to be filed pursuant to this chapter is to be filed regardless of who has initiated the nonrenewal, cancellation, or revision of the ceded reinsurance agreement whenever one or more of the following conditions exist:

~~*a.*~~ (1) The entire cession has been canceled, nonrenewed, or revised and ceded indemnity and loss adjustment expense reserves, after any nonrenewal, cancellation, or revision, represent less than fifty percent of the comparable reserves that would have been ceded had the nonrenewal, cancellation, or revision not occurred.

~~*b.*~~ (2) An authorized or accredited reinsurer has been replaced on an existing cession by an unauthorized reinsurer.

~~*c.*~~ (3) Collateral requirements previously established for unauthorized reinsurers have been reduced.

b. Subject to the materiality criteria, for purposes of ~~paragraphs "*b*" and "*c*"~~ paragraph "*a*", subparagraphs (2) and (3), a report shall be filed if the result of the revision affects more than ten percent of the cession.

Sec. 134. Section 524.605, Code 2011, is amended to read as follows:

524.605 Liability of directors in certain cases.

1. In addition to any other liabilities imposed by law upon directors of a state bank:

~~1.~~ *a.* Directors of a state bank who vote for or assent to the declaration of any dividend or other distribution of the assets of a state bank to its shareholders in willful or negligent violation of the provisions of this chapter or of any restrictions contained in the articles of incorporation, shall be jointly and severally liable to the state bank for the amount of such dividend which is paid or the value of such assets which are distributed in excess of the amount of such dividend or distribution which could have been paid or distributed without a violation of the provisions

S.F. _____

1 of this chapter or of the restrictions in the articles of
2 incorporation.
3 ~~2.~~ *b.* The directors of a state bank who vote for or
4 assent to any distribution of assets of a state bank to its
5 shareholders during the dissolution of the state bank without
6 the payment and discharge of, or making adequate provision for,
7 all known debts, obligations, and liabilities of the state bank
8 shall be jointly and severally liable to the state bank for the
9 value of such assets which are distributed, to the extent that
10 such debts, obligations and liabilities of the state bank are
11 not thereafter paid and discharged.
12 ~~3.~~ *c.* The directors of a state bank who, willfully or
13 negligently, vote for or assent to loans or extensions of
14 credit in violation of the provisions of this chapter, shall be
15 jointly and severally liable to the state bank for the total
16 amount of any loss sustained.
17 ~~4.~~ *d.* The directors of a state bank who, willfully or
18 negligently, vote for or assent to any investment of funds of
19 the state bank in violation of the provisions of this chapter
20 shall be jointly and severally liable to the state bank for the
21 amount of any loss sustained on such investment.
22 2. A director of a state bank who is present at a meeting
23 of its board of directors at which action on any matter is
24 taken shall be presumed to have assented to the action taken
25 unless the director's dissent shall be entered in the minutes
26 of the meeting or unless the director shall file the director's
27 written dissent to such action with the individual acting as
28 the secretary of the meeting before the adjournment thereof or
29 shall forward such dissent by registered or certified mail to
30 the cashier of the state bank promptly after the adjournment
31 of the meeting. Such right to dissent shall not apply to a
32 director who voted in favor of such action.
33 3. A director shall not be liable under subsection 1, ~~2,~~
34 ~~3, or 4 of this section~~ paragraph *"a"*, *"b"*, *"c"*, or *"d"* if
35 the director relied and acted in good faith upon information

S.F. _____

1 represented to the director to be correct by an officer or
2 officers of such state bank or stated in a written report by a
3 certified public accountant or firm of such accountants. No
4 director shall be deemed to be negligent within the meaning
5 of this section if the director in good faith exercised that
6 diligence, care and skill which an ordinarily prudent person
7 would exercise as a director under similar circumstances.
8 4. Any director against whom a claim shall be asserted under
9 or pursuant to this section for the payment of a dividend or
10 other distribution of assets of a state bank and who shall be
11 held liable thereon, shall be entitled to contribution from
12 the shareholders who accepted or received any such dividend or
13 assets, knowing such dividend or distribution to have been made
14 in violation of the provisions of this chapter, in proportion
15 to the amounts received by them respectively. Further, any
16 director against whom a claim shall be asserted pursuant to
17 this section for the payment of any liability imposed by this
18 section shall be entitled to contribution from any director
19 found to be similarly liable.
20 5. Whenever the superintendent deems it necessary the
21 superintendent may require, after affording an opportunity for
22 a hearing upon adequate notice, that a director or directors
23 whom the superintendent reasonably believes to be liable to
24 a state bank pursuant to subsection 1, ~~2, 3, or 4 of this~~
25 ~~section~~ paragraph *"a"*, *"b"*, *"c"*, or *"d"*, to place in an escrow
26 account in an insured bank located in this state, as directed
27 by the superintendent, an amount sufficient to discharge any
28 liability which may accrue pursuant to subsection 1, ~~2, 3,~~
29 ~~or 4 of this section~~ paragraph *"a"*, *"b"*, *"c"*, or *"d"*. The
30 amount so deposited shall be paid over to the state bank by
31 the superintendent upon final determination of the amount of
32 such liability. Any portion of the escrow account which is not
33 necessary to meet such liability shall be repaid on a pro rata
34 basis to the directors who contributed to the fund.
35 6. Any action seeking to impose liability under this

S.F. _____

1 section, other than liability for contribution, shall be
2 commenced only within five years of the action complained of
3 and not thereafter.
4 Sec. 135. Section 524.901, subsection 7, Code 2011, is
5 amended to read as follows:
6 7. *a.* A state bank, upon the approval of the
7 superintendent, may invest up to five percent of its aggregate
8 capital in the shares or equity interests of any of the
9 following:
10 ~~*a.*~~ (1) Economic development corporations organized under
11 chapter 496B to the extent authorized by and subject to the
12 limitations of that chapter.
13 ~~*b.*~~ (2) Community development corporations or community
14 development projects to the same extent a national bank may
15 invest in such corporations or projects pursuant to 12 U.S.C.
16 § 24.
17 ~~*c.*~~ (3) Small business investment companies as defined by
18 the laws of the United States.
19 ~~*d.*~~ (4) Venture capital funds which invest an amount equal
20 to at least fifty percent of a state bank's investment in small
21 businesses having their principal offices within this state and
22 having either more than one-half of their assets within this
23 state or more than one-half of their employees employed within
24 this state.
25 ~~*e.*~~ (5) Small businesses having a principal office within
26 this state and having either more than one-half of their assets
27 within this state or more than one-half of their employees
28 employed within this state. An investment by a state bank
29 in a small business under this ~~paragraph~~ subparagraph shall
30 be included with the obligations of the small business to
31 the state bank that are incurred as a result of the exercise
32 by the state bank of the powers conferred in section 524.902
33 for the purpose of determining the total obligations of the
34 small business pursuant to section 524.904. A state bank's
35 equity interest investment in a small business, pursuant to

S.F. _____

1 this ~~paragraph~~ subparagraph, shall not exceed a twenty percent
2 ownership interest in the small business.
3 ~~*f.*~~ (6) Other entities, acceptable to the superintendent,
4 whose sole purpose is to promote economic or civic developments
5 within a community or this state.
6 *b.* A state bank's total investment in any combination of
7 the shares or equity interests of the entities identified
8 in ~~paragraphs "*a*" through "*f*"~~ paragraph "*a*", subparagraphs
9 (1) through (6) shall be limited to fifteen percent of its
10 aggregate capital.
11 *c.* For purposes of this subsection:
12 (1) The term "*equity interests*" means limited partnership
13 interests and other equity interests in which liability is
14 limited to the amount of the investment, but does not mean
15 general partnership interests or other interests involving
16 general liability.
17 (2) The term "*small business*" means a corporation,
18 partnership, proprietorship, or other entity which meets
19 the appropriate United States small business administration
20 definition of small business and which is principally engaged
21 in the development or exploitation of inventions, technological
22 improvements, new processes, or other products not previously
23 generally available in this state, or other investments which
24 provide an economic benefit to the state.
25 (3) ~~For purposes of this subsection, the~~ The term "*venture*
26 *capital fund*" means a corporation, partnership, proprietorship,
27 or other entity whose principal business is or will be the
28 making of investments in, and the providing of significant
29 managerial assistance to, small businesses. ~~The term "*small*~~
30 ~~*business*" means a corporation, partnership, proprietorship, or~~
31 ~~other entity which meets the appropriate United States small~~
32 ~~business administration definition of small business and which~~
33 ~~is principally engaged in the development or exploitation of~~
34 ~~inventions, technological improvements, new processes, or other~~
35 ~~products not previously generally available in this state, or~~

S.F. _____

1 ~~other investments which provide an economic benefit to the~~
2 ~~state. The term *"equity interests"* means limited partnership~~
3 ~~interests and other equity interests in which liability is~~
4 ~~limited to the amount of the investment, but does not mean~~
5 ~~general partnership interests or other interests involving~~
6 ~~general liability.~~
7 Sec. 136. Section 527.7, Code 2011, is amended to read as
8 follows:
9 **527.7 Records maintained.**
10 1. All transactions engaged in through a satellite terminal
11 shall be recorded in a form from which it will be possible
12 to produce a humanly readable record of any transaction, and
13 these recordings shall be retained by the utilizing financial
14 institutions for the periods required by law.
15 2. The machine receipt provided to a satellite account
16 transaction card user by a satellite terminal shall be
17 admissible as evidence in any legal action or proceeding and
18 shall constitute prima facie proof of the transaction evidence
19 by that receipt.
20 3. A financial institution shall provide each of its
21 satellite account holders with a periodic account statement
22 that shall contain a brief description of all satellite
23 terminal transactions sufficient to enable the account holder
24 to identify any transaction and to relate it to machine
25 receipts provided by satellite terminals.
26 4. When a periodic account statement includes both
27 satellite terminal transactions and other nonsatellite terminal
28 transactions, all satellite terminal transactions shall be
29 indicated as such, and shall be accompanied by the description
30 required by ~~this~~ subsection 3.
31 5. The administrator may provide by rule for the recording
32 and maintenance, by any financial institution utilizing a
33 satellite terminal, of amounts involved in a transaction
34 engaged in through the satellite terminal which are of a known
35 tax consequence to the customer initiating the transaction.

S.F. _____

1 For the purpose of this ~~paragraph~~ subsection, *"known tax*
2 *consequences"* means and includes but shall not be limited to the
3 following:
4 ~~1.~~ *a.* An amount directly or indirectly received from a
5 customer and applied to a loan account of the customer which
6 represents interest paid by the customer to the financial
7 institution.
8 ~~2.~~ *b.* In any transaction where the total amount involved
9 is deducted from funds in a customer's account and is
10 simultaneously paid either directly or indirectly by the
11 financial institution to the account of a third party, any
12 portion of the transaction amount which represents a sales or
13 other tax imposed upon or included within the transaction and
14 collected by that third party from the customer, or any portion
15 of the transaction amount which represents interest paid to the
16 third party by the customer.
17 ~~3.~~ *c.* Any other transaction which the administrator
18 determines to have direct tax consequences to the customer.
19 The administrator also may provide for the periodic
20 distribution to customers of summaries of transactions having
21 known tax consequences.
22 Sec. 137. Section 527.9, subsection 2, Code 2011, is amended
23 to read as follows:
24 2. *a.* A person desiring to operate a central routing unit
25 shall submit to the administrator an application which shall
26 contain all of the following information:
27 ~~a.~~ (1) The name and business address of the owner of the
28 proposed unit.
29 ~~b.~~ (2) The name and business address of each data
30 processing center and other central routing unit with which
31 the proposed central routing unit will have direct electronic
32 communication.
33 ~~c.~~ (3) The location of the proposed central routing unit.
34 ~~d.~~ (4) A schedule of the charges which will be required to
35 be paid to that applicant by each financial institution which

S.F. _____

1 utilizes the proposed central routing unit.
2 ~~The application shall be accompanied by all agreements~~
3 ~~between the proposed central routing unit and all data~~
4 ~~processing centers and other central routing units respecting~~
5 ~~the transmission of transaction data; and a copy of any~~
6 ~~agreement between the proposed central routing unit and~~
7 ~~any financial institution establishing a satellite terminal~~
8 ~~unless that agreement theretofore has been filed with the~~
9 ~~administrator pursuant to section 527.5.~~
10 ~~*e.*~~ (5) An agreement by the applicant that the proposed
11 central routing unit will be capable of accepting and routing,
12 and will be operated to accept and route, transmissions of data
13 originating at any satellite terminal located in this state,
14 except limited-function terminals, whether receiving from that
15 terminal or from a data processing center or other central
16 routing unit.
17 ~~*f.*~~ (6) A representation and undertaking that the proposed
18 central routing unit is directly connected to every data
19 processing center that is directly connected to a satellite
20 terminal located in this state, and that the proposed central
21 routing unit will provide for direct connection in the
22 future with any data processing center that becomes directly
23 connected to a satellite terminal located in this state. This
24 representation and undertaking is not required of a central
25 routing unit with respect to limited-function terminals.
26 *b.* The application shall be accompanied by all agreements
27 between the proposed central routing unit and all data
28 processing centers and other central routing units respecting
29 the transmission of transaction data; and a copy of any
30 agreement between the proposed central routing unit and
31 any financial institution establishing a satellite terminal
32 unless that agreement theretofore has been filed with the
33 administrator pursuant to section 527.5.
34 Sec. 138. Section 533.102, subsection 3, Code 2011, is
35 amended to read as follows:

S.F. _____

1 3. *a.* *"Credit union"* means a cooperative, nonprofit
2 association, organized or incorporated in accordance with the
3 provisions of this chapter or under the laws of another state
4 or the Federal Credit Union Act, 12 U.S.C. § 1751 et seq.,
5 for the purposes of creating a source of credit at a fair and
6 reasonable rate of interest, of encouraging habits of thrift
7 among its members, and of providing an opportunity for its
8 members to use and control their own money on a democratic
9 basis in order to improve their economic and social condition.
10 *b.* A ~~credit union~~ *"credit union"* is also a supervised
11 financial organization as that term is defined and used in
12 chapter 537, the Iowa consumer credit code.
13 Sec. 139. Section 536A.10, Code 2011, is amended to read as
14 follows:
15 **536A.10 Issuance of license.**
16 1. If the superintendent shall find:
17 ~~1.~~ *a.* That the financial responsibility, experience,
18 character and general fitness of the applicant and of the
19 officers thereof are such as to command the confidence of the
20 community, and to warrant the belief that the business will be
21 operated honestly, fairly and efficiently within the purpose of
22 this chapter;
23 ~~2.~~ *b.* That a reasonable necessity exists for a new
24 industrial loan company in the community to be served;
25 ~~3.~~ *c.* That the applicant has available for the operation
26 of the business at the specified location paid-in capital and
27 surplus as required by section 536A.8; and
28 ~~4.~~ *d.* That the applicant is a corporation organized for
29 pecuniary profit under the laws of the state of Iowa.
30 2. The superintendent shall approve the application and
31 issue to the applicant a license to engage in the industrial
32 loan business in accordance with the provisions of this
33 chapter. The superintendent shall approve or deny an
34 application for a license within one hundred twenty days from
35 the date of the filing of such application.

S.F. _____

Sec. 140. Section 542B.2, Code 2011, is amended to read as follows:

542B.2 Terms defined.

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

1. ~~The *"board"*~~ *"Board"* means the engineering and land surveying examining board provided by this chapter.

2. *"Design coordination"* includes the review and coordination of technical submissions prepared by others, including as appropriate and without limitation, consulting engineers, architects, landscape architects, land surveyors, and other professionals working under the direction of the engineer.

~~2. The term *"engineering documents"* as used in this chapter includes all plans, specifications, drawings, and reports, if the preparation of such documents constitutes or requires the practice of engineering.~~

3. ~~The term *"engineer intern"* as used in this chapter~~ *"Engineer intern"* means a person who passes an examination in the fundamental engineering subjects, but does not entitle the person to claim to be a professional engineer.

4. *"Engineering documents"* includes all plans, specifications, drawings, and reports, if the preparation of such documents constitutes or requires the practice of engineering.

5. *"Engineering surveys"* includes all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, but excludes the surveying of real property for the establishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or resurveys of the public land survey system.

~~4.~~ 6. ~~The term *"in responsible charge"* as used in this chapter~~ *"In responsible charge"* means having direct control of and personal supervision over any land surveying work or work

S.F. _____

1 involving the practice of engineering. One or more persons,
2 jointly or severally, may be in responsible charge.
3 ~~5. *a.* The practice of *"land surveying"* includes providing~~
4 ~~professional services such as consultation, investigation,~~
5 ~~testimony, evaluation, planning, mapping, assembling, and~~
6 ~~interpreting reliable scientific measurements and information~~
7 ~~relative to the location of property lines or boundaries, and~~
8 ~~the utilization, development, and interpretation of these facts~~
9 ~~into an orderly survey, plat, or map. The practice of land~~
10 ~~surveying includes, but is not limited to, the following:~~
11 ~~(1) Locating, relocating, establishing, reestablishing,~~
12 ~~setting, or resetting of permanent monumentation for any~~
13 ~~property line or boundary of any tract or parcel of land.~~
14 ~~Setting permanent monuments constitutes an improvement to real~~
15 ~~property.~~
16 ~~(2) Making any survey for the division or subdivision of any~~
17 ~~tract or parcel of land.~~
18 ~~(3) Determination, by the use of the principles of land~~
19 ~~surveying, of the position for any permanent survey monument or~~
20 ~~reference point, or setting, resetting, or replacing any survey~~
21 ~~monument or reference point excluding the responsibility of~~
22 ~~engineers pursuant to section 314.8.~~
23 ~~(4) Creating and writing metes and bounds descriptions as~~
24 ~~defined in section 354.2.~~
25 ~~(5) Geodetic surveying for determination of the size and~~
26 ~~shape of the earth both horizontally and vertically for the~~
27 ~~precise positioning of permanent land survey monuments on~~
28 ~~the earth utilizing angular and linear measurements through~~
29 ~~spatially oriented spherical geometry.~~
30 ~~(6) Creation, preparation, or modification of electronic~~
31 ~~or computerized data, including land information systems and~~
32 ~~geographical information systems, relative to the performance~~
33 ~~of the activities identified in subparagraphs (1) through (5).~~
34 ~~*b.* This subsection does not prohibit a professional engineer~~
35 ~~from practicing any aspect of the practice of engineering. A~~

S.F. _____

~~land surveyor is not prohibited from performing engineering surveys as defined in the practice of engineering.~~

~~*c.* A person is construed to be engaged in or offering to be engaged in the practice of land surveying if the person does any of the following:~~

~~(1) Engages in land surveying.~~

~~(2) Makes a representation by verbal claim, sign, advertisement, letterhead, card, or other manner that the person is a land surveyor.~~

~~(3) Uses any title which implies that the person is a land surveyor or that the person is licensed under this chapter.~~

~~(4) Holds the person's self out as able to perform, or who does perform, any service or work included in the practice of land surveying.~~

~~6.~~ 7. ~~The term *"land surveying documents"* as used in this chapter~~ *"Land surveying documents"* includes all plats, maps, surveys, and reports, if the preparation thereof constitutes or requires the practice of land surveying.

~~7.~~ 8. ~~The term *"land surveyor"* as used in this chapter shall mean~~ *"Land surveyor"* means a person who engages in the practice of land surveying ~~as defined in this section~~.

~~8.~~ 9. *a.* *"Practice of engineering"* ~~as used in this chapter~~ means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences, such as consultation, investigation, evaluation, planning, design and design coordination of engineering works and systems, planning the use of land and water, performing engineering surveys and studies, and the review of construction for the purpose of monitoring compliance with drawings and specifications, any of which embraces such services or creative work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of

S.F. _____

a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property, and including such other professional services as may be necessary to the planning, progress, and completion of the services identified in this ~~paragraph~~ subsection. ~~*"Design coordination"* includes the review and coordination of technical submissions prepared by others, including as appropriate and without limitation, consulting engineers, architects, landscape architects, land surveyors, and other professionals working under the direction of the engineer. *"Engineering surveys"* includes all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, but excludes the surveying of real property for the establishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or resurveys of the public land survey system.~~

b. A person is construed to be engaged in the practice of engineering if the person does any of the following:

~~*a.*~~ (1) Practices any branch of the profession of engineering.

~~*b.*~~ (2) Makes a representation by verbal claim, sign, advertisement, letterhead, card, or other manner that the person is a professional engineer.

~~*c.*~~ (3) Uses any title which implies that the person is a professional engineer or that the person is certified under this chapter.

~~*d.*~~ (4) The person holds the person's self out as able to perform, or who does perform, any service or work included in the practice of engineering.

10. *a.* *"Practice of land surveying"* includes providing professional services such as consultation, investigation, testimony, evaluation, planning, mapping, assembling, and interpreting reliable scientific measurements and information relative to the location of property lines or boundaries, and the utilization, development, and interpretation of these facts

S.F. _____

1 into an orderly survey, plat, or map. The practice of land
2 surveying includes but is not limited to the following:
3 (1) Locating, relocating, establishing, reestablishing,
4 setting, or resetting of permanent monumentation for any
5 property line or boundary of any tract or parcel of land.
6 Setting permanent monuments constitutes an improvement to real
7 property.
8 (2) Making any survey for the division or subdivision of any
9 tract or parcel of land.
10 (3) Determination, by the use of the principles of land
11 surveying, of the position for any permanent survey monument or
12 reference point, or setting, resetting, or replacing any survey
13 monument or reference point excluding the responsibility of
14 engineers pursuant to section 314.8.
15 (4) Creating and writing metes and bounds descriptions as
16 defined in section 354.2.
17 (5) Geodetic surveying for determination of the size and
18 shape of the earth both horizontally and vertically for the
19 precise positioning of permanent land survey monuments on
20 the earth utilizing angular and linear measurements through
21 spatially oriented spherical geometry.
22 (6) Creation, preparation, or modification of electronic
23 or computerized data, including land information systems and
24 geographical information systems, relative to the performance
25 of the activities identified in subparagraphs (1) through (5).
26 *b.* This subsection does not prohibit a professional engineer
27 from practicing any aspect of the practice of engineering. A
28 land surveyor is not prohibited from performing engineering
29 surveys as defined in the practice of engineering.
30 *c.* A person is construed to be engaged in or offering to be
31 engaged in the practice of land surveying if the person does
32 any of the following:
33 (1) Engages in land surveying.
34 (2) Makes a representation by verbal claim, sign,
35 advertisement, letterhead, card, or other manner that the

S.F. _____

1 person is a land surveyor.
2 (3) Uses any title which implies that the person is a land
3 surveyor or that the person is licensed under this chapter.
4 (4) Holds the person's self out as able to perform, or who
5 does perform, any service or work included in the practice of
6 land surveying.
7 ~~9.~~ 11. ~~The term *"professional engineer"* as used in this~~
8 ~~chapter~~ *"Professional engineer"* means a person, who, by
9 reason of the person's knowledge of mathematics, the physical
10 sciences, and the principles of engineering, acquired by
11 professional education or practical experience, is qualified to
12 engage in the practice of engineering.
13 Sec. 141. Section 542B.14, Code 2011, is amended to read as
14 follows:
15 **542B.14 General requirements for licensure — temporary**
16 **permit to practice engineering.**
17 1. Each applicant for licensure as a professional engineer
18 or land surveyor shall have all of the following requirements,
19 respectively, to wit:
20 ~~1.~~ *a.* As a professional engineer:
21 ~~*a.*~~ (1) (a) Graduation from a course in engineering of
22 four years or more in a school or college which, in the opinion
23 of the board, will properly prepare the applicant for the
24 examination in fundamental engineering subjects.
25 ~~(2)~~ (b) However, prior to July 1, 1988, in lieu of
26 compliance with subparagraph ~~(1)~~ division (a), the board may
27 accept eight years' practical experience which, in the opinion
28 of the board, is of satisfactory character to properly prepare
29 the applicant for the examination in fundamental engineering
30 subjects.
31 ~~(3)~~ (c) Between July 1, 1988, and June 30, 1991, in
32 lieu of compliance with subparagraph ~~(1)~~ division (a), the
33 board shall require satisfactory completion of a minimum of
34 two years of postsecondary study in mathematics, physical
35 sciences, engineering technology, or engineering at an

S.F. _____

1 institution approved by the board, and may accept six years'
2 practical experience which, in the opinion of the board, is of
3 satisfactory character to properly prepare the applicant for
4 the examination in fundamental engineering subjects.
5 ~~(4)~~ (d) For applicants who obtained an associate of science
6 degree or a more advanced degree between July 1, 1983, and
7 June 30, 1988, in lieu of compliance with subparagraph ~~(1)~~
8 division (a), the board shall only require compliance with the
9 provisions of subparagraph ~~(3)~~ division (c) with regard to
10 areas of study and practical experience. Applicants qualifying
11 under this subparagraph division must meet the requirements of
12 ~~paragraph "b"~~ subparagraph (2), by June 30, 2001.
13 ~~b.~~ (2) Successfully passing a written, oral, or written
14 and oral examination in fundamental engineering subjects which
15 is designed to show the knowledge of general engineering
16 principles. A person passing the examination in fundamental
17 engineering subjects is entitled to a certificate as an
18 engineer intern.
19 ~~c.~~ (3) In addition to any other requirement, a specific
20 record of four years or more of practical experience in
21 engineering work which is of a character satisfactory to the
22 board.
23 ~~d.~~ (4) Successfully passing a written, oral, or written
24 and oral examination designed to determine the proficiency and
25 qualifications to engage in the practice of engineering. No
26 applicant shall be entitled to take this examination until
27 the applicant shows the necessary practical experience in
28 engineering work.
29 ~~2.~~ b. As a land surveyor:
30 ~~a.~~ (1) (a) Graduation from a course of two years or more
31 in mathematics, physical sciences, mapping and surveying, or
32 engineering in a school or college and six years of practical
33 experience, all of which, in the opinion of the board,
34 will properly prepare the applicant for the examination in
35 fundamental land surveying subjects.

S.F. _____

1 ~~(2)~~ (b) However, prior to July 1, 1988, in lieu of
2 compliance with subparagraph ~~(1)~~ division (a), the board may
3 accept eight years' practical experience which, in the opinion
4 of the board, is of satisfactory character to properly prepare
5 the applicant for the examination in fundamental land surveying
6 subjects.
7 ~~b.~~ (2) Successfully passing a written, oral, or written and
8 oral examination in fundamental land surveying subjects which
9 is designed to show the knowledge of general land surveying
10 principles.
11 ~~c.~~ (3) In addition to any other requirement, a specific
12 record of four years or more of practical experience in land
13 surveying work which is of a character satisfactory to the
14 board.
15 ~~d.~~ (4) Successfully passing a written, oral, or written
16 and oral examination designed to determine the proficiency and
17 qualifications to engage in the practice of land surveying.
18 No applicant shall be entitled to take this examination until
19 the applicant shows the necessary practical experience in land
20 surveying work.
21 2. The board may establish by rule a temporary permit and
22 a fee to permit an engineer to practice for a period of time
23 without applying for licensure.
24 Sec. 142. Section 548.112, Code 2011, is amended to read as
25 follows:
26 **548.112 Infringement.**
27 1. Subject to section 548.116, a person shall not do any of
28 the following:
29 ~~1.~~ *a.* Use, without the consent of the registrant, any
30 reproduction, counterfeit, copy, or colorable imitation of a
31 mark registered under this chapter in connection with the sale,
32 distribution, offering for sale, or advertising of any goods or
33 services on or in connection with which such use is likely to
34 cause confusion or mistake, or to deceive as to the source of
35 origin of such goods or services.

S.F. _____

1 ~~2.~~ *b.* Reproduce, counterfeit, copy, or colorably imitate
2 any such mark and apply such reproduction, counterfeit, copy,
3 or colorable imitation to labels, signs, prints, packages,
4 wrappers, receptacles, or advertisements intended to be used
5 upon or in connection with the sale or other distribution in
6 this state of such goods or services.
7 2. The person shall be liable in a civil action by the
8 registrant for any or all of the remedies provided in section
9 548.114, except that under subsection ~~2~~ 1, paragraph *"b"*, the
10 registrant shall not be entitled to recover profits or damages
11 unless the acts have been committed with the intent to cause
12 confusion or mistake or to deceive.
13 Sec. 143. Section 551A.1, subsection 4, Code 2011, is
14 amended to read as follows:
15 4. *a.* *"Franchise"* means a contract between a seller and a
16 purchaser where the parties agree to all of the following:
17 ~~*a.*~~ (1) A franchisee is granted the right to engage in
18 the business of offering, selling, or distributing goods or
19 services under a marketing plan prescribed in substantial part
20 by a franchisor.
21 ~~*b.*~~ (2) The operation of the franchisee's business
22 pursuant to such a plan is substantially associated with the
23 franchisor's business and trademark, service mark, trade name,
24 logotype, advertising, or other commercial symbol designating
25 the franchisor or its affiliate.
26 *b.* For the purposes of this subsection~~, *"franchisee"*~~:
27 (1) *"Franchisee"* means a person to whom a franchise is
28 granted ~~and *"franchisor"*~~.
29 (2) *"Franchisor"* means a person who grants a franchise.
30 Sec. 144. Section 554.2103, subsection 3, Code 2011, is
31 amended to read as follows:
32 3. ~~"Control" as provided in section 554.7106 and the~~ The
33 following definitions in other Articles apply to this Article:
34 *a.* "Check"..... Section 554.3104
35 *b.* "Consignee"..... Section 554.7102

S.F. _____

1 *c.* "Consignor"..... Section 554.7102
2 *d.* "Consumer goods"..... Section 554.9102
3 *e.* "Control"..... Section 554.7106
4 *f.* "Dishonor"..... Section 554.3502
5 *g.* "Draft"..... Section 554.3104
6 Sec. 145. Section 554.4104, subsection 3, Code 2011, is
7 amended to read as follows:
8 3. ~~"Control" as provided in section 554.7106 and the~~ The
9 following definitions in other Articles apply to this Article:
10 *a.* "Acceptance"..... Section 554.3409
11 *b.* "Alteration"..... Section 554.3407
12 *c.* "Cashier's check"..... Section 554.3104
13 *d.* "Certificate of deposit"..... Section 554.3104
14 *e.* "Certified check"..... Section 554.3409
15 *f.* "Check"..... Section 554.3104
16 *g.* "Control"..... Section 554.7106
17 *h.* "Holder in due course"..... Section 554.3302
18 *i.* "Instrument"..... Section 554.3104
19 *j.* "Notice of dishonor"..... Section 554.3503
20 *k.* "Order"..... Section 554.3103
21 *l.* "Ordinary care"..... Section 554.3103
22 *m.* "Person entitled to enforce" .. Section 554.3301
23 *n.* "Presentment"..... Section 554.3501
24 *o.* "Promise"..... Section 554.3103
25 *p.* "Prove"..... Section 554.3103
26 *q.* "Teller's check"..... Section 554.3104
27 *r.* "Unauthorized signature"..... Section 554.3403
28 Sec. 146. Section 554.5104, Code 2011, is amended to read
29 as follows:
30 **554.5104 Formal requirements.**
31 A letter of credit, confirmation, advice, transfer,
32 amendment, or cancellation may be issued in any form that is
33 a record and is authenticated ~~(i)~~ by a signature or ~~(ii)~~ in
34 accordance with the agreement of the parties or the standard
35 practice referred to in section 554.5108, subsection 5.

S.F. _____

1 Sec. 147. Section 554.9102, subsection 2, Code 2011, is
2 amended to read as follows:
3 2. *Definitions in other Articles.* ~~"Control" as provided in~~
4 ~~section 554.7106 and the~~ The following definitions in other
5 Articles apply to this Article:
6 *a.* "Applicant"..... Section 554.5102
7 *b.* "Beneficiary"..... Section 554.5102
8 *c.* "Broker"..... Section 554.8102
9 *d.* "Certificated security"..... Section 554.8102
10 *e.* "Check"..... Section 554.3104
11 *f.* "Clearing corporation"..... Section 554.8102
12 *g.* "Contract for sale"..... Section 554.2106
13 *h.* "Control"..... Section 554.7106
14 *i.* "Customer"..... Section 554.4104
15 *j.* "Entitlement holder"..... Section 554.8102
16 *k.* "Financial asset"..... Section 554.8102
17 *l.* "Holder in due course"..... Section 554.3302
18 *m.* "Issuer" (with respect to a letter
19 of credit or letter-of-credit right).. Section 554.5102
20 *n.* "Issuer" (with respect
21 to a security)..... Section 554.8201
22 *o.* "Issuer" (with respect
23 to documents of title)..... Section 554.7102
24 *p.* "Lease"..... Section 554.13103
25 *q.* "Lease agreement"..... Section 554.13103
26 *r.* "Lease contract"..... Section 554.13103
27 *s.* "Leasehold interest"..... Section 554.13103
28 *t.* "Lessee"..... Section 554.13103
29 *u.* "Lessee in ordinary
30 course of business"..... Section 554.13103
31 *v.* "Lessor"..... Section 554.13103
32 *w.* "Lessor's residual interest"... Section 554.13103
33 *x.* "Letter of credit"..... Section 554.5102
34 *y.* "Merchant"..... Section 554.2104
35 *z.* "Negotiable instrument"..... Section 554.3104

S.F. _____

1 *aa.* "Nominated person"..... Section 554.5102
2 *ab.* "Note"..... Section 554.3104
3 *ac.* "Proceeds of a letter of credit" Section 554.5114
4 *ad.* "Prove"..... Section 554.3103
5 *ae.* "Sale"..... Section 554.2106
6 *af.* "Securities account"..... Section 554.8501
7 *ag.* "Securities intermediary"..... Section 554.8102
8 *ah.* "Security"..... Section 554.8102
9 *ai.* "Security certificate"..... Section 554.8102
10 *aj.* "Security entitlement"..... Section 554.8102
11 *ak.* "Uncertificated security"..... Section 554.8102
12 DIVISION III
13 INTERNAL REFERENCE CHANGES
14 Sec. 148. Section 225C.28B, subsection 2, Code 2011, is
15 amended to read as follows:
16 2. *Insurance protection.* Pursuant to section 507B.4,
17 subsection ~~7~~ 3, paragraph *"g"*, a person or designated group of
18 persons shall not be denied insurance coverage by reason of
19 mental retardation, a developmental disability, brain injury,
20 or chronic mental illness.
21 Sec. 149. Section 225C.29, Code 2011, is amended to read as
22 follows:
23 **225C.29 Compliance.**
24 Except for a violation of section 225C.28B, subsection
25 2, the sole remedy for violation of a rule adopted by the
26 commission to implement sections 225C.25 through 225C.28B shall
27 be by a proceeding for compliance initiated by request to the
28 division pursuant to chapter 17A. Any decision of the division
29 shall be in accordance with due process of law and is subject
30 to appeal to the Iowa district court pursuant to sections
31 17A.19 and 17A.20 by any aggrieved party. Either the division
32 or a party in interest may apply to the Iowa district court
33 for an order to enforce the decision of the division. Any
34 rules adopted by the commission to implement sections 225C.25
35 through 225C.28B do not create any right, entitlement, property

S.F. _____

or liberty right or interest, or private cause of action for damages against the state or a political subdivision of the state or for which the state or a political subdivision of the state would be responsible. Any violation of section 225C.28B, subsection 2, shall solely be subject to the enforcement by the commissioner of insurance and penalties granted by chapter 507B for a violation of section 507B.4, subsection ~~7~~ 3, paragraph *"g"*.

Sec. 150. Section 455B.473, subsection 4, Code Supplement 2011, is amended to read as follows:

4. An owner or operator of a storage tank described in section 455B.471, subsection 11, paragraph ~~*"a"*~~ *"b"*, subparagraph (1), subparagraph division (a), which brings the tank into use after July 1, 1987, shall notify the department of the existence of the tank within thirty days. The registration of the tank shall be accompanied by a fee of ten dollars to be deposited in the storage tank management account. A tank which is existing before July 1, 1987, shall be reported to the department by July 1, 1989. Tanks under this section installed on or following July 1, 1987, shall comply with underground storage tank regulations adopted by rule by the department.

Sec. 151. Section 491.5, subsection 8, Code 2011, is amended to read as follows:

8. Any provision eliminating or limiting the personal liability of a director to the corporation or its shareholders or members for money damages as provided in section 490.202, subsection 2, paragraph *"d"*, except that section 490.202, subsection 2, paragraph *"d"*, subparagraph (1), subparagraph ~~(3)~~ division (c), shall have no application.

Sec. 152. Section 507B.7, subsection 1, paragraph c, Code Supplement 2011, is amended to read as follows:

c. Payment of interest at the rate of ten percent per annum if the commissioner finds that the insurer failed to pay interest as required under section 507B.4, subsection ~~16~~ 3, paragraph *"p"*.

S.F. _____

1 Sec. 153. Section 512B.13, Code 2011, is amended to read as
2 follows:
3 **512B.13 Institutions.**
4 A society may create, maintain, and operate, or may
5 establish organizations to operate, not-for-profit institutions
6 to further the purposes permitted by section 512B.6, subsection
7 1, paragraph ~~"b"~~ *"a"*, subparagraph (2). The institutions may
8 furnish services free or at a reasonable charge. Any real or
9 personal property owned, held, or leased by the society for
10 this purpose shall be reported in every annual statement. A
11 not-for-profit institution so established is a charitable
12 institution with all the rights, benefits, and privileges given
13 to charitable institutions under the Constitution and laws of
14 the State of Iowa. The commissioner may adopt appropriate
15 rules and reporting requirements.
16 Sec. 154. Section 515E.4, subsection 4, Code Supplement
17 2011, is amended to read as follows:
18 4. *Compliance with unfair claim settlement practices law.* A
19 risk retention group, its agents, and representatives, shall
20 comply with the unfair claim settlement practices law in
21 section 507B.4, subsection ~~10~~ 3, paragraph *"j"*.
22 Sec. 155. Section 524.302, subsection 2, paragraph c, Code
23 2011, is amended to read as follows:
24 *c.* A provision eliminating or limiting the personal
25 liability of a director to the corporation or its shareholders
26 for monetary damages for breach of fiduciary duty as a
27 director, provided that the provision does not eliminate
28 or limit the liability of a director for any breach of
29 the director's duty of loyalty to the corporation or its
30 shareholders, for acts or omissions not in good faith or which
31 involve intentional misconduct or a knowing violation of law,
32 for any transaction from which the director derives an improper
33 personal benefit, or under section 524.605, subsection 1,
34 paragraph *"a"* or ~~2~~ *"b"*. A provision shall not eliminate or
35 limit the liability of a director for any act or omission

S.F. _____

1 occurring prior to the date when the provision in the articles
2 of incorporation becomes effective.
3 Sec. 156. Section 536A.30, subsection 2, Code 2011, is
4 amended to read as follows:
5 2. Section 536A.10, ~~subsections 2, 3, and 4~~ subsection 1,
6 paragraphs *"b"*, *"c"*, and *"d"*.
7 DIVISION IV
8 DIRECTIVES
9 Sec. 157. CODE EDITOR DIRECTIVES.
10 1. Sections 175.6, subsection 12; and 331.652, subsection
11 4, Code 2011, are amended by striking the word "co-operation"
12 and inserting in lieu thereof the word "cooperation".
13 2. Sections 28D.1, 321.6, and 341A.17, Code 2011, are
14 amended by striking the word "co-operation" and inserting in
15 lieu thereof the word "cooperation".
16 3. Sections 13A.9, subsection 2; 29C.1, subsection 3;
17 169.19, subsection 5; 175.6, subsection 5; 273.9, subsection 2;
18 and 403.12, subsection 1, Code 2011, are amended by striking
19 the word "co-operate" and inserting in lieu thereof the word
20 "cooperate".
21 4. Sections 177A.4, 199.14, 249.12, and 321.6, Code 2011,
22 are amended by striking the word "co-operate" and inserting in
23 lieu thereof the word "cooperate".
24 5. Section 179.1, subsection 5, Code 2011, is amended by
25 striking the word "co-operatives" and inserting in lieu thereof
26 the word "cooperatives".
27 6. Sections 185.1, subsection 5; 185C.1, subsection 7;
28 215A.1, subsection 4; and 419.1, subsection 4, Code 2011, are
29 amended by striking the word "co-operative" and inserting in
30 lieu thereof the word "cooperative".
31 7. Sections 263B.3, 456A.29, and 456B.10, Code 2011, are
32 amended by striking the word "co-operative" and inserting in
33 lieu thereof the word "cooperative".
34 8. Section 275.56, Code 2011, is amended by striking the
35 word "re-employing" and inserting in lieu thereof the word

S.F. _____

1 "reemploying".
2 9. Section 275.56, Code 2011, is amended by striking the
3 word "re-employed" and inserting in lieu thereof the word
4 "reemployed".
5 10. Sections 341A.6, subsection 6; and 411.21, subsection
6 3, Code 2011, are amended by striking the word "re-employed"
7 and inserting in lieu thereof the word "reemployed".
8 11. The Code editor is directed to number, renumber,
9 designate, or redesignate to eliminate unnumbered paragraphs
10 within sections 491.5, 491.111, 496C.21, 499.47C, 499.67,
11 499A.2A, 501.617, 507A.3, 507C.12, 510.2, 511.10, 514B.4,
12 514B.14, 514B.20, 515.70, 515F.3, 515G.3, 518.11, 524.224,
13 524.604, 524.801, 524.825, 524.1102, 524.1508, 538.5, 544A.11,
14 544A.21, 544A.25, 544B.9, 544B.14, 544C.3, 548.103, 548.113,
15 552.5, and 552.12, Code 2011, in accordance with established
16 Code section hierarchy and correct internal references in the
17 Code and in any enacted Iowa Acts, as necessary.
18 12. The Code editor is directed to number, renumber,
19 designate, or redesignate to eliminate unnumbered paragraphs
20 within section subunits in sections 490.120, subsection
21 7; 490.121, subsection 1; 490.744, subsection 4; 490.824,
22 subsection 4; 490.1301, subsection 4; 490.1701, subsection 2;
23 490.1701, subsection 3, paragraph "b"; 496B.9, subsection 3,
24 paragraph "b"; 499.30, subsection 2, paragraph "a"; 499.66,
25 subsection 2; 500.3, subsection 2; 501A.206, subsection 1;
26 501A.502, subsection 3; 501A.715, subsection 3; 501A.904,
27 subsection 7; 501A.906, subsection 2; 501A.1003, subsection
28 4, paragraph "b"; 502.321B, subsection 5; 502.509, subsection
29 13B; 502A.1, subsection 4; 504.202, subsection 2, paragraph
30 "d"; 504.503, subsection 1; 504.635, subsection 4; 504.1509,
31 subsection 1; 507.10, subsection 4, paragraph "b", subparagraph
32 (1); 508.36, subsection 2, paragraph "d"; 508.36, subsection
33 5, paragraph "c", subparagraph (1), subparagraph division (c),
34 subparagraph subdivision (v); 508.36, subsections 7 and 9;
35 508.37, subsection 6, paragraph "a"; 508.38, subsection 2;

S.F. _____

1 509B.3, subsection 4; 513B.4, subsection 2; 513C.3, subsection
2 15; 513C.7, subsection 1; 513C.10, subsection 2; 514C.4,
3 subsection 1; 514D.5, subsection 2; 515.12, subsection 5;
4 515.48, subsections 1 and 8; 515.109, subsection 2; 515A.18,
5 subsection 3; 515B.5, subsection 1, paragraph "c"; 515B.6,
6 subsection 1; 515D.2, subsection 2; 515F.5, subsection 1;
7 515F.13, subsection 2, paragraph "d"; 516A.2, subsection 1;
8 516E.3, subsection 1, paragraph "c"; 516E.3, subsection 2,
9 paragraph "b"; 518C.6, subsection 1, paragraph "c"; 518C.7,
10 subsection 1; 519A.3, subsection 3; 519A.4, subsection 1;
11 519A.9, subsection 2; 521A.5, subsection 3, paragraphs "a" and
12 "b"; 521A.14, subsection 7; 521B.3, subsection 3; 521C.11,
13 subsection 1; 521D.2, subsection 3; 521E.10, subsection
14 1; 522B.14, subsections 6, 7, and 8; 523C.5, subsection 1;
15 523D.3, subsection 1, paragraph "n"; 523D.5, subsection 3;
16 523G.6, subsection 3; 523I.316, subsection 3, paragraph "d";
17 523I.508, subsections 2 and 3; 523I.812, subsection 2; 524.103,
18 subsection 17; 524.606, subsection 2; 524.1403, subsection
19 2; 527.5, subsection 3; 536A.20, subsection 3; 536A.25,
20 subsection 2; 537.1301, subsection 45; 537.2501, subsection 1,
21 paragraph "f"; 537.2510, subsection 2, paragraph "a"; 537.3612,
22 subsection 4; 537.5110, subsection 2; 537.5201, subsection 1;
23 537A.10, subsections 9 and 11; 537B.3, subsection 2; 543C.4,
24 subsection 5; 546.10, subsection 3; 548.102, subsection 5;
25 551A.3, subsection 2; 551A.4, subsection 1, paragraph "b";
26 552A.2, subsection 6; 554.2103, subsection 2; 554.4104,
27 subsection 2; 554.5102, subsection 2; 554.8102, subsection 1,
28 paragraph "i"; 554.8102, subsection 2; 554.8503, subsection
29 4; 554.12105, subsections 2 and 3; and 554.13103, subsections
30 2 and 3, Code and Code Supplement 2011, in accordance with
31 established Code section hierarchy and correct internal
32 references in the Code and in any enacted Iowa Acts, as
33 necessary.
34 DIVISION V
35 EFFECTIVE DATE PROVISIONS

S.F. _____

1 Sec. 158. EFFECTIVE DATE. The section of this Act amending
2 602.4201, subsection 3, paragraph "h", Code 2011, as amended by
3 2011 Iowa Acts, ch. 121, section 60, takes effect July 1, 2012.
4 EXPLANATION
5 This bill makes Code changes and corrections that are
6 considered to be nonsubstantive and noncontroversial, in
7 addition to style changes. Changes made include updating
8 or correcting names of and references to public and private
9 entities and funds, correcting internal Code references
10 and terminology, updating United States Code and Code of
11 Federal Regulations references, making various corrections
12 to spelling and grammar, and renumbering and reorganizing
13 various provisions to eliminate unnumbered paragraphs and
14 facilitate citation. The Code sections in which the technical,
15 grammatical, and other nonsubstantive changes are made include
16 the following:
17 DIVISION I. Code section 6B.14: Corrects grammar in
18 language relating to meetings of the compensation commission
19 regarding appraisement of property sought to be condemned under
20 eminent domain procedures.
21 Code sections 8F.2, 96.21, 97C.5, 97C.10, 97C.15, 451.1,
22 509B.1, 513C.3, 514G.103, 634A.1, and 714G.8: Abbreviates the
23 word "Title" in a references to federal Acts in provisions
24 regarding government accountability and unemployment
25 compensation and the federal Social Security Enabling Act.
26 Code sections 10B.4 and 15.104: Adds, to correct hypertext
27 linkage, the words "Code 2011" after references to the former
28 Code chapter that governed life sciences enterprises. Code
29 chapter 10C was repealed by 2011 Iowa Acts, chapter 118,
30 section 35.
31 Code section 12.87: Strikes "as follows:" and inserts a
32 reference to paragraph "b" in paragraph "a" of this provision
33 relating to the bonding authority of the treasurer of state, to
34 conform the format to other provisions in the Code.
35 Code section 15.117A: Corrects the grammar by supplying

S.F. _____

1 the missing word "of" in this provision relating to the
2 annual review of economic development programs by the economic
3 development authority.
4 Code section 15.247: Redesignates paragraphs to set apart
5 provisions relating to term limits for members of the targeted
6 small business financial assistance board from those relating
7 to conflicts of interest.
8 Code section 15A.9: Numbers unnumbered paragraphs within
9 this provision relating to designation of sites as quality jobs
10 enterprise zones.
11 Code sections 34A.15 and 80B.11C: Updates references by
12 name to the organizations now called the Iowa professional
13 fire fighters, the Iowa peace officers association,
14 and the association of public-safety communications
15 officials-international, inc., in provisions relating to the
16 E911 communications council and telecommunicator training
17 standards.
18 Code sections 80B.11A, 80E.2, 356.36, and 356.37: Updates
19 references by name to the organization now called the Iowa
20 peace officers association in provisions relating to the
21 membership of the drug policy advisory council, jail and jailer
22 training standards, and a report on confinement and detention
23 needs of jails and municipal holding facilities.
24 Code section 96.27: Strikes an incorrect self-reference
25 in a reference to Code section 96.25 in language relating
26 to approval of purchases of premises with funds granted
27 or credited under the federal Social Security Act or the
28 Wagner-Peyser Act.
29 Code section 99D.11: Corrects references to the method of
30 wagering known as "advance deposit" wagering in the provision
31 governing licensees of horse or dog racetracks and authorizing
32 the acceptance of advance deposit wagers.
33 Code sections 100B.1 and 411.36: Updates references by
34 name to the organization now called the Iowa professional fire
35 fighters in provisions regarding the state fire service and

S.F. _____

emergency response council and the board of trustees for the statewide fire and police retirement system.

Code section 105.2: Changes "refrigerated equipment" to "refrigeration equipment" within the definition of "hydronic" in the Code chapter on the licensing of plumbers, mechanical professionals, and contractors.

Code sections 124.401, 161G.3, and 456A.33B: Corrects the spelling of the chemical name "phosphorus" in provisions relating to controlled substances, the Mississippi river basin health watersheds initiative, and lake restoration.

Code section 135.105: Corrects the spelling of the word "specialty" within language describing the duty of the department of public health to coordinate childhood lead poisoning prevention programs with other entities and programs.

Code sections 135.159, 225B.3, 225C.6, 231E.4, 249A.4B, and 256.35A: Updates references by name to the organization now called the Iowa developmental disabilities council in provisions regarding the membership of the medical home system advisory council, the prevention of disabilities policy council, the medical assistance advisory council, and the Iowa autism council, and the duties of the mental health and disability services commission and the state office of substitute decision maker.

Code sections 162.20 and 455B.171: Completes Code of Federal Regulations references in provisions regarding the sterilization of dogs and cats and sewage sludge.

Code section 241.3: Corrects a reference to the office on the status of women of the department of human rights in a provision regarding the provision of services to displaced homemakers by the department of human services.

Code section 256.32: Corrects a reference by name to the postsecondary agriculture student organization of Iowa in a provision establishing the advisory council for agricultural education.

Code section 256C.5: Adds the words "Code 2011" after a

S.F. _____

1 reference to 256C.6, which was repealed in 2011, in language
2 relating to funding for the preschool foundation aid program.
3 Code sections 260H.2 and 260H.8: Corrects two references by
4 name to the department of workforce development in the pathways
5 for academic career and employment Act chapter.
6 Code sections 273.2 and 273.3: Rewrites two citation series
7 to eliminate internal self-references in provisions relating
8 to the powers and duties of area education agencies and area
9 education agency boards.
10 Code section 280.13C: Renumbers, reorganizes, and places
11 definitions in alphabetical order in language relating to
12 school policies on brain injury and student participation in
13 extracurricular interscholastic activities.
14 Code sections 313.3, 410.1, and 451.1: Updates state and
15 federal Acts citations to the current Code style and format in
16 provisions relating to federal highway fund revenue, police and
17 fire fighter pension funds, and state estate taxes.
18 Code sections 331.512 and 331.559: Corrects the name
19 of the brucellosis and tuberculosis eradication fund in
20 provisions relating to levy of taxes for the fund. The fund
21 was renamed and placed under the jurisdiction of the department
22 of agriculture and land stewardship in 1983 Iowa Acts, chapter
23 123.
24 Code section 403.21: Strikes an extraneous "and" in a
25 series in language relating to communications between community
26 colleges and the economic development authority regarding new
27 jobs training agreements.
28 Code section 437A.3: Renumbers to eliminate unnumbered
29 paragraphs within the definitions of "local amount" and "major
30 addition" in the definitions section for the chapter on taxes
31 on electricity and natural gas providers.
32 Code sections 452A.5 and 452A.8: Renumbers to eliminate
33 unnumbered paragraphs within these provisions relating to motor
34 fuel and special fuel taxes.
35 Code section 453A.13: Eliminates redundant language and

S.F. _____

1 adds punctuation to a series in language relating to fees for
2 cigarette distributor, wholesaler, and retailer permits.
3 Code section 455B.261: Splits a paragraph and renumbers
4 within a definition of the term "established average minimum
5 flow" in the definitions section that relates to water
6 allocation and use to distinguish the separate definition of
7 "average minimum flow".
8 Code section 455B.423: Adds the word "to" to conform the
9 grammar of the subparagraph regarding hazardous waste disposal
10 agreements to the grammar of the rest of the paragraph.
11 Code section 455B.471: Renumbers within a definition of
12 "underground storage tank" to group together the provisions
13 that describe the tanks and other holding devices that do not
14 fall within the definition.
15 Code section 455B.474: Corrects internal references within
16 provisions regarding corrective actions by owners of property
17 on which there has been a release of a regulated substance from
18 an underground storage tank and establishment of financial
19 responsibility by tank owners.
20 Code section 462A.52: Corrects a citation to an Iowa Act by
21 adding the word "Iowa" in this provision relating to a report
22 by the department of natural resources on programs to control
23 aquatic invasive species and for the enforcement of navigation
24 and water safety laws.
25 Code section 466B.3: Completes a reference to the official
26 title of the secretary of agriculture in language describing
27 the membership of the water resources coordinating council.
28 Code section 468.174: Numbers and letters paragraphs to
29 provide hierarchical Code structure to language relating
30 to drainage district membership fees and annual dues for
31 membership in the national drainage association.
32 Section 476.1: Redesignates unnumbered paragraphs and
33 subsections to conform this provision relating to the
34 regulatory authority of the utilities board to current Code
35 hierarchy and format.

S.F. _____

1 Code section 476.1D: Corrects an internal reference by
2 changing the word "paragraph" to "subparagraph" within a
3 provision relating to extensions of utility board retail
4 rate jurisdiction over increases in residential and business
5 telephone rates.
6 Code sections 499.47B, 499.64, 501.203, 501.204, 501.601,
7 and 501.603: Adds the word "vote" after the word "which" in
8 nearly identical language in each of these Code provisions
9 which describe the majority requirements that must be met
10 in order for cooperatives to engage in various types of
11 activities.
12 Code section 501.614: Rewrites by replacing the words "in
13 which" with "and" and adding "in the voting" at the end of
14 language relating to the majority requirements that must be
15 met in order for a cooperative to approve a plan of merger or
16 consolidation.
17 Code section 524.221: Corrects a typographical error in a
18 language relating to records of federally chartered savings and
19 loan associations.
20 Code section 558.66: Adds the missing word "in" to correct
21 a clerical error in language relating to instruments used to
22 update the county transfer books and index.
23 2011 Iowa Acts, chapter 121, section 60: Corrects a singular
24 article and plural noun disagreement within a future amendment
25 to Code section 602.4201, effective July 1, 2012, to language
26 regarding involuntary commitment proceedings for persons with
27 alcohol or chemical dependency disorders.
28 Code section 717.5: Adds the missing word "of" to correct
29 a clerical error in language relating to the maintaining and
30 disposal of neglected livestock that has been rescued by local
31 authorities.
32 DIVISION II. The Code sections in this division are amended
33 by numbering, renumbering, designating, or redesignating
34 provisions within volume V of the Code, and by changing
35 textual references as necessary. The purposes of the Code

S.F. _____

1 changes are to conform the Code provisions to existing Code
2 section hierarchy, to eliminate "unanchored" unnumbered
3 paragraphs within the Code sections, to facilitate Code section
4 readability, and to facilitate citation to those Code sections.
5 DIVISION III. This division contains corrections to
6 internal references to Code sections that are numbered,
7 renumbered, designated, or redesignated in division II of this
8 bill.
9 DIVISION IV. This division contains Code editor directives
10 to correct hyphenation in the words "cooperation", "cooperate",
11 "cooperative", "reemploying", and "reemployed" and to number,
12 renumber, designate, or redesignate Code provisions to
13 eliminate "unanchored" unnumbered paragraphs in Code provisions
14 in volume V of the Code that do not require any additional
15 textual reference corrections.
16 DIVISION V. This division contains an effective date
17 provision relating to a corrective change to 2011 Iowa Acts,
18 chapter 121, section 60, that is contained in division I of the
19 bill.

Senate Study Bill 3135 - Introduced

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

A BILL FOR

1 An Act relating to civil law and practice including certain
2 insurance and liability provisions and privacy rights.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5985XC (7) 84
rh/rj

S.F. _____

Section 1. NEW SECTION. **515.134A Policy information — duty to provide.**

1. Upon the written request of a claimant or a claimant's representative, an insurer that is providing or may provide liability insurance coverage of the claimant's claim or a portion of that claim under a policy of insurance, shall, within thirty days, provide a written statement, made by an authorized person, stating the limits of any liability insurance coverage. The statement shall include the limits of liability insurance coverage with respect to each policy of insurance issued by that insurer, including excess or umbrella insurance, under which such coverage is being provided or may be provided.

2. Information provided to a claimant or a claimant's representative pursuant to this section shall be amended within fourteen days of the discovery that the information provided is incorrect.

Sec. 2. Section 516A.2, Code 2011, is amended to read as follows:

516A.2 Construction — minimum coverage — ~~stacking~~ step-down provisions.

1. *a.* ~~Except with respect to a policy containing both underinsured motor vehicle coverage and uninsured or hit-and-run motor vehicle coverage, nothing~~ Nothing contained in this chapter shall be construed as requiring forms of coverage provided pursuant ~~hereto~~ to this chapter, whether alone or in combination with similar coverage afforded under other automobile liability or motor vehicle liability policies, to afford limits in excess of those that would be afforded had the insured thereunder been involved in an accident with a motorist who was insured under a policy of liability insurance with the minimum limits for bodily injury or death prescribed in ~~subsection 11 of~~ section 321A.1, subsection 11. Such forms of coverage may include terms, exclusions, limitations, conditions, and offsets which are designed to avoid ~~duplication~~

S.F. _____

1 ~~of insurance or other benefits~~ duplicate payment of damages.
2 *b.* To the extent that *Hernandez v. Farmers Insurance Company*,
3 460 N.W.2d 842 (Iowa 1990), provided for interpolicy stacking
4 of uninsured or underinsured coverages in contravention of
5 specific contract or policy language, the general assembly
6 declares such decision abrogated and declares that the
7 enforcement of the antistacking provisions contained in a motor
8 vehicle insurance policy does not frustrate the protection
9 given to an insured under section 516A.1.
10 2. Pursuant to chapter 17A, the commissioner of insurance
11 shall, by January 1, 1992, adopt rules to assure the
12 availability, within the state, of motor vehicle insurance
13 policies, riders, endorsements, or other similar forms of
14 coverage, the terms of which shall provide for the stacking of
15 uninsured and underinsured coverages with any similar coverage
16 which may be available to an insured.
17 3. It is the intent of the general assembly that when more
18 than one motor vehicle insurance policy is purchased by or on
19 behalf of an injured insured and which provides uninsured,
20 underinsured, or hit-and-run motor vehicle coverage to an
21 insured injured in an accident, the injured insured is entitled
22 to recover up to an amount equal to the highest single limit
23 for uninsured, underinsured, or hit-and-run motor vehicle
24 coverage under any one of the above described motor vehicle
25 insurance policies insuring the injured person which amount
26 shall be paid by the insurers according to any priority of
27 coverage provisions contained in the policies insuring the
28 injured person.
29 4. A policy to which this chapter applies shall not include
30 exclusions or step-down provisions that eliminate or reduce
31 uninsured or underinsured coverage for a person who would
32 otherwise be covered under the policy for the reason that
33 the person is injured by, or while occupying a vehicle being
34 operated by, another person insured under the policy.
35 Sec. 3. NEW SECTION. **602.1212A Judges for medical**

S.F. _____

1 **malpractice cases.**
2 1. The supreme court shall designate at least one district
3 judge in each judicial district in the state who shall be
4 subject to assignment by the chief justice to preside as
5 necessary in this state in a medical malpractice action.
6 Designations shall be made on the basis of qualifications and
7 experience, and shall be for the purpose of developing a pool
8 of district judges who will have the knowledge and experience
9 needed to preside in medical malpractice actions.
10 2. Only the district judge assigned by the chief justice
11 shall preside in the particular medical malpractice action.
12 3. For purposes of this section, *"medical malpractice*
13 *action"* means an action founded on injuries to a person or
14 wrongful death against any physician and surgeon, osteopathic
15 physician and surgeon, dentist, podiatric physician,
16 optometrist, pharmacist, chiropractor, physician assistant, or
17 nurse, licensed under chapter 147, or a hospital licensed under
18 chapter 135B, arising out of patient care.
19 Sec. 4. NEW SECTION. **624.39 Continuance — medical**
20 **malpractice actions.**
21 A motion for a continuance in a medical malpractice action,
22 as defined in section 602.1212A, shall be granted only upon
23 consent of the parties and only in extraordinary circumstances.
24 Sec. 5. Section 633.3, subsection 30, Code Supplement 2011,
25 is amended to read as follows:
26 30. *Personal representative* — includes executor and
27 administrator. However, for purposes of obtaining a decedent's
28 medical records or asserting a decedent's rights under the
29 federal Health Insurance Portability and Accountability Act of
30 1996, Pub. L. No. 104-191, the personal representative is the
31 first of the following persons who exist when the request for
32 medical records or assertion of rights is made:
33 *a.* The executor or administrator.
34 *b.* The decedent's spouse.
35 *c.* The decedent's adult child.

S.F. _____

1 *d.* The decedent's adult sibling.
2 Sec. 6. Section 668.11, Code 2011, is amended to read as
3 follows:
4 **668.11 Disclosure of expert witnesses in liability cases**
5 **involving licensed professionals.**
6 1. A party in a professional liability case brought against
7 a licensed professional pursuant to this chapter who intends
8 to call an expert witness of their own selection, shall
9 certify to the court and all other parties the expert's name,
10 qualifications, ~~and~~ the purpose for calling the expert, and
11 the element of the cause of action about which the expert will
12 testify within the following time period:
13 *a.* The plaintiff within one hundred eighty days of the
14 defendant's answer unless the court for good cause not ex parte
15 extends the time of disclosure.
16 *b.* The defendant within ninety days of plaintiff's
17 certification.
18 2. If a party fails to disclose an expert pursuant to
19 subsection 1 or does not make ~~the~~ an expert available for
20 discovery, the expert shall be prohibited from testifying in
21 the action unless leave for the expert's testimony is given by
22 the court for good cause shown.
23 3. A party shall disclose at least one but not more than two
24 experts for each element of the cause of action about which an
25 expert or experts will be called to testify.
26 ~~3.~~ 4. This section does not apply to court appointed
27 experts or to rebuttal experts called with the approval of the
28 court.
29 EXPLANATION
30 LIABILITY INSURANCE POLICY INFORMATION. This bill requires
31 insurers to provide certain information about insurance
32 policies that are providing or may provide liability insurance
33 coverage to a claimant, upon the request of the claimant or
34 the claimant's representative, and to update the information
35 provided upon the discovery that it is not correct.

S.F. _____

1 AUTOMOBILE INSURANCE COVERAGE — LIABILITY. Code section
2 516A.2(1) relating to uninsured and underinsured and
3 hit-and-run motor vehicle coverage, is amended to provide that
4 such coverage may include provisions that are designed to
5 avoid duplicate payment of damages. Code section 516A.2 is
6 amended to prohibit exclusions or step-down provisions in motor
7 vehicle insurance policies that eliminate or reduce uninsured
8 or underinsured and hit-and-run coverage for a person who would
9 otherwise be covered under the policy because the person is
10 injured by, or while in a vehicle being operated by, another
11 person insured under the policy.
12 MEDICAL MALPRACTICE ACTIONS — JUDGES — MOTION FOR
13 CONTINUANCE. The bill provides that the supreme court
14 shall designate at least one district judge in each judicial
15 district in the state who shall be subject to assignment
16 by the chief justice to preside as necessary in a medical
17 malpractice action. Designations shall be made on the
18 basis of qualifications and experience, and shall be for the
19 purpose of developing a pool of district judges who will have
20 the knowledge and experience needed to preside in medical
21 malpractice actions. Only the district judge assigned shall
22 preside in the particular medical malpractice action.
23 The bill provides that a motion for a continuance in a
24 medical malpractice action shall be granted only upon consent
25 of the parties and only in extraordinary circumstances.
26 For purposes of the bill, "medical malpractice action" means
27 an action founded on injuries to a person or wrongful death
28 against any physician and surgeon, osteopathic physician and
29 surgeon, dentist, podiatric physician, optometrist, pharmacist,
30 chiropractor, physician assistant, or nurse, licensed under
31 Code chapter 147, or a hospital licensed under Code chapter
32 135B, arising out of patient care.
33 PERSONAL REPRESENTATIVE — HIPPA. The bill expands the
34 definition of personal representative under the probate
35 code for purposes of obtaining a decedent's medical records

S.F. _____

1 or asserting a decedent's rights under the federal Health
2 Insurance Portability and Accountability Act of 1996, Pub. L.
3 No. 104-191 (HIPPA) and designates the personal representative
4 under such circumstances to be the first of the following
5 persons who exist when the request for medical records or
6 assertion of rights is made: the executor or administrator;
7 the decedent's spouse; the decedent's adult child; or the
8 decedent's adult sibling.
9 DISCLOSURE OF EXPERT WITNESSES — LIABILITY CASES —
10 PROFESSIONALS. Current law requires a party in a professional
11 liability case brought against a licensed professional who
12 intends to call an expert witness to certify to the court and
13 all parties in the case the expert's name, qualifications, the
14 purpose for calling the expert within certain time frames,
15 depending upon whether the party is the plaintiff or defendant
16 in the case. The bill requires a party who intends to call
17 an expert witness to certify to the court and all parties the
18 element of the cause of action about which the expert will
19 testify. The bill also requires a party to disclose at least
20 one but not more than two experts for each element of the cause
21 of action about which an expert or experts will be called to
22 testify.

Senate Study Bill 3136 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED MENTAL HEALTH AND DISABILITY SERVICES STUDY COMMITTEE BILL)

A BILL FOR

1 An Act relating to terminology changes in Iowa Code references
2 to mental retardation.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5146IC (7) 84
ad/rj

S.F. _____ H.F. _____

1 Section 1. Section 4.1, Code 2011, is amended by adding the
2 following new subsection:
3 NEW SUBSECTION. 12A. *"Intellectual disability"* means
4 a disability of children and adults who as a result of
5 inadequately developed intelligence have a significant
6 impairment in ability to learn or to adapt to the demands
7 of society, and, if a diagnosis is required, *"intellectual*
8 *disability"* means a diagnosis of mental retardation as defined
9 in the diagnostic and statistical manual of mental disorders,
10 fourth edition, text revised, published by the American
11 psychiatric association.
12 Sec. 2. Section 4.1, subsection 21A, Code 2011, is amended
13 to read as follows:
14 21A. *Persons with mental illness.* The words *"persons*
15 *with mental illness"* include persons with psychosis, persons
16 who are severely depressed, and persons with any type of
17 mental disease or mental disorder, except that mental illness
18 does not refer to ~~mental retardation as defined in section~~
19 ~~222.2~~ intellectual disability, or to insanity, diminished
20 responsibility, or mental incompetency as defined and used in
21 the Iowa criminal code or in the rules of criminal procedure,
22 Iowa court rules. A person who is hospitalized or detained for
23 treatment of mental illness shall not be deemed or presumed to
24 be incompetent in the absence of a finding of incompetence made
25 pursuant to section 229.27.
26 Sec. 3. Section 8A.311, subsection 16, Code Supplement
27 2011, is amended to read as follows:
28 16. A state agency shall make every effort to purchase
29 those products produced for sale by sheltered workshops, work
30 activity centers, and other special programs funded in whole
31 or in part by public moneys that employ persons with ~~mental~~
32 ~~retardation~~ an intellectual disability or other developmental
33 disabilities or mental illness if the products meet the
34 required specifications.
35 Sec. 4. Section 23A.2, subsection 10, paragraph 1,

S.F. _____ H.F. _____

1 subparagraph (4), Code 2011, is amended to read as follows:
2 (4) Nothing in this paragraph shall be construed to
3 prohibit a state resource center from providing a service a
4 resident needs for compliance with accreditation standards
5 for intermediate care facilities for persons with ~~mental~~
6 ~~retardation~~ intellectual disability.
7 Sec. 5. Section 48A.2, subsection 3, Code 2011, is amended
8 to read as follows:
9 3. *"Person who is incompetent to vote"* means a person
10 ~~described in section 222.2, subsection 5,~~ with an intellectual
11 disability who has been found to lack the mental capacity
12 to vote in a proceeding held pursuant to section 222.31 or
13 633.556.
14 Sec. 6. Section 126.16, subsection 2, Code 2011, is amended
15 to read as follows:
16 2. For the purpose of this chapter, advertising is false if
17 it represents a drug, device, or cosmetic to have any effect
18 in the diagnosis, prevention, or treatment of arthritis,
19 blood disorders, bone or joint diseases, kidney diseases or
20 disorders, cancer, diabetes, gall bladder disease or disorders,
21 heart and vascular disease, high blood pressure, diseases or
22 disorders of the ear, mental disease or ~~mental retardation~~
23 intellectual disability, degenerative neurological diseases,
24 paralysis, prostate gland disorders, conditions of the scalp
25 affecting hair loss, baldness, endocrine disorders, sexual
26 impotence, tumors, venereal diseases, varicose ulcers,
27 breast enlargement, purifying blood, metabolic disorders,
28 immune system disorders or conditions affecting the immune
29 system, extension of life expectancy, stress and tension,
30 brain stimulation or performance, the body's natural defense
31 mechanisms, blood flow, and depression. However, advertising
32 not in violation of subsection 1 is not false under this
33 subsection if it is disseminated only to members of the
34 medical, dental, or veterinary professions, or appears only
35 in the scientific periodicals of these professions, or is

S.F. _____ H.F. _____

1 disseminated only for the purpose of public health education by
2 persons not commercially interested, directly or indirectly,
3 in the sale of such drugs or devices. However, if the board
4 determines that an advance in medical science has made any
5 type of self-medication safe as to any of the diseases named
6 in this subsection, the board shall by rule authorize the
7 advertising of drugs having curative or therapeutic effect for
8 such disease, subject to the conditions and restrictions the
9 board deems necessary in the interests of the public health.
10 However, this subsection does not indicate that self-medication
11 for diseases other than those named in this subsection is safe
12 and efficacious.
13 Sec. 7. Section 135.63, subsection 1, Code 2011, is amended
14 to read as follows:
15 1. A new institutional health service or changed
16 institutional health service shall not be offered or developed
17 in this state without prior application to the department
18 for and receipt of a certificate of need, pursuant to this
19 division. The application shall be made upon forms furnished
20 or prescribed by the department and shall contain such
21 information as the department may require under this division.
22 The application shall be accompanied by a fee equivalent
23 to three-tenths of one percent of the anticipated cost of
24 the project with a minimum fee of six hundred dollars and a
25 maximum fee of twenty-one thousand dollars. The fee shall be
26 remitted by the department to the treasurer of state, who shall
27 place it in the general fund of the state. If an application
28 is voluntarily withdrawn within thirty calendar days after
29 submission, seventy-five percent of the application fee shall
30 be refunded; if the application is voluntarily withdrawn more
31 than thirty but within sixty days after submission, fifty
32 percent of the application fee shall be refunded; if the
33 application is withdrawn voluntarily more than sixty days
34 after submission, twenty-five percent of the application fee
35 shall be refunded. Notwithstanding the required payment of

S.F. _____ H.F. _____

1 an application fee under this subsection, an applicant for a
2 new institutional health service or a changed institutional
3 health service offered or developed by an intermediate care
4 facility for persons with ~~mental retardation~~ an intellectual
5 disability or an intermediate care facility for persons with
6 mental illness as defined pursuant to section 135C.1 is exempt
7 from payment of the application fee.
8 Sec. 8. Section 135.63, subsection 2, paragraphs f and p,
9 Code 2011, are amended to read as follows:
10 *f.* A residential care facility, as defined in section
11 135C.1, including a residential care facility for persons with
12 ~~mental retardation~~ an intellectual disability, notwithstanding
13 any provision in this division to the contrary.
14 *p.* The conversion of an existing number of beds by an
15 intermediate care facility for persons with ~~mental retardation~~
16 an intellectual disability to a smaller facility environment,
17 including but not limited to a community-based environment
18 which does not result in an increased number of beds,
19 notwithstanding any provision in this division to the contrary,
20 including subsection 4, if all of the following conditions
21 exist:
22 (1) The intermediate care facility for persons with ~~mental~~
23 ~~retardation~~ an intellectual disability reports the number
24 and type of beds to be converted on a form prescribed by the
25 department at least thirty days before the conversion.
26 (2) The intermediate care facility for persons with ~~mental~~
27 ~~retardation~~ an intellectual disability reports the conversion
28 of beds on its next annual report to the department.
29 Sec. 9. Section 135.63, subsection 4, unnumbered paragraph
30 1, Code 2011, is amended to read as follows:
31 A copy of the application shall be sent to the department
32 of human services at the time the application is submitted
33 to the Iowa department of public health. The department
34 shall not process applications for and the council shall not
35 consider a new or changed institutional health service for an

S.F. _____ H.F. _____

1 intermediate care facility for persons with ~~mental retardation~~
2 an intellectual disability unless both of the following
3 conditions are met:
4 Sec. 10. Section 135.63, subsection 4, paragraph a, Code
5 2011, is amended to read as follows:
6 *a.* The new or changed beds shall not result in an
7 increase in the total number of medical assistance certified
8 intermediate care facility beds for persons with ~~mental~~
9 ~~retardation~~ an intellectual disability in the state, exclusive
10 of those beds at the state resource centers or other state
11 institutions, beyond one thousand six hundred thirty-six beds.
12 Sec. 11. Section 135C.1, subsections 6, 9, and 13, Code
13 2011, are amended to read as follows:
14 6. *"Health care facility"* or *"facility"* means a residential
15 care facility, a nursing facility, an intermediate care
16 facility for persons with mental illness, or an intermediate
17 care facility for persons with ~~mental retardation~~ an
18 intellectual disability.
19 9. *"Intermediate care facility for persons with ~~mental~~*
20 *~~retardation~~ an intellectual disability"* means an institution
21 or distinct part of an institution with a primary purpose
22 to provide health or rehabilitative services to three or
23 more individuals, who primarily have ~~mental retardation~~ an
24 intellectual disability or a related condition and who are
25 not related to the administrator or owner within the third
26 degree of consanguinity, and which meets the requirements
27 of this chapter and federal standards for intermediate care
28 facilities for persons with ~~mental retardation~~ an intellectual
29 disability established pursuant to the federal Social Security
30 Act, § 1905(c)(d), as codified in 42 U.S.C. § 1936d, which are
31 contained in 42 C.F.R. pt. 483, subpt. D, § 410 — 480.
32 13. *"Nursing facility"* means an institution or a distinct
33 part of an institution housing three or more individuals not
34 related to the administrator or owner within the third degree
35 of consanguinity, which is primarily engaged in providing

S.F. _____ H.F. _____

1 health-related care and services, including rehabilitative
2 services, but which is not engaged primarily in providing
3 treatment or care for mental illness or ~~mental retardation~~ an
4 intellectual disability, for a period exceeding twenty-four
5 consecutive hours for individuals who, because of a mental or
6 physical condition, require nursing care and other services in
7 addition to room and board.
8 Sec. 12. Section 135C.2, subsection 3, paragraphs b, c, and
9 d, Code 2011, are amended to read as follows:
10 *b.* The department may also establish by administrative
11 rule special classifications within the residential care
12 facility, intermediate care facility for persons with mental
13 illness, intermediate care facility for persons with ~~mental~~
14 ~~retardation~~ an intellectual disability, or nursing facility
15 categories, for facilities intended to serve individuals who
16 have special health care problems or conditions in common.
17 Rules establishing a special classification shall define the
18 problem or condition to which the special classification is
19 relevant and establish requirements for an approved program of
20 care commensurate with the problem or condition. The rules
21 may grant special variances or considerations to facilities
22 licensed within the special classification.
23 *c.* The rules adopted for intermediate care facilities for
24 persons with ~~mental retardation~~ an intellectual disability
25 shall be consistent with, but no more restrictive than, the
26 federal standards for intermediate care facilities for persons
27 with ~~mental retardation~~ an intellectual disability established
28 pursuant to the federal Social Security Act, § 1905(c)(d),
29 as codified in 42 U.S.C. § 1396d, in effect on January 1,
30 1989. However, in order for an intermediate care facility for
31 persons with ~~mental retardation~~ an intellectual disability
32 to be licensed, the state fire marshal must certify to the
33 department that the facility meets the applicable provisions
34 of the rules adopted for such facilities by the state fire
35 marshal. The state fire marshal's rules shall be based

S.F. _____ H.F. _____

1 upon such a facility's compliance with either the provisions
2 applicable to health care occupancies or residential board and
3 care occupancies of the life safety code of the national fire
4 protection association, 2000 edition. The department shall
5 adopt additional rules for intermediate care facilities for
6 persons with ~~mental retardation~~ an intellectual disability
7 pursuant to section 135C.14, subsection 8.
8 *d.* Notwithstanding the limitations set out in this
9 subsection regarding rules for intermediate care facilities for
10 persons with ~~mental retardation~~ an intellectual disability,
11 the department shall consider the federal interpretive
12 guidelines issued by the federal centers for Medicare and
13 Medicaid services when interpreting the department's rules
14 for intermediate care facilities for persons with ~~mental~~
15 ~~retardation~~ an intellectual disability. This use of the
16 guidelines is not subject to the rulemaking provisions of
17 sections 17A.4 and 17A.5, but the guidelines shall be published
18 in the Iowa administrative bulletin and the Iowa administrative
19 code.
20 Sec. 13. Section 135C.2, subsection 5, unnumbered paragraph
21 1, Code 2011, is amended to read as follows:
22 The department shall establish a special classification
23 within the residential care facility category in order
24 to foster the development of residential care facilities
25 which serve persons with ~~mental retardation~~ an intellectual
26 disability, chronic mental illness, a developmental disability,
27 or brain injury, as described under section 225C.26, and which
28 contain five or fewer residents. A facility within the special
29 classification established pursuant to this subsection is
30 exempt from the requirements of section 135.63. The department
31 shall adopt rules which are consistent with rules previously
32 developed for the waiver demonstration project pursuant to 1986
33 Iowa Acts, chapter 1246, section 206, and which include all of
34 the following provisions:
35 Sec. 14. Section 135C.2, subsection 5, paragraphs a and f,

S.F. _____ H.F. _____

1 Code 2011, are amended to read as follows:
2 *a.* A facility provider under the special classification must
3 comply with rules adopted by the department for the special
4 classification. However, a facility provider which has been
5 accredited by the accreditation council for services to persons
6 with ~~mental retardation~~ an intellectual disability and other
7 developmental disabilities shall be deemed to be in compliance
8 with the rules adopted by the department.
9 *f.* The facilities licensed under this subsection shall be
10 eligible for funding utilized by other licensed residential
11 care facilities for persons with ~~mental retardation~~ an
12 intellectual disability, or licensed residential care
13 facilities for persons with mental illness, including but not
14 limited to funding under or from the federal social services
15 block grant, the state supplementary assistance program, state
16 mental health and developmental disabilities services funds,
17 and county funding provisions.
18 Sec. 15. Section 135C.6, subsection 8, paragraphs a and b,
19 Code 2011, are amended to read as follows:
20 *a.* Residential programs providing care to not more than
21 four individuals and receiving moneys appropriated to the
22 department of human services under provisions of a federally
23 approved home and community-based services waiver for persons
24 with intellectual disabilities or other medical assistance
25 program under chapter 249A. In approving a residential program
26 under this paragraph, the department of human services shall
27 consider the geographic location of the program so as to avoid
28 an overconcentration of such programs in an area. In order
29 to be approved under this paragraph, a residential program
30 shall not be required to involve the conversion of a licensed
31 residential care facility for persons with ~~mental retardation~~
32 an intellectual disability.
33 *b.* Not more than forty residential care facilities for
34 persons with ~~mental retardation~~ an intellectual disability
35 that are licensed to serve not more than five individuals may

S.F. _____ H.F. _____

be authorized by the department of human services to convert to operation as a residential program under the provisions of a medical assistance home and community-based services waiver for persons with intellectual disabilities. A converted residential program operating under this paragraph is subject to the conditions stated in paragraph *"a"* except that the program shall not serve more than five individuals.

Sec. 16. Section 135C.6, subsection 9, Code 2011, is amended to read as follows:

9. Contingent upon the department of human services receiving federal approval, a residential program which serves not more than eight individuals and is licensed as an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability may surrender the facility license and continue to operate under a federally approved medical assistance home and community-based services waiver for persons with intellectual disabilities, if the department of human services has approved a plan submitted by the residential program.

Sec. 17. Section 135C.23, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. This section does not prohibit the admission of a patient with a history of dangerous or disturbing behavior to an intermediate care facility for persons with mental illness, intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, nursing facility, or county care facility when the intermediate care facility for persons with mental illness, intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, nursing facility, or county care facility has a program which has received prior approval from the department to properly care for and manage the patient. An intermediate care facility for persons with mental illness, intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, nursing facility, or county care facility is

S.F. _____ H.F. _____

1 required to transfer or discharge a resident with dangerous or
2 disturbing behavior when the intermediate care facility for
3 persons with mental illness, intermediate care facility for
4 persons with ~~mental retardation~~ an intellectual disability,
5 nursing facility, or county care facility cannot control the
6 resident's dangerous or disturbing behavior. The department,
7 in coordination with the state mental health and disability
8 services commission created in section 225C.5, shall adopt
9 rules pursuant to chapter 17A for programs to be required
10 in intermediate care facilities for persons with mental
11 illness, intermediate care facilities for persons with ~~mental~~
12 ~~retardation~~ an intellectual disability, nursing facilities, and
13 county care facilities that admit patients or have residents
14 with histories of dangerous or disturbing behavior.
15 Sec. 18. Section 135C.25, subsection 1, Code 2011, is
16 amended to read as follows:
17 1. Each health care facility shall have a resident advocate
18 committee whose members shall be appointed by the director
19 of the department on aging or the director's designee. A
20 person shall not be appointed a member of a resident advocate
21 committee for a health care facility unless the person is a
22 resident of the service area where the facility is located.
23 The resident advocate committee for any facility caring
24 primarily for persons with mental illness, ~~mental retardation~~
25 an intellectual disability, or a developmental disability shall
26 only be appointed after consultation with the administrator
27 of the division of mental health and disability services of
28 the department of human services on the proposed appointments.
29 Recommendations to the director or the director's designee for
30 membership on resident advocate committees are encouraged from
31 any agency, organization, or individual. The administrator of
32 the facility shall not be appointed to the resident advocate
33 committee and shall not be present at committee meetings except
34 upon request of the committee.
35 Sec. 19. Section 155.1, subsection 3, Code 2011, is amended

S.F. _____ H.F. _____

1 to read as follows:
2 3. *"Nursing home"* means an institution or facility, or
3 part of an institution or facility, whether proprietary or
4 nonprofit, licensed as a nursing facility, but not including an
5 intermediate care facility for persons with ~~mental retardation~~
6 an intellectual disability or an intermediate care facility
7 for persons with mental illness, defined as such for licensing
8 purposes under state law or administrative rule adopted
9 pursuant to section 135C.2, including but not limited to, a
10 nursing home owned or administered by the federal or state
11 government or an agency or political subdivision of government.
12 Sec. 20. Section 217.1, Code 2011, is amended to read as
13 follows:
14 **217.1 Programs of department.**
15 There is established a department of human services to
16 administer programs designed to improve the well-being
17 and productivity of the people of the state of Iowa. The
18 department shall concern itself with the problems of
19 human behavior, adjustment, and daily living through the
20 administration of programs of family, child, and adult
21 welfare, economic assistance including costs of medical care,
22 rehabilitation toward self-care and support, delinquency
23 prevention and control, treatment and rehabilitation of
24 juvenile offenders, care and treatment of persons with mental
25 illness or ~~mental retardation~~ an intellectual disability, and
26 other related programs as provided by law.
27 Sec. 21. Section 218.92, Code 2011, is amended to read as
28 follows:
29 **218.92 Patients with dangerous mental disturbances.**
30 When a patient in a state resource center for persons
31 with ~~mental retardation~~ an intellectual disability, a state
32 mental health institute, or another institution under the
33 administration of the department of human services has become
34 so mentally disturbed as to constitute a danger to self, to
35 other patients or staff of the institution, or to the public,

S.F. _____ H.F. _____

1 and the institution cannot provide adequate security, the
2 administrator in charge of the institution, with the consent
3 of the director of the Iowa department of corrections, may
4 order the patient to be transferred to the Iowa medical and
5 classification center, if the superintendent of the institution
6 from which the patient is to be transferred, with the support
7 of a majority of the medical staff, recommends the transfer in
8 the interest of the patient, other patients, or the public. If
9 the patient transferred was hospitalized pursuant to sections
10 229.6 to 229.15, the transfer shall be promptly reported to
11 the court that ordered the hospitalization of the patient, as
12 required by section 229.15, subsection 5. The Iowa medical
13 and classification center has the same rights, duties, and
14 responsibilities with respect to the patient as the institution
15 from which the patient was transferred had while the patient
16 was hospitalized in the institution. The cost of the transfer
17 shall be paid from the funds of the institution from which the
18 transfer is made.
19 Sec. 22. Section 222.1, Code 2011, is amended to read as
20 follows:
21 **222.1 Purpose of state resource centers.**
22 1. The Glenwood state resource center and the Woodward
23 state resource center are established and shall be maintained
24 as the state's regional resource centers for the purpose of
25 providing treatment, training, instruction, care, habilitation,
26 and support of persons with ~~mental retardation~~ an intellectual
27 disability or other disabilities in this state, and providing
28 facilities, services, and other support to the communities
29 located in the region being served by a state resource center.
30 In addition, the state resource centers are encouraged to serve
31 as a training resource for community-based program staff,
32 medical students, and other participants in professional
33 education programs. A resource center may request the approval
34 of the council on human services to change the name of the
35 resource center for use in communication with the public, in

S.F. _____ H.F. _____

signage, and in other forms of communication.

2. A special ~~mental retardation~~ intellectual disability unit may be maintained at one of the state mental health institutes for the purposes set forth in sections 222.88 to 222.91.

Sec. 23. Section 222.2, subsections 5 and 6, Code 2011, are amended to read as follows:

5. ~~*"Mental retardation" or "mentally retarded"*~~ *"Intellectual disability"* means ~~a term or terms to describe children and adults who as a result of inadequately developed intelligence are significantly impaired in ability to learn or to adapt to the demands of society~~ the same as defined in section 4.1.

6. *"Special unit"* means a special ~~mental retardation~~ intellectual disability unit established at a state mental health institute pursuant to sections 222.88 to 222.91.

Sec. 24. Section 222.6, Code 2011, is amended to read as follows:

222.6 State districts.

The administrator shall divide the state into two districts in such manner that one of the resource centers shall be located within each of the districts. Such districts may from time to time be changed. After such districts have been established, the administrator shall notify all boards of supervisors, county auditors, and clerks of the district courts of the action. Thereafter, unless the administrator otherwise orders, all admissions or commitments of persons with ~~mental retardation~~ an intellectual disability from a district shall be to the resource center located within such district.

Sec. 25. Section 222.9, Code 2011, is amended to read as follows:

222.9 Unauthorized departures.

If any person with ~~mental retardation~~ an intellectual disability shall depart without proper authorization from a resource center or a special unit, it shall be the duty of the superintendent and the superintendent's assistants and all

S.F. _____ H.F. _____

1 peace officers of any county in which such patient may be found
2 to take and detain the patient without a warrant or order and
3 to immediately report such detention to the superintendent who
4 shall immediately provide for the return of such patient to the
5 resource center or special unit.
6 Sec. 26. Section 222.10, Code 2011, is amended to read as
7 follows:
8 **222.10 Duty of peace officer.**
9 When any person with ~~mental retardation~~ an intellectual
10 disability departs without proper authority from an institution
11 in another state and is found in this state, any peace officer
12 in any county in which such patient is found may take and
13 detain the patient without warrant or order and shall report
14 such detention to the administrator. The administrator shall
15 provide for the return of the patient to the authorities in the
16 state from which the unauthorized departure was made. Pending
17 return, such patient may be detained temporarily at one of the
18 institutions of this state governed by the administrator or by
19 the administrator of the division of child and family services
20 of the department of human services. The provisions of this
21 section relating to the administrator shall also apply to the
22 return of other nonresident persons with ~~mental retardation~~ an
23 intellectual disability having legal settlement outside the
24 state of Iowa.
25 Sec. 27. Section 222.12, subsections 1 and 3, Code 2011, are
26 amended to read as follows:
27 1. Upon the death of a patient of a resource center or
28 special unit, a preliminary investigation of the death shall be
29 conducted as required by section 218.64 by the county medical
30 examiner as provided in section 331.802. Such a preliminary
31 investigation shall also be conducted in the event of a sudden
32 or mysterious death of a patient in a private institution for
33 persons with ~~mental retardation~~ an intellectual disability.
34 The chief administrative officer of any private institution may
35 request an investigation of the death of any patient by the

S.F. _____ H.F. _____

county medical examiner.

3. The parent, guardian, or other person responsible for the admission of a patient to a private institution for persons with ~~mental retardation~~ an intellectual disability may also request such a preliminary investigation by the county medical examiner in the event of the death of the patient that is not sudden or mysterious. The person or persons making the request are liable for the expense of such preliminary investigation and payment for the expense may be required in advance.

Sec. 28. Section 222.13, subsections 1 and 2, Code 2011, are amended to read as follows:

1. If an adult person is believed to be a person with ~~mental retardation~~ an intellectual disability, the adult person or the adult person's guardian may submit a request through the central point of coordination process for the county board of supervisors to apply to the superintendent of any state resource center for the voluntary admission of the adult person either as an inpatient or an outpatient of the resource center. After determining the legal settlement of the adult person as provided by this chapter, the board of supervisors shall, on forms prescribed by the administrator, apply to the superintendent of the resource center in the district for the admission of the adult person to the resource center. An application for admission to a special unit of any adult person believed to be in need of any of the services provided by the special unit under section 222.88 may be made in the same manner, upon request of the adult person or the adult person's guardian. The superintendent shall accept the application providing a preadmission diagnostic evaluation, performed through the central point of coordination process, confirms or establishes the need for admission, except that an application may not be accepted if the institution does not have adequate facilities available or if the acceptance will result in an overcrowded condition.

2. If the resource center has no appropriate program for the

S.F. _____ H.F. _____

1 treatment of an adult or minor person with ~~mental retardation~~
2 an intellectual disability applying under this section or
3 section 222.13A, the board of supervisors shall arrange for
4 the placement of the person in any public or private facility
5 within or without the state, approved by the director of the
6 department of human services, which offers appropriate services
7 for the person, as determined through the central point of
8 coordination process.
9 Sec. 29. Section 222.13A, subsections 1 and 2, Code 2011,
10 are amended to read as follows:
11 1. If a minor is believed to be a person with ~~mental~~
12 ~~retardation~~ an intellectual disability, the minor's parent,
13 guardian, or custodian may request the county board of
14 supervisors to apply for admission of the minor as a voluntary
15 patient in a state resource center. If the resource center
16 does not have appropriate services for the minor's treatment,
17 the board of supervisors may arrange for the admission of the
18 minor in a public or private facility within or without the
19 state, approved by the director of human services, which offers
20 appropriate services for the minor's treatment.
21 2. Upon receipt of an application for voluntary admission
22 of a minor, the board of supervisors shall provide for a
23 preadmission diagnostic evaluation of the minor to confirm
24 or establish the need for the admission. The preadmission
25 diagnostic evaluation shall be performed by a person who
26 meets the qualifications of a qualified ~~mental retardation~~
27 intellectual disability professional who is designated through
28 the central point of coordination process.
29 Sec. 30. Section 222.16, Code 2011, is amended to read as
30 follows:
31 **222.16 Petition for adjudication of ~~mental retardation~~**
32 **intellectual disability.**
33 A petition for the adjudication ~~of the mental retardation~~
34 of a person as having an intellectual disability within the
35 meaning of this chapter may, with the permission of the court,

S.F. _____ H.F. _____

be filed without fee against a person with the clerk of the district court of the county or city in which the person who is alleged to have ~~mental retardation~~ an intellectual disability resides or is found. The petition may be filed by any relative of the person, by a guardian, or by any reputable citizen of the county where the person who is alleged to have ~~mental retardation~~ an intellectual disability resides or is found.

Commitment of a person pursuant to section 222.31 does not constitute a finding or raise a presumption that the person is incompetent to vote. The court shall make a separate determination as to the person's competency to vote. The court shall find a person incompetent to vote only upon determining that the person lacks sufficient mental capacity to comprehend and exercise the right to vote.

Sec. 31. Section 222.17, subsection 1, Code 2011, is amended to read as follows:

1. Allege that such person ~~is mentally retarded~~ has an intellectual disability within the meaning of this chapter.

Sec. 32. Section 222.18, Code 2011, is amended to read as follows:

222.18 County attorney to appear.

The county attorney shall, if requested, appear on behalf of any petitioner for the commitment of a person alleged to ~~be mentally retarded~~ have an intellectual disability under this chapter, and on behalf of all public officials and superintendents in all matters pertaining to the duties imposed upon them by this chapter.

Upon the filing of the petition, the court shall enter an order directing the county attorney of the county in which the person who is alleged to have ~~mental retardation~~ an intellectual disability resides to make a full investigation regarding the financial condition of that person and of those persons legally liable for that person's support under section 222.78.

Sec. 33. Section 222.19, unnumbered paragraph 1, Code 2011,

S.F. _____ H.F. _____

1 is amended to read as follows:
2 The following persons, in addition to the person alleged to
3 ~~be mentally retarded~~ have an intellectual disability, shall be
4 made party respondents if the persons reside in this state and
5 their names and residences are known:
6 Sec. 34. Section 222.21, Code 2011, is amended to read as
7 follows:
8 **222.21 Order requiring attendance.**
9 If the person alleged to have ~~mental retardation~~ an
10 intellectual disability is not before the court, the court may
11 issue an order requiring the person who has the care, custody,
12 and control of the person who is alleged to have ~~mental~~
13 ~~retardation~~ an intellectual disability to bring the person into
14 court at the time and place stated in the order.
15 Sec. 35. Section 222.22, Code 2011, is amended to read as
16 follows:
17 **222.22 Time of appearance.**
18 The time of appearance shall not be less than five days
19 after completed service unless the court orders otherwise.
20 Appearance on behalf of the person who is alleged to have
21 ~~mental retardation~~ an intellectual disability may be made by
22 any citizen of the county or by any relative. The district
23 court shall assign counsel for the person who is alleged to
24 have ~~mental retardation~~ an intellectual disability. Counsel
25 shall prior to proceedings personally consult with the person
26 who is alleged to have ~~mental retardation~~ an intellectual
27 disability unless the judge appointing counsel certifies that
28 in the judge's opinion, consultation shall serve no useful
29 purpose. The certification shall be made a part of the record.
30 An attorney assigned by the court shall be compensated by the
31 county at an hourly rate to be established by the county board
32 of supervisors in substantially the same manner as provided in
33 section 815.7.
34 Sec. 36. Section 222.25, Code 2011, is amended to read as
35 follows:

S.F. _____ H.F. _____

222.25 Custody pending hearing.

Pending final hearing, the court may at any time after the filing of the petition and on satisfactory showing that it is in the best interest of the person who is alleged to have ~~mental retardation~~ an intellectual disability and of the community that the person be at once taken into custody, or that service of notice will be ineffectual if the person is not taken into custody, issue an order for the immediate production of the person before the court. In such case, the court may make any proper order for the custody or confinement of the person as will protect the person and the community and insure the presence of the person at the hearing. The person shall not be confined with those accused or convicted of crime.

Sec. 37. Section 222.27, Code 2011, is amended to read as follows:

222.27 Hearing in public.

Hearings shall be public, unless otherwise requested by the parent, guardian, or other person having the custody of the person with ~~mental retardation~~ an intellectual disability, or if the judge considers, a closed hearing in the best interests of the person with ~~mental retardation~~ an intellectual disability.

Sec. 38. Section 222.28, Code 2011, is amended to read as follows:

222.28 Commission to examine.

The court may, at or prior to the final hearing, appoint a commission of one qualified physician and one qualified psychologist, designated through the central point of coordination process, who shall make a personal examination of the person alleged to ~~be mentally retarded~~ have an intellectual disability for the purpose of determining the mental condition of the person.

Sec. 39. Section 222.31, subsection 1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

If in the opinion of the court, or of a commission as

S.F. _____ H.F. _____

1 authorized in section 222.28, the person ~~is mentally retarded~~
2 has an intellectual disability within the meaning of this
3 chapter and the court determines that it will be conducive
4 to the welfare of that person and of the community to commit
5 the person to a proper institution for treatment, training,
6 instruction, care, habilitation, and support, and that services
7 or support provided to the family of such a person who is a
8 child will not enable the family to continue to care for the
9 child in the child's home, the court shall by proper order:
10 Sec. 40. Section 222.34, Code 2011, is amended to read as
11 follows:
12 **222.34 Guardianship proceedings.**
13 If a guardianship is proposed for a person with ~~mental~~
14 ~~retardation~~ an intellectual disability, guardianship
15 proceedings shall be initiated and conducted as provided in
16 chapter 633.
17 Sec. 41. Section 222.38, Code 2011, is amended to read as
18 follows:
19 **222.38 Delivery of person to institution, resource center, or**
20 **special unit.**
21 The court may, for the purpose of committing a person
22 direct the clerk to authorize the employment of one or
23 more assistants. If a person with ~~mental retardation~~ an
24 intellectual disability is taken to an institution, resource
25 center, or special unit, at least one attendant shall be of the
26 same sex.
27 Sec. 42. Section 222.43, subsection 1, paragraphs a, b, and
28 c, Code 2011, are amended to read as follows:
29 *a.* That the person adjudged to ~~be mentally retarded is not~~
30 ~~mentally retarded~~ have an intellectual disability does not have
31 an intellectual disability.
32 *b.* That the person adjudged to ~~be mentally retarded~~ have an
33 intellectual disability has improved as to be capable of ~~self~~
34 ~~care~~ self-care.
35 *c.* That the relatives or friends of the person with ~~mental~~

S.F. _____ H.F. _____

1 ~~retardation~~ an intellectual disability are able and willing
2 to support and care for the person with ~~mental retardation~~ an
3 intellectual disability and request the person's discharge,
4 and in the judgment of the superintendent of the institution
5 or resource center having charge of the person, no harmful
6 consequences are likely to follow such discharge.
7 Sec. 43. Section 222.45, Code 2011, is amended to read as
8 follows:
9 **222.45 Power of court.**
10 On the hearing, the court may discharge the person with
11 ~~mental retardation~~ an intellectual disability from all
12 supervision, control, and care, or may transfer the person
13 from a public institution to a private institution, or vice
14 versa, or transfer the person from a special unit to a resource
15 center, or vice versa, as the court deems appropriate under
16 all the circumstances. If the person has been determined to
17 lack the mental capacity to vote, the court shall include in
18 its order a finding that this determination remains in force
19 or is revoked.
20 Sec. 44. Section 222.47, Code 2011, is amended to read as
21 follows:
22 **222.47 Penalty for false petition of commitment.**
23 Any person who shall maliciously seek to have any person
24 adjudged ~~mentally retarded~~ as a person with an intellectual
25 disability, knowing that such person ~~is not mentally retarded~~
26 does not have an intellectual disability, shall be guilty of
27 a fraudulent practice.
28 Sec. 45. Section 222.49, Code 2011, is amended to read as
29 follows:
30 **222.49 Costs paid.**
31 The costs of proceedings shall be defrayed from the county
32 treasury unless otherwise ordered by the court. When the
33 person alleged to ~~be mentally retarded~~ have an intellectual
34 disability is found not to ~~be mentally retarded~~ have an
35 intellectual disability, the court shall render judgment for

S.F. _____ H.F. _____

1 such costs against the person filing the petition except when
2 the petition is filed by order of court.
3 Sec. 46. Section 222.50, Code 2011, is amended to read as
4 follows:
5 **222.50 County of legal settlement to pay.**
6 When the proceedings are instituted in a county in which
7 the person who is alleged to have ~~mental retardation~~ an
8 intellectual disability was found but which is not the county
9 of legal settlement of the person, and the costs are not taxed
10 to the petitioner, the county which is the legal settlement of
11 the person shall, on presentation of a properly itemized bill
12 for such costs, repay the costs to the former county. When the
13 person's legal settlement is outside the state or is unknown,
14 the costs shall be paid out of money in the state treasury not
15 otherwise appropriated, itemized on vouchers executed by the
16 auditor of the county which paid the costs, and approved by the
17 administrator.
18 Sec. 47. Section 222.51, Code 2011, is amended to read as
19 follows:
20 **222.51 Costs collected.**
21 Costs incident to the hearings and commitment of a
22 person with ~~mental retardation~~ an intellectual disability
23 to an institution, a resource center, or a special unit
24 may be collected from the person with ~~mental retardation~~ an
25 intellectual disability and from all persons legally chargeable
26 with the support of the person with ~~mental retardation~~ an
27 intellectual disability.
28 Sec. 48. Section 222.52, Code 2011, is amended to read as
29 follows:
30 **222.52 Proceedings against delinquent — hearing on**
31 **~~retardation~~ intellectual disability.**
32 When in proceedings against an alleged delinquent or
33 dependent child, the court is satisfied from any evidence that
34 such child ~~is mentally retarded~~ has an intellectual disability,
35 the court may order a continuance of such proceeding, and may

S.F. _____ H.F. _____

1 direct an officer of the court or some other proper person
2 to file a petition against such child permitted under the
3 provisions of this chapter. Pending hearing of the petition
4 the court may by order provide proper custody for the child.
5 Sec. 49. Section 222.53, Code 2011, is amended to read as
6 follows:
7 **222.53 Conviction — suspension.**
8 If on the conviction in the district court of any person
9 for any crime or for any violation of any municipal ordinance,
10 or if on the determination in ~~said courts~~ the court that a
11 child is dependent, neglected, or delinquent and it appears
12 from any evidence presented to the court before sentence,
13 that such person ~~is mentally retarded~~ has an intellectual
14 disability within the meaning of this chapter, the court may
15 suspend sentence or order, and may order any officer of the
16 court or some other proper person to file a petition permitted
17 under the provisions of this chapter against ~~said~~ such person.
18 Pending hearing of the petition, the court shall provide for
19 the custody of ~~said~~ such person as directed in section 222.52.
20 Sec. 50. Section 222.54, Code 2011, is amended to read as
21 follows:
22 **222.54 Procedure after hearing.**
23 Should it be found under sections 222.52 and 222.53 that
24 ~~said~~ such person ~~is not mentally retarded~~ does not have an
25 intellectual disability, the court shall proceed with the
26 original proceedings as though no petition had been filed.
27 Sec. 51. Section 222.56, Code 2011, is amended to read as
28 follows:
29 **222.56 Transfer to institution for persons with ~~mental~~**
30 **~~retardation~~ an intellectual disability.**
31 When the mental condition of a person in a private
32 institution for persons with mental illness is found to be such
33 that the patient should be transferred to an institution for
34 persons with ~~mental retardation~~ an intellectual disability, the
35 person may be proceeded against under this chapter.

S.F. _____ H.F. _____

Sec. 52. Section 222.58, Code 2011, is amended to read as follows:

222.58 Administrator to keep record.

The administrator shall keep a record of all persons adjudged to ~~be mentally retarded~~ have an intellectual disability and of the orders respecting such persons by the courts throughout the state. Copies of such orders shall be furnished by the clerk of the court without the administrator's application therefor.

Sec. 53. Section 222.60, subsection 1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

All necessary and legal expenses for the cost of admission or commitment or for the treatment, training, instruction, care, habilitation, support and transportation of persons with ~~mental retardation~~ an intellectual disability, as provided for in the county management plan provisions implemented pursuant to section 331.439, subsection 1, in a state resource center, or in a special unit, or any public or private facility within or without the state, approved by the director of the department of human services, shall be paid by either:

Sec. 54. Section 222.60, subsection 2, paragraph a, Code 2011, is amended to read as follows:

a. Prior to a county of legal settlement approving the payment of expenses for a person under this section, the county may require that the person be diagnosed to determine if the person has ~~mental retardation~~ an intellectual disability or that the person be evaluated to determine the appropriate level of services required to meet the person's needs relating to ~~mental retardation~~ an intellectual disability. The diagnosis and the evaluation may be performed concurrently and shall be performed by an individual or individuals approved by the county who are qualified to perform the diagnosis or the evaluation. Following the initial approval for payment of expenses, the county of legal settlement may require that an evaluation be performed at reasonable time periods.

S.F. _____ H.F. _____

1 Sec. 55. Section 222.60, subsection 3, Code 2011, is amended
2 to read as follows:
3 3. *a.* A diagnosis of ~~mental retardation~~ an intellectual
4 disability under this section shall be made only when the onset
5 of the person's condition was prior to the age of eighteen
6 years and shall be based on an assessment of the person's
7 intellectual functioning and level of adaptive skills. The
8 diagnosis shall be made by an individual who is a psychologist
9 or psychiatrist who is professionally trained to administer
10 the tests required to assess intellectual functioning and to
11 evaluate a person's adaptive skills.
12 *b.* A diagnosis of ~~mental retardation~~ an intellectual
13 disability shall be made in accordance with the criteria
14 provided in the diagnostic and statistical manual of
15 mental disorders, ~~fourth edition,~~ published by the American
16 psychiatric association, as provided in the definition of
17 intellectual disability in section 4.1.
18 Sec. 56. Section 222.66, Code 2011, is amended to read as
19 follows:
20 **222.66 Transfers — expenses.**
21 The transfer to a resource center or a special unit or to the
22 place of legal settlement of a person with ~~mental retardation~~
23 an intellectual disability who has no legal settlement in this
24 state or whose legal settlement is unknown, shall be made
25 in accordance with such directions as shall be prescribed
26 by the administrator and when practicable by employees of
27 the state resource center or the special unit. The actual
28 and necessary expenses of such transfers shall be paid on
29 itemized vouchers sworn to by the claimants and approved by
30 the administrator from any funds in the state treasury not
31 otherwise appropriated.
32 Sec. 57. Section 222.78, Code 2011, is amended to read as
33 follows:
34 **222.78 Parents and others liable for support.**
35 The father and mother of any patient admitted or committed to

S.F. _____ H.F. _____

a resource center or to a special unit, as either an inpatient or an outpatient, and any person, firm, or corporation bound by contract made for support of the patient are liable for the support of the patient. The patient and those legally bound for the support of the patient shall be liable to the county for all sums advanced by the county to the state under the provisions of sections 222.60 and 222.77. The liability of any person, other than the patient, who is legally bound for the support of a patient who is under eighteen years of age in a resource center or a special unit shall not exceed the average minimum cost of the care of a normally intelligent minor without a disability of the same age and sex as the minor patient. The administrator shall establish the scale for this purpose but the scale shall not exceed the standards for personal allowances established by the state division under the family investment program. The father or mother shall incur liability only during any period when the father or mother either individually or jointly receive a net income from whatever source, commensurate with that upon which they would be liable to make an income tax payment to this state. The father or mother of a patient shall not be liable for the support of the patient upon the patient attaining eighteen years of age. Nothing in this section shall be construed to prevent a relative or other person from voluntarily paying the full actual cost as established by the administrator for caring for the patient with ~~mental retardation~~ an intellectual disability.

Sec. 58. Section 222.80, Code 2011, is amended to read as follows:

222.80 Liability to county.

A person admitted or committed to a county institution or home or admitted or committed at county expense to a private hospital, sanitarium, or other facility for treatment, training, instruction, care, habilitation, and support as a patient with ~~mental retardation~~ an intellectual disability

S.F. _____ H.F. _____

shall be liable to the county for the reasonable cost of the support as provided in section 222.78.

Sec. 59. Section 222.88, Code 2011, is amended to read as follows:

222.88 Special ~~mental retardation~~ intellectual disability unit.

The director of human services may organize and establish a special ~~mental retardation~~ intellectual disability unit at an existing institution which may provide:

1. Psychiatric and related services to children with ~~mental retardation~~ an intellectual disability and adults who are also emotionally disturbed or otherwise mentally ill.

2. Specific programs to meet the needs of such other special categories of persons with ~~mental retardation~~ an intellectual disability as may be designated by the director.

3. Appropriate diagnostic evaluation services.

Sec. 60. Section 225C.1, subsection 1, Code 2011, is amended to read as follows:

1. The general assembly finds that services to persons with mental illness, ~~mental retardation~~ an intellectual disability, developmental disabilities, or brain injury are provided in many parts of the state by highly autonomous community-based service providers working cooperatively with state and county officials. However, the general assembly recognizes that heavy reliance on property tax funding for mental health and ~~mental retardation~~ an intellectual disability services has enabled many counties to exceed minimum state standards for the services resulting in an uneven level of services around the state. Consequently, greater efforts should be made to assure close coordination and continuity of care for those persons receiving publicly supported disability services in Iowa. It is the purpose of this chapter to continue and to strengthen the services to persons with disabilities now available in the state of Iowa, to make disability services conveniently available to all persons in this state upon a reasonably

S.F. _____ H.F. _____

1 uniform financial basis, and to assure the continued high
2 quality of these services.
3 Sec. 61. Section 225C.2, subsections 6 and 8, Code 2011, are
4 amended to read as follows:
5 6. *"Disability services"* means services and other support
6 available to a person with mental illness, ~~mental retardation~~
7 an intellectual disability or other developmental disability,
8 or brain injury.
9 8. *"Person with a disability"* means a person with mental
10 illness, ~~mental retardation~~ an intellectual disability or other
11 developmental disability, or brain injury.
12 Sec. 62. Section 225C.3, subsections 1 and 3, Code 2011, are
13 amended to read as follows:
14 1. The division is designated the state mental health
15 authority as defined in 42 U.S.C. § 201(m) (1976) for the
16 purpose of directing the benefits of the National Mental
17 Health Act, 42 U.S.C. § 201 et seq. This designation does not
18 preclude the board of regents from authorizing or directing any
19 institution under its jurisdiction to carry out educational,
20 prevention, and research activities in the areas of mental
21 health and ~~mental retardation~~ intellectual disability. The
22 division may contract with the board of regents or any
23 institution under the board's jurisdiction to perform any of
24 these functions.
25 3. The division is administered by the administrator.
26 The administrator of the division shall be qualified in the
27 general field of mental health, ~~mental retardation~~ intellectual
28 disability, or other disability services, and preferably in
29 more than one field. The administrator shall have at least
30 five years of experience as an administrator in one or more of
31 these fields.
32 Sec. 63. Section 225C.4, subsection 1, paragraphs a, c, g,
33 and q, Code 2011, are amended to read as follows:
34 *a.* Prepare and administer the comprehensive mental
35 health and disability services plan as provided in section

S.F. _____ H.F. _____

1 225C.6B, including state mental health and ~~mental retardation~~
2 intellectual disability plans for the provision of disability
3 services within the state and the state developmental
4 disabilities plan. The administrator shall consult with the
5 Iowa department of public health, the state board of regents or
6 a body designated by the board for that purpose, the department
7 of management or a body designated by the director of the
8 department for that purpose, the department of education, the
9 department of workforce development and any other appropriate
10 governmental body, in order to facilitate coordination of
11 disability services provided in this state. The state mental
12 health and ~~mental retardation~~ intellectual disability plans
13 shall be consistent with the state health plan, and shall
14 incorporate county disability services plans.
15 *c.* Emphasize the provision of outpatient services by
16 community mental health centers and local ~~mental retardation~~
17 intellectual disability providers as a preferable alternative
18 to inpatient hospital services.
19 *g.* Administer state programs regarding the care, treatment,
20 and supervision of persons with mental illness or ~~mental~~
21 ~~retardation~~ an intellectual disability, except the programs
22 administered by the state board of regents.
23 *q.* In cooperation with the department of inspections and
24 appeals, recommend minimum standards under section 227.4 for
25 the care of and services to persons with mental illness and
26 ~~mental retardation~~ an intellectual disability residing in
27 county care facilities.
28 Sec. 64. Section 225C.5, subsection 1, unnumbered paragraph
29 1, Code Supplement 2011, is amended to read as follows:
30 A mental health and disability services commission is
31 created as the state policy-making body for the provision of
32 services to persons with mental illness, ~~mental retardation~~ an
33 intellectual disability, or other developmental disabilities,
34 or brain injury. The commission's voting members shall be
35 appointed to three-year staggered terms by the governor and

S.F. _____ H.F. _____

1 are subject to confirmation by the senate. Commission members
2 shall be appointed on the basis of interest and experience in
3 the fields of mental health, ~~mental retardation~~ intellectual
4 disability, or other developmental disabilities, and brain
5 injury, in a manner so as to ensure adequate representation
6 from persons with disabilities and individuals knowledgeable
7 concerning disability services. The department shall provide
8 staff support to the commission, and the commission may utilize
9 staff support and other assistance provided to the commission
10 by other persons. The commission shall meet at least four
11 times per year. The membership of the commission shall consist
12 of the following persons who, at the time of appointment to the
13 commission, are active members of the indicated groups:
14 Sec. 65. Section 225C.7, subsections 2 and 4, Code 2011, are
15 amended to read as follows:
16 2. Moneys appropriated to the fund shall be allocated
17 to counties for funding of community-based mental health,
18 ~~mental retardation~~ intellectual disability, developmental
19 disabilities, and brain injury services in the manner
20 provided in the appropriation to the fund. If the allocation
21 methodology includes a population factor, the most recent
22 population estimates issued by the United States bureau of the
23 census shall be applied.
24 4. *a.* A county is entitled to receive money from the
25 fund if that county raised by county levy and expended for
26 mental health, ~~mental retardation~~ intellectual disability,
27 and developmental disabilities services, in the preceding
28 fiscal year, an amount of money at least equal to the amount so
29 raised and expended for those purposes during the fiscal year
30 beginning July 1, 1980.
31 *b.* With reference to the fiscal year beginning July 1, 1980,
32 money *"raised by county levy and expended for mental health,*
33 *~~mental retardation~~ intellectual disability, and developmental*
34 *disabilities services"* means the county's maintenance of effort
35 determined by using the general allocation application for the

S.F. _____ H.F. _____

1 state community mental health and mental retardation services
2 fund under section 225C.10, subsection 1, Code 1993. The
3 department, with the agreement of each county, shall establish
4 the actual amount expended by each county for persons with
5 mental illness, ~~mental retardation~~ an intellectual disability,
6 or a developmental disability in the fiscal year which began
7 on July 1, 1980, and this amount shall be deemed each county's
8 maintenance of effort.
9 Sec. 66. Section 225C.12, subsection 2, Code 2011, is
10 amended to read as follows:
11 2. A county may claim reimbursement by filing with the
12 administrator a claim in a form prescribed by the administrator
13 by rule. Claims may be filed on a quarterly basis, and when
14 received shall be verified as soon as reasonably possible
15 by the administrator. The administrator shall certify to
16 the director of the department of administrative services
17 the amount to which each county claiming reimbursement is
18 entitled, and the director of the department of administrative
19 services shall issue warrants to the respective counties
20 drawn upon funds appropriated by the general assembly for
21 the purpose of this section. A county shall place funds
22 received under this section in the county mental health,
23 ~~mental retardation~~ intellectual disability, and developmental
24 disabilities services fund created under section 331.424A. If
25 the appropriation for a fiscal year is insufficient to pay
26 all claims arising under this section, the director of the
27 department of administrative services shall prorate the funds
28 appropriated for that year among the claimant counties so that
29 an equal proportion of each county's claim is paid in each
30 quarter for which proration is necessary.
31 Sec. 67. Section 225C.13, subsection 2, Code 2011, is
32 amended to read as follows:
33 2. The division administrator may work with the appropriate
34 administrator of the department's institutions to establish
35 mental health and ~~mental retardation~~ intellectual disability

S.F. _____ H.F. _____

1 services for all institutions under the control of the director
2 of human services and to establish an autism unit, following
3 mutual planning and consultation with the medical director of
4 the state psychiatric hospital, at an institution or a facility
5 administered by the department to provide psychiatric and
6 related services and other specific programs to meet the needs
7 of autistic persons, and to furnish appropriate diagnostic
8 evaluation services.
9 Sec. 68. Section 225C.21, subsection 1, Code 2011, is
10 amended to read as follows:
11 1. As used in this section, *"supported community living*
12 *services"* means services provided in a noninstitutional setting
13 to adult persons with mental illness, ~~mental retardation~~ an
14 intellectual disability, or developmental disabilities to meet
15 the persons' daily living needs.
16 Sec. 69. Section 225C.25, Code 2011, is amended to read as
17 follows:
18 **225C.25 Short title.**
19 Sections 225C.25 through 225C.28B shall be known as "the
20 bill of rights and service quality standards of persons with
21 ~~mental retardation~~ an intellectual disability, developmental
22 disabilities, brain injury, or chronic mental illness".
23 Sec. 70. Section 225C.26, Code 2011, is amended to read as
24 follows:
25 **225C.26 Scope.**
26 These rights and service quality standards apply to any
27 person with ~~mental retardation~~ an intellectual disability,
28 a developmental disability, brain injury, or chronic mental
29 illness who receives services which are funded in whole or in
30 part by public funds or services which are permitted under Iowa
31 law.
32 Sec. 71. Section 225C.28A, unnumbered paragraph 1, Code
33 2011, is amended to read as follows:
34 As the state participates more fully in funding services
35 and other support to persons with ~~mental retardation~~ an

S.F. _____ H.F. _____

1 intellectual disability, developmental disabilities, brain
2 injury, or chronic mental illness, it is the intent of the
3 general assembly that the state shall seek to attain the
4 following quality standards in the provision of the services:
5 Sec. 72. Section 225C.28B, Code 2011, is amended to read as
6 follows:
7 **225C.28B Rights of persons with ~~mental retardation~~ an**
8 **intellectual disability, developmental disabilities, brain**
9 **injury, or chronic mental illness.**
10 All of the following rights shall apply to a person with
11 ~~mental retardation~~ an intellectual disability, a developmental
12 disability, brain injury, or chronic mental illness:
13 1. *Wage protection.* A person with ~~mental retardation~~ an
14 intellectual disability, a developmental disability, brain
15 injury, or chronic mental illness engaged in work programs
16 shall be paid wages commensurate with the going rate for
17 comparable work and productivity.
18 2. *Insurance protection.* Pursuant to section 507B.4,
19 subsection 7, a person or designated group of persons shall not
20 be denied insurance coverage by reason of ~~mental retardation~~
21 an intellectual disability, a developmental disability, brain
22 injury, or chronic mental illness.
23 3. *Due process.* A person with ~~mental retardation~~ an
24 intellectual disability, a developmental disability, brain
25 injury, or chronic mental illness retains the right to
26 citizenship in accordance with the laws of the state.
27 4. *Participation in planning activities.* If an individual
28 treatment, habilitation, and program plan is developed for a
29 person with ~~mental retardation~~ an intellectual disability,
30 a developmental disability, brain injury, or chronic mental
31 illness, the person has the right to participate in the
32 formulation of the plan.
33 Sec. 73. Section 225C.32, Code 2011, is amended to read as
34 follows:
35 **225C.32 Plan appeals process.**

S.F. _____ H.F. _____

The department shall establish an appeals process by which a mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities coordinating board or an affected party may appeal a decision of the department or of the coordinating board.

Sec. 74. Section 225C.52, subsection 1, Code 2011, is amended to read as follows:

1. Establishing a comprehensive community-based mental health services system for children and youth is part of fulfilling the requirements of the division and the commission to facilitate a comprehensive, continuous, and integrated state mental health and disability services plan in accordance with sections 225C.4, 225C.6, and 225C.6A, and other provisions of this chapter. The purpose of establishing the children's system is to improve access for children and youth with serious emotional disturbances and youth with other qualifying mental health disorders to mental health treatment, services, and other support in the least restrictive setting possible so the children and youth can live with their families and remain in their communities. The children's system is also intended to meet the needs of children and youth who have mental health disorders that co-occur with substance abuse, ~~mental retardation~~ intellectual disability, developmental disabilities, or other disabilities. The children's system shall emphasize community-level collaborative efforts between children and youth and the families and the state's systems of education, child welfare, juvenile justice, health care, substance abuse, and mental health.

Sec. 75. Section 226.8, Code 2011, is amended to read as follows:

226.8 Persons with ~~mental retardation~~ an intellectual disability not receivable — exception.

~~No~~ A person who ~~is mentally retarded~~ has an intellectual disability, as defined ~~by~~ in section ~~222.2~~ 4.1, shall not be admitted, or transferred pursuant to section 222.7, to a

S.F. _____ H.F. _____

1 state mental health institute unless a professional diagnostic
2 evaluation indicates that such person will benefit from
3 psychiatric treatment or from some other specific program
4 available at the mental health institute to which it is
5 proposed to admit or transfer the person. Charges for the
6 care of any person with ~~mental retardation~~ an intellectual
7 disability admitted to a state mental health institute shall
8 be made by the institute in the manner provided by chapter
9 230, but the liability of any other person to any county for
10 the cost of care of such person with ~~mental retardation~~ an
11 intellectual disability shall be as prescribed by section
12 222.78.
13 Sec. 76. Section 226.9C, subsection 2, paragraph a, Code
14 Supplement 2011, is amended to read as follows:
15 *a.* A county may split the charges between the county's
16 mental health, ~~mental retardation~~ intellectual disability, and
17 developmental disabilities services fund created pursuant to
18 section 331.424A and the county's budget for substance abuse
19 expenditures.
20 Sec. 77. Section 227.2, subsections 1, 2, and 4, Code 2011,
21 are amended to read as follows:
22 1. The director of inspections and appeals shall make,
23 or cause to be made, at least one licensure inspection each
24 year of every county care facility. Either the administrator
25 of the division or the director of inspections and appeals,
26 in cooperation with each other, upon receipt of a complaint
27 or for good cause, may make, or cause to be made, a review
28 of a county care facility or of any other private or county
29 institution where persons with mental illness or ~~mental~~
30 ~~retardation~~ an intellectual disability reside. A licensure
31 inspection or a review shall be made by a competent and
32 disinterested person who is acquainted with and interested in
33 the care of persons with mental illness and persons with ~~mental~~
34 ~~retardation~~ an intellectual disability. The objective of a
35 licensure inspection or a review shall be an evaluation of the

S.F. _____ H.F. _____

1 programming and treatment provided by the facility. After each
2 licensure inspection of a county care facility, the person who
3 made the inspection shall consult with the county authorities
4 on plans and practices that will improve the care given
5 patients and shall make recommendations to the administrator of
6 the division and the director of public health for coordinating
7 and improving the relationships between the administrators of
8 county care facilities, the administrator of the division, the
9 director of public health, the superintendents of state mental
10 health institutes and resource centers, community mental health
11 centers, and other cooperating agencies, to cause improved
12 and more satisfactory care of patients. A written report of
13 each licensure inspection of a county care facility under this
14 section shall be filed with the administrator of the division
15 and the director of public health and shall include:
16 *a.* The capacity of the institution for the care of
17 residents.
18 *b.* The number, sex, ages, and primary diagnoses of the
19 residents.
20 *c.* The care of residents, their food, clothing, treatment
21 plan, employment, and opportunity for recreational activities
22 and for productive work intended primarily as therapeutic
23 activity.
24 *d.* The number, job classification, sex, duties, and salaries
25 of all employees.
26 *e.* The cost to the state or county of maintaining residents
27 in a county care facility.
28 *f.* The recommendations given to and received from county
29 authorities on methods and practices that will improve the
30 conditions under which the county care facility is operated.
31 *g.* Any failure to comply with standards adopted under
32 section 227.4 for care of persons with mental illness and
33 persons with ~~mental retardation~~ an intellectual disability in
34 county care facilities, which is not covered in information
35 submitted pursuant to paragraphs *"a"* to *"f"*, and any other

S.F. _____ H.F. _____

1 matters which the director of public health, in consultation
2 with the administrator of the division, may require.
3 2. A copy of the written report prescribed by subsection
4 1 shall be furnished to the county board of supervisors, to
5 the county mental health and ~~mental retardation~~ intellectual
6 disability coordinating board or to its advisory board if
7 the county board of supervisors constitutes ex officio the
8 coordinating board, to the administrator of the county care
9 facility inspected and to its resident advocate committee, and
10 to the department on aging.
11 4. In addition to the licensure inspections required or
12 authorized by this section, the administrator of the division
13 shall cause to be made an evaluation of each person cared for
14 in a county care facility at least once each year by one or
15 more qualified mental health, ~~mental retardation~~ intellectual
16 disability, or medical professionals, whichever is appropriate.
17 *a.* It is the responsibility of the state to secure the
18 annual evaluation for each person who is on convalescent leave
19 or who has not been discharged from a state mental health
20 institute. It is the responsibility of the county to secure
21 the annual evaluation for all other persons with mental illness
22 in the county care facility.
23 *b.* It is the responsibility of the state to secure the
24 annual evaluation for each person who is on leave and has
25 not been discharged from a state resource center. It is the
26 responsibility of the county to secure the annual evaluation
27 for all other persons with ~~mental retardation~~ an intellectual
28 disability in the county care facility.
29 *c.* It is the responsibility of the county to secure an
30 annual evaluation of each resident of a county care facility to
31 whom neither paragraph *"a"* nor paragraph *"b"* is applicable.
32 Sec. 78. Section 227.4, Code 2011, is amended to read as
33 follows:
34 **227.4 Standards for care of persons with mental illness or**
35 **~~mental retardation~~ an intellectual disability in county care**

S.F. _____ H.F. _____

1 **facilities.**
2 The administrator, in cooperation with the department of
3 inspections and appeals, shall recommend and the mental health
4 and disability services commission created in section 225C.5
5 shall adopt standards for the care of and services to persons
6 with mental illness or ~~mental retardation~~ an intellectual
7 disability residing in county care facilities. The standards
8 shall be enforced by the department of inspections and appeals
9 as a part of the licensure inspection conducted pursuant to
10 chapter 135C. The objective of the standards is to ensure
11 that persons with mental illness or ~~mental retardation~~ an
12 intellectual disability who are residents of county care
13 facilities are not only adequately fed, clothed, and housed,
14 but are also offered reasonable opportunities for productive
15 work and recreational activities suited to their physical and
16 mental abilities and offering both a constructive outlet for
17 their energies and, if possible, therapeutic benefit. When
18 recommending standards under this section, the administrator
19 shall designate an advisory committee representing
20 administrators of county care facilities, county mental health
21 and developmental disabilities regional planning councils, and
22 county care facility resident advocate committees to assist in
23 the establishment of standards.
24 Sec. 79. Section 227.6, Code 2011, is amended to read as
25 follows:
26 **227.6 Removal of residents.**
27 If a county care facility fails to comply with rules and
28 standards adopted under this chapter, the administrator may
29 remove all persons with mental illness and all persons with
30 ~~mental retardation~~ an intellectual disability cared for in the
31 county care facility at public expense, to the proper state
32 mental health institute or resource center, or to some private
33 or county institution or hospital for the care of persons
34 with mental illness or ~~mental retardation~~ an intellectual
35 disability that has complied with the rules prescribed by the

S.F. _____ H.F. _____

1 administrator. Residents being transferred to a state mental
2 health institute or resource center shall be accompanied by an
3 attendant or attendants sent from the institute or resource
4 center. If a resident is transferred under this section,
5 at least one attendant shall be of the same sex. If the
6 administrator finds that the needs of residents with mental
7 illness and residents with ~~mental retardation~~ an intellectual
8 disability of any other county or private institution are not
9 being adequately met, those residents may be removed from that
10 institution upon order of the administrator.
11 Sec. 80. Section 229.1, subsection 9, Code Supplement 2011,
12 is amended to read as follows:
13 9. *"Mental illness"* means every type of mental disease
14 or mental disorder, except that it does not refer to
15 ~~mental retardation~~ intellectual disability as defined in
16 section ~~222.2, subsection 5~~ 4.1, or to insanity, diminished
17 responsibility, or mental incompetency as the terms are defined
18 and used in the Iowa criminal code or in the rules of criminal
19 procedure, Iowa court rules.
20 Sec. 81. Section 229.26, Code 2011, is amended to read as
21 follows:
22 **229.26 Exclusive procedure for involuntary hospitalization.**
23 Sections 229.6 through 229.19 constitute the exclusive
24 procedure for involuntary hospitalization of persons by reason
25 of serious mental impairment in this state, except that this
26 chapter does not negate the provisions of section 904.503
27 relating to transfer of prisoners with mental illness to state
28 hospitals for persons with mental illness and does not apply
29 to commitments of persons under chapter 812 or the rules of
30 criminal procedure, Iowa court rules, or negate the provisions
31 of section 232.51 relating to disposition of children
32 with mental illness or ~~mental retardation~~ an intellectual
33 disability.
34 Sec. 82. Section 230.33, Code 2011, is amended to read as
35 follows:

S.F. _____ H.F. _____

230.33 Reciprocal agreements.

The administrator may enter into agreements with other states, through their duly constituted authorities, to effect the reciprocal return of persons with mental illness and persons with ~~mental retardation~~ an intellectual disability to the contracting states, and to effect the reciprocal supervision of persons on convalescent leave.

Provided that in the case of a proposed transfer of a person with mental illness or ~~mental retardation~~ an intellectual disability from this state that no final action be taken without the approval either of the commission of hospitalization, or of the district court, of the county of admission or commitment.

Sec. 83. Section 231.4, subsection 1, paragraph m, Code Supplement 2011, is amended to read as follows:

m. *"Resident"* means a resident or tenant of a long-term care facility, assisted living program, or elder group home, excluding facilities licensed primarily to serve persons with ~~mental retardation~~ an intellectual disability or mental illness.

Sec. 84. Section 231.42, subsection 2, paragraph a, Code 2011, is amended to read as follows:

a. Establish and implement a statewide confidential uniform reporting system for receiving, analyzing, referring, investigating, and resolving complaints about administrative actions and the health, safety, welfare, and rights of residents or tenants of long-term care facilities, assisted living programs, and elder group homes, excluding facilities licensed primarily to serve persons with ~~mental retardation~~ an intellectual disability or mental illness.

Sec. 85. Section 232.51, subsection 2, Code Supplement 2011, is amended to read as follows:

2. If the evidence received at an adjudicatory or a dispositional hearing indicates that the child ~~is mentally retarded~~ has an intellectual disability, the court may direct

S.F. _____ H.F. _____

1 the juvenile court officer or the department to initiate
2 proceedings or to assist the child's parent or guardian to
3 initiate civil commitment proceedings in the juvenile court and
4 such proceedings shall adhere to the requirements of chapter
5 222.
6 Sec. 86. Section 232.51, subsection 3, paragraph a, Code
7 Supplement 2011, is amended to read as follows:
8 *a.* If prior to the adjudicatory or dispositional hearing
9 on the pending delinquency petition, the child is committed
10 as a child with a mental illness or ~~mental retardation~~ an
11 intellectual disability and is ordered into a residential
12 facility, institution, or hospital for inpatient treatment,
13 the delinquency proceeding shall be suspended until such time
14 as the juvenile court either terminates the civil commitment
15 order or the child is released from the residential facility,
16 institution, or hospital for purposes of receiving outpatient
17 treatment.
18 Sec. 87. Section 232.175, Code 2011, is amended to read as
19 follows:
20 **232.175 Placement oversight.**
21 Placement oversight shall be provided pursuant to this
22 division when the parent, guardian, or custodian of a child
23 with ~~mental retardation~~ an intellectual disability or other
24 developmental disability requests placement of the child
25 in foster family care for a period of more than thirty
26 days. The oversight shall be provided through review of
27 the placement every six months by the department's foster
28 care review committees or by a local citizen foster care
29 review board. Court oversight shall be provided prior to the
30 initial placement and at periodic intervals which shall not
31 exceed twelve months. It is the purpose and policy of this
32 division to assure the existence of oversight safeguards as
33 required by the federal Child Welfare Act of 1980, Pub. L. No.
34 96-272, as codified in 42 U.S.C. § 671(a)(16), 627(a)(2)(B),
35 and 675(1),(5), while maintaining parental decision-making

S.F. _____ H.F. _____

1 authority.
2 Sec. 88. Section 232.178, subsection 4, Code 2011, is
3 amended to read as follows:
4 4. The petition shall describe the child's emotional,
5 physical, or intellectual disability which requires care and
6 treatment; the reasonable efforts to maintain the child in
7 the child's home; the department's request to the family of
8 a child with ~~mental retardation~~ an intellectual disability,
9 other developmental disability, or organic mental illness to
10 determine if any services or support provided to the family
11 will enable the family to continue to care for the child in the
12 child's home; and the reason the child's parent, guardian, or
13 custodian has requested a foster family care placement. The
14 petition shall also describe the commitment of the parent,
15 guardian, or custodian in fulfilling the responsibilities
16 defined in the case permanency plan and how the placement will
17 serve the child's best interests.
18 Sec. 89. Section 232.182, subsection 5, paragraph a,
19 subparagraph (4), Code 2011, is amended to read as follows:
20 (4) A determination that services or support provided to
21 the family of a child with ~~mental retardation~~ an intellectual
22 disability, other developmental disability, or organic mental
23 illness will not enable the family to continue to care for the
24 child in the child's home.
25 Sec. 90. Section 233A.14, Code 2011, is amended to read as
26 follows:
27 **233A.14 Transfers to other institutions.**
28 The administrator may transfer to the schools minor wards of
29 the state from any institution under the administrator's charge
30 but no person shall be so transferred who is mentally ill or
31 ~~mentally retarded~~ has an intellectual disability. Any child
32 in the schools who is mentally ill or ~~mentally retarded~~ has an
33 intellectual disability may be transferred by the administrator
34 to the proper state institution.
35 Sec. 91. Section 233B.5, Code 2011, is amended to read as

S.F. _____ H.F. _____

1 follows:
2 **233B.5 Transfers.**
3 The administrator may transfer to the home minor wards of the
4 state from any institution under the administrator's charge or
5 under the charge of any other administrator of the department
6 of human services; but no person shall be so transferred who
7 is a person with mental illness or ~~mental retardation~~ an
8 intellectual disability, or who is incorrigible, or has any
9 vicious habits, or whose presence in the home would be inimical
10 to the moral or physical welfare of the other children within
11 the home, and any such child in the home may be transferred to
12 the proper state institution.
13 Sec. 92. Section 234.6, subsection 6, paragraph f, Code
14 2011, is amended to read as follows:
15 *f.* Services or support provided to a child with ~~mental~~
16 ~~retardation~~ an intellectual disability or other developmental
17 disability or to the child's family.
18 Sec. 93. Section 235.1, subsection 3, Code 2011, is amended
19 to read as follows:
20 3. *"Child welfare services"* means social welfare services
21 for the protection and care of children who are homeless,
22 dependent or neglected, or in danger of becoming delinquent, or
23 who have a mental illness or ~~mental retardation~~ an intellectual
24 disability or other developmental disability, including, when
25 necessary, care and maintenance in a foster care facility.
26 Child welfare services are designed to serve a child in the
27 child's home whenever possible. If not possible, and the child
28 is placed outside the child's home, the placement should be in
29 the least restrictive setting available and in close proximity
30 to the child's home.
31 Sec. 94. Section 235A.15, subsection 2, paragraph c,
32 subparagraph (9), Code Supplement 2011, is amended to read as
33 follows:
34 (9) To the administrator of an agency providing mental
35 health, ~~mental retardation~~ intellectual disability, or

S.F. _____ H.F. _____

1 developmental disability services under a county management
2 plan developed pursuant to section 331.439, if the data
3 concerns a person employed by or being considered by the agency
4 for employment.
5 Sec. 95. Section 235B.6, subsection 2, paragraph c,
6 subparagraph (6), Code Supplement 2011, is amended to read as
7 follows:
8 (6) To the administrator of an agency providing mental
9 health, ~~mental retardation~~ intellectual disability, or
10 developmental disability services under a county management
11 plan developed pursuant to section 331.439, if the information
12 concerns a person employed by or being considered by the agency
13 for employment.
14 Sec. 96. Section 249A.2, subsection 4, Code 2011, is amended
15 to read as follows:
16 4. *"Discretionary medical assistance"* means medical
17 assistance or additional medical assistance provided to
18 individuals whose income and resources are in excess of
19 eligibility limitations but are insufficient to meet all of the
20 costs of necessary medical care and services, provided that if
21 the assistance includes services in institutions for mental
22 diseases or intermediate care facilities for persons with
23 ~~mental retardation~~ an intellectual disability, or both, for any
24 group of such individuals, the assistance also includes for
25 all covered groups of such individuals at least the care and
26 services enumerated in Tit. XIX of the federal Social Security
27 Act, section 1905(a), paragraphs (1) through (5), and (17),
28 as codified in 42 U.S.C. § 1396d(a), pars. (1) through (5),
29 and (17), or any seven of the care and services enumerated in
30 Tit. XIX of the federal Social Security Act, section 1905(a),
31 paragraphs (1) through (7) and (9) through (18), as codified in
32 42 U.S.C. § 1396d(a), pars. (1) through (7), and (9) through
33 (18).
34 Sec. 97. Section 249A.5, subsection 2, unnumbered paragraph
35 1, Code 2011, is amended to read as follows:

S.F. _____ H.F. _____

1 The provision of medical assistance to an individual who
2 is fifty-five years of age or older, or who is a resident of
3 a nursing facility, intermediate care facility for persons
4 with ~~mental retardation~~ an intellectual disability, or mental
5 health institute, who cannot reasonably be expected to be
6 discharged and return to the individual's home, creates a
7 debt due the department from the individual's estate for all
8 medical assistance provided on the individual's behalf, upon
9 the individual's death.
10 Sec. 98. Section 249A.5, subsection 2, paragraph f,
11 subparagraph (1), Code 2011, is amended to read as follows:
12 (1) If a debt is due under this subsection from the estate
13 of a recipient, the administrator of the nursing facility,
14 intermediate care facility for persons with ~~mental retardation~~
15 an intellectual disability, or mental health institute in which
16 the recipient resided at the time of the recipient's death, and
17 the personal representative of the recipient, if applicable,
18 shall report the death to the department within ten days of the
19 death of the recipient.
20 Sec. 99. Section 249A.12, subsection 1, Code 2011, is
21 amended to read as follows:
22 1. Assistance may be furnished under this chapter to an
23 otherwise eligible recipient who is a resident of a health
24 care facility licensed under chapter 135C and certified as an
25 intermediate care facility for persons with ~~mental retardation~~
26 an intellectual disability.
27 Sec. 100. Section 249A.12, subsection 4, paragraphs a and c,
28 Code 2011, are amended to read as follows:
29 *a.* Effective July 1, 1995, the state shall be responsible
30 for all of the nonfederal share of the costs of intermediate
31 care facility for persons with ~~mental retardation~~ an
32 intellectual disability services provided under medical
33 assistance to minors. Notwithstanding subsection 2 and
34 contrary provisions of section 222.73, effective July 1, 1995,
35 a county is not required to reimburse the department and shall

S.F. _____ H.F. _____

1 not be billed for the nonfederal share of the costs of such
2 services provided to minors.
3 *c.* Effective February 1, 2002, the state shall be
4 responsible for all of the nonfederal share of the costs of
5 intermediate care facility for persons with ~~mental retardation~~
6 an intellectual disability services provided under medical
7 assistance attributable to the assessment fee for intermediate
8 care facilities for individuals with ~~mental retardation~~ an
9 intellectual disability imposed pursuant to section 249A.21.
10 Notwithstanding subsection 2, effective February 1, 2003, a
11 county is not required to reimburse the department and shall
12 not be billed for the nonfederal share of the costs of such
13 services attributable to the assessment fee.
14 Sec. 101. Section 249A.12, subsection 5, Code 2011, is
15 amended to read as follows:
16 5. *a.* The mental health and disability services commission
17 shall recommend to the department the actions necessary to
18 assist in the transition of individuals being served in an
19 intermediate care facility for persons with ~~mental retardation~~
20 an intellectual disability, who are appropriate for the
21 transition, to services funded under a medical assistance
22 home and community-based services waiver for persons with
23 intellectual disabilities in a manner which maximizes the use
24 of existing public and private facilities. The actions may
25 include but are not limited to submitting any of the following
26 or a combination of any of the following as a request for a
27 revision of the medical assistance home and community-based
28 services waiver for persons with intellectual disabilities:
29 (1) Allow for the transition of intermediate care
30 facilities for persons with ~~mental retardation~~ an intellectual
31 disability licensed under chapter 135C, to services funded
32 under the medical assistance home and community-based services
33 waiver for persons with intellectual disabilities. The request
34 shall be for inclusion of additional persons under the waiver
35 associated with the transition.

S.F. _____ H.F. _____

1 (2) Allow for reimbursement under the waiver for day program
2 or other service costs.
3 (3) Allow for exception provisions in which an intermediate
4 care facility for persons with ~~mental retardation~~ an
5 intellectual disability which does not meet size and other
6 facility-related requirements under the waiver in effect on
7 June 30, 1996, may convert to a waiver service for a set period
8 of time such as five years. Following the set period of time,
9 the facility would be subject to the waiver requirements
10 applicable to services which were not operating under the
11 exception provisions.
12 *b.* In implementing the provisions of this subsection, the
13 mental health and disability services commission shall consult
14 with other states. The waiver revision request or other action
15 necessary to assist in the transition of service provision
16 from intermediate care facilities for persons with ~~mental~~
17 ~~retardation~~ an intellectual disability to alternative programs
18 shall be implemented by the department in a manner that can
19 appropriately meet the needs of individuals at an overall
20 lower cost to counties, the federal government, and the state.
21 In addition, the department shall take into consideration
22 significant federal changes to the medical assistance program
23 in formulating the department's actions under this subsection.
24 The department shall consult with the mental health and
25 disability services commission in adopting rules for oversight
26 of facilities converted pursuant to this subsection. A
27 transition approach described in paragraph "*a*" may be modified
28 as necessary to obtain federal waiver approval.
29 Sec. 102. Section 249A.12, subsection 6, paragraphs a and d,
30 Code 2011, are amended to read as follows:
31 *a.* The provisions of the home and community-based services
32 waiver for persons with an intellectual ~~disabilities~~ disability
33 shall include adult day care, prevocational, and transportation
34 services. Transportation shall be included as a separately
35 payable service.

S.F. _____ H.F. _____

1 *d.* The county of legal settlement shall pay for one hundred
2 percent of the nonfederal share of the costs of care provided
3 for adults which is reimbursed under a home and community-based
4 services waiver that would otherwise be approved for provision
5 in an intermediate care facility for persons with ~~mental~~
6 ~~retardation~~ an intellectual disability provided under the
7 medical assistance program.
8 Sec. 103. Section 249A.12, subsections 7 and 8, Code 2011,
9 are amended to read as follows:
10 7. When paying the necessary and legal expenses for
11 intermediate care facility for persons with ~~mental retardation~~
12 an intellectual disability services, the cost requirements of
13 section 222.60 shall be considered fulfilled when payment is
14 made in accordance with the medical assistance payment rates
15 established by the department for intermediate care facilities
16 for persons with ~~mental retardation~~ an intellectual disability,
17 and the state or a county of legal settlement shall not be
18 obligated for any amount in excess of the rates.
19 8. If a person with ~~mental retardation~~ an intellectual
20 disability has no legal settlement or the legal settlement is
21 unknown so that the person is deemed to be a state case and
22 services associated with the ~~mental retardation~~ intellectual
23 disability can be covered under a medical assistance home and
24 community-based services waiver or other medical assistance
25 program provision, the nonfederal share of the medical
26 assistance program costs for such coverage shall be paid from
27 the appropriation made for the medical assistance program.
28 Sec. 104. Section 249A.21, subsections 1 and 6, Code 2011,
29 are amended to read as follows:
30 1. The department may assess intermediate care facilities
31 for persons with ~~mental retardation~~ an intellectual disability,
32 as defined in section 135C.1, a fee in an amount not to exceed
33 six percent of the total annual revenue of the facility for the
34 preceding fiscal year.
35 6. The department may adopt administrative rules under

S.F. _____ H.F. _____

1 section 17A.4, subsection 3, and section 17A.5, subsection 2,
2 paragraph "*b*", to implement this section, and any fee assessed
3 pursuant to this section against an intermediate care facility
4 for persons with ~~mental retardation~~ an intellectual disability
5 that is operated by the state may be made retroactive to
6 October 1, 2003.
7 Sec. 105. Section 249A.26, subsection 2, paragraph a, Code
8 2011, is amended to read as follows:
9 *a.* Except as provided for disallowed costs in section
10 249A.27, the county of legal settlement shall pay for fifty
11 percent of the nonfederal share of the cost and the state
12 shall have responsibility for the remaining fifty percent of
13 the nonfederal share of the cost of case management provided
14 to adults, day treatment, and partial hospitalization provided
15 under the medical assistance program for persons with ~~mental~~
16 ~~retardation~~ an intellectual disability, a developmental
17 disability, or chronic mental illness. For purposes of
18 this section, persons with mental disorders resulting from
19 Alzheimer's disease or substance abuse shall not be considered
20 chronically mentally ill. To the maximum extent allowed under
21 federal law and regulations, the department shall consult with
22 and inform a county of legal settlement's central point of
23 coordination process, as defined in section 331.440, regarding
24 the necessity for and the provision of any service for which
25 the county is required to provide reimbursement under this
26 subsection.
27 Sec. 106. Section 249A.26, subsections 3, 7, and 9, Code
28 2011, are amended to read as follows:
29 3. To the maximum extent allowed under federal law and
30 regulations, a person with mental illness or ~~mental retardation~~
31 an intellectual disability shall not be eligible for any
32 service which is funded in whole or in part by a county share of
33 the nonfederal portion of medical assistance funds unless the
34 person is referred through the central point of coordination
35 process, as defined in section 331.440. However, to the

S.F. _____ H.F. _____

1 extent federal law allows referral of a medical assistance
2 recipient to a service without approval of the central point of
3 coordination process, the county of legal settlement shall be
4 billed for the nonfederal share of costs for any adult person
5 for whom the county would otherwise be responsible.
6 7. Unless a county has paid or is paying for the nonfederal
7 share of the costs of a person's home and community-based
8 waiver services or placement in an intermediate care
9 facility for persons with ~~mental retardation~~ an intellectual
10 disability under the county's mental health, ~~mental retardation~~
11 intellectual disability, and developmental disabilities
12 services fund, or unless a county of legal settlement would
13 become liable for the costs of services for a person at the
14 level of care provided in an intermediate care facility for
15 persons with ~~mental retardation~~ an intellectual disability due
16 to the person reaching the age of majority, the state shall pay
17 for the nonfederal share of the costs of an eligible person's
18 services under the home and community-based services waiver for
19 persons with brain injury.
20 9. Notwithstanding section 8.39, the department may
21 transfer funds appropriated for the medical assistance program
22 to a separate account established in the department's case
23 management unit in an amount necessary to pay for expenditures
24 required to provide case management for mental health,
25 ~~mental retardation~~ intellectual disability, and developmental
26 disabilities services under the medical assistance program
27 which are jointly funded by the state and county, pending final
28 settlement of the expenditures. Funds received by the case
29 management unit in settlement of the expenditures shall be used
30 to replace the transferred funds and are available for the
31 purposes for which the funds were originally appropriated.
32 Sec. 107. Section 249A.30A, Code Supplement 2011, is
33 amended to read as follows:
34 **249A.30A Medical assistance — personal needs allowance.**
35 The personal needs allowance under the medical assistance

S.F. _____ H.F. _____

1 program, which may be retained by a person who is a resident of
2 a nursing facility, an intermediate care facility for persons
3 with ~~mental retardation~~ an intellectual disability, or an
4 intermediate care facility for persons with mental illness, as
5 defined in section 135C.1, or a person who is a resident of
6 a psychiatric medical institution for children as defined in
7 section 135H.1, shall be fifty dollars per month. A resident
8 who has income of less than fifty dollars per month shall
9 receive a supplement from the state in the amount necessary to
10 receive a personal needs allowance of fifty dollars per month,
11 if funding is specifically appropriated for this purpose.
12 Sec. 108. Section 249A.31, subsection 1, Code 2011, is
13 amended to read as follows:
14 1. Providers of individual case management services for
15 persons with ~~mental retardation~~ an intellectual disability,
16 a developmental disability, or chronic mental illness shall
17 receive cost-based reimbursement for one hundred percent of
18 the reasonable costs for the provision of the services in
19 accordance with standards adopted by the mental health and
20 disability services commission pursuant to section 225C.6.
21 Sec. 109. Section 252.16, subsection 6, paragraph c, Code
22 2011, is amended to read as follows:
23 *c.* A blind person who is an inpatient or resident of, is
24 supported by, or is receiving treatment or support services
25 from a state resource center created under chapter 222, a
26 state mental health institute created under chapter 226, the
27 Iowa braille and sight saving school administered by the state
28 board of regents, or any community-based provider of treatment
29 or services for ~~mental retardation~~ intellectual disability,
30 developmental disabilities, mental health, or substance abuse,
31 does not acquire legal settlement in the county in which the
32 institution, facility, or provider is located, unless the blind
33 person has resided in the county in which the institution,
34 facility, or provider is located for a period of six months
35 prior to the date of commencement of receipt of assistance

S.F. _____ H.F. _____

1 under the laws of this state or for a period of six months
2 subsequent to the date of termination of assistance under the
3 laws of this state.
4 Sec. 110. Section 252.16, subsection 8, Code 2011, is
5 amended to read as follows:
6 8. A person receiving treatment or support services from
7 any provider, whether organized for pecuniary profit or not or
8 whether supported by charitable or public or private funds,
9 that provides treatment or services for ~~mental retardation~~
10 intellectual disability, developmental disabilities, mental
11 health, brain injury, or substance abuse does not acquire legal
12 settlement in a county unless the person continuously resides
13 in that county for one year from the date of the last treatment
14 or support service received by the person.
15 Sec. 111. Section 262.70, Code 2011, is amended to read as
16 follows:
17 **262.70 Education, prevention, and research programs in mental**
18 **health and disability services.**
19 The division of mental health and disability services of
20 the department of human services may contract with the board
21 of regents or any institution under the board's jurisdiction
22 to establish and maintain programs of education, prevention,
23 and research in the fields of mental health, ~~mental retardation~~
24 intellectual disability, developmental disabilities, and
25 brain injury. The board may delegate responsibility for these
26 programs to the state psychiatric hospital, the university
27 hospital, or any other appropriate entity under the board's
28 jurisdiction.
29 Sec. 112. Section 263.11, subsection 2, Code 2011, is
30 amended to read as follows:
31 2. Persons who are not eligible for admission to the schools
32 already established for persons with ~~mental retardation~~ an
33 intellectual disability or epilepsy or persons who are deaf or
34 blind.
35 Sec. 113. Section 331.381, subsection 4, Code 2011, is

S.F. _____ H.F. _____

1 amended to read as follows:
2 4. Comply with chapter 222, including but not limited to
3 sections 222.13, 222.14, and 222.59 to 222.82, in regard to
4 the care of persons with ~~mental retardation~~ an intellectual
5 disability.
6 Sec. 114. Section 331.424A, subsections 1, 2, and 5, Code
7 Supplement 2011, are amended to read as follows:
8 1. For the purposes of this chapter, unless the context
9 otherwise requires, *"services fund"* means the county mental
10 health, ~~mental retardation~~ intellectual disability, and
11 developmental disabilities services fund created in subsection
12 2. The county finance committee created in section 333A.2
13 shall consult with the state commission in adopting rules and
14 prescribing forms for administering the services fund.
15 2. For the fiscal year beginning July 1, 1996, and
16 succeeding fiscal years, county revenues from taxes and other
17 sources designated for mental health, ~~mental retardation~~
18 intellectual disability, and developmental disabilities
19 services shall be credited to the mental health, ~~mental~~
20 ~~retardation~~ intellectual disability, and developmental
21 disabilities services fund of the county. The board shall make
22 appropriations from the fund for payment of services provided
23 under the county management plan approved pursuant to section
24 331.439. The county may pay for the services in cooperation
25 with other counties by pooling appropriations from the fund
26 with other counties or through county regional entities
27 including but not limited to the county's mental health and
28 developmental disabilities regional planning council created
29 pursuant to section 225C.18.
30 5. Appropriations specifically authorized to be made from
31 the mental health, ~~mental retardation~~ intellectual disability,
32 and developmental disabilities services fund shall not be made
33 from any other fund of the county.
34 Sec. 115. Section 331.432, subsection 3, Code Supplement
35 2011, is amended to read as follows:

S.F. _____ H.F. _____

3. Except as authorized in section 331.477, transfers of moneys between the county mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services fund and any other fund are prohibited.

Sec. 116. Section 331.438, subsection 1, paragraphs a and b, Code Supplement 2011, are amended to read as follows:

a. "Base year expenditures" means the amount selected by a county and reported to the county finance committee pursuant to this paragraph. The amount selected shall be equal to the amount of net expenditures made by the county for qualified mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services provided in one of the following:

(1) The actual amount reported to the state on October 15, 1994, for the fiscal year beginning July 1, 1993.

(2) The net expenditure amount contained in the county's final budget certified in accordance with chapter 24 for the fiscal year beginning July 1, 1995, and reported to the county finance committee.

b. "Qualified mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services" means the services specified in the rules adopted by the state commission for administering the services fund, pursuant to section 331.424A.

Sec. 117. Section 331.438, subsection 4, paragraph a, Code Supplement 2011, is amended to read as follows:

a. The state commission shall make recommendations and take actions for joint state and county planning, implementing, and funding of mental health, ~~mental retardation~~ intellectual disability or other developmental disabilities, and brain injury services, including but not limited to developing and implementing fiscal and accountability controls, establishing management plans, and ensuring that eligible persons have access to appropriate and cost-effective services.

Sec. 118. Section 331.438, subsection 4, paragraph b,

S.F. _____ H.F. _____

1 subparagraph (6), Code Supplement 2011, is amended to read as
2 follows:
3 (6) Consider recommendations for measuring and improving
4 the quality of state and county mental health, ~~mental~~
5 ~~retardation~~ intellectual disability, and developmental
6 disabilities services and other support.
7 Sec. 119. Section 331.439, subsection 1, paragraphs a, b,
8 and f, Code Supplement 2011, are amended to read as follows:
9 *a.* The county accurately reported by December 1 the county's
10 expenditures for mental health, ~~mental retardation~~ intellectual
11 disability, and developmental disabilities services and the
12 information required under section 225C.6A, subsection 3,
13 paragraph *"c"*, for the previous fiscal year in accordance with
14 rules adopted by the state commission. If the department
15 determines good cause exists, the department may extend a
16 deadline otherwise imposed under this chapter, chapter 225C, or
17 chapter 426B for a county's reporting concerning mental health,
18 ~~mental retardation~~ intellectual disability, or developmental
19 disabilities services or related revenues and expenditures.
20 *b.* The county developed and implemented a county management
21 plan for the county's mental health, ~~mental retardation~~
22 intellectual disability, and developmental disabilities
23 services system in accordance with the provisions of this
24 paragraph *"b"*. The plan shall comply with the administrative
25 rules adopted for this purpose by the state commission and is
26 subject to the approval of the director of human services in
27 consultation with the state commission. The plan shall include
28 a description of the county's service management provision for
29 mental health, ~~mental retardation~~ intellectual disability, and
30 developmental disabilities services. For ~~mental retardation~~
31 intellectual disability and developmental disabilities service
32 management, the plan shall describe the county's development
33 and implementation of a system of cost-effective individualized
34 services and shall comply with the provisions of paragraph
35 *"f"*. The goal of this part of the plan shall be to assist

S.F. _____ H.F. _____

1 the individuals served to be as independent, productive,
2 and integrated into the community as possible. The service
3 management provisions for mental health shall comply with the
4 provisions of paragraph "e". A county is subject to all of the
5 following provisions in regard to the county's services system
6 management plan and planning process:
7 (1) The county shall have in effect an approved policies and
8 procedures manual for the county's services fund. The county
9 management plan shall be defined in the manual. The manual
10 submitted by the county as part of the county's management plan
11 for the fiscal year beginning July 1, 2000, as approved by the
12 director of human services, shall remain in effect, subject to
13 amendment. An amendment to the manual shall be submitted to
14 the department of human services at least forty-five days prior
15 to the date of implementation. Prior to implementation of any
16 amendment to the manual, the amendment must be approved by
17 the director of human services in consultation with the state
18 commission.
19 (2) For informational purposes, the county shall submit a
20 management plan review to the department of human services by
21 December 1 of each year. The annual review shall incorporate
22 an analysis of the data associated with the services system
23 managed during the preceding fiscal year by the county or by
24 a private entity on behalf of the county. The annual review
25 shall also identify measurable outcomes and results showing
26 the county's progress in fulfilling the purposes listed
27 in paragraph "c", and in achieving the disability services
28 outcomes and indicators identified by the commission pursuant
29 to section 225C.6.
30 (3) For informational purposes, every three years the
31 county shall submit to the department of human services
32 a three-year strategic plan. The strategic plan shall
33 describe how the county will proceed to attain the plan's
34 goals and objectives, and the measurable outcomes and results
35 necessary for moving the county's services system toward

S.F. _____ H.F. _____

1 an individualized, community-based focus in accordance
2 with paragraph "c". The three-year strategic plan shall be
3 submitted by April 1, 2000, and by April 1 of every third year
4 thereafter.
5 *f.* For ~~mental retardation~~ intellectual disability and
6 developmental disabilities services management, the county must
7 either develop and implement a system of care which addresses a
8 full array of appropriate services and cost-effective delivery
9 of services by contracting directly with service providers
10 or by contracting with a state-approved private entity to
11 manage the county services system. The county services system
12 shall incorporate a central point of coordination and clinical
13 assessment process developed in accordance with the provisions
14 of section 331.440. The elements of a county services system
15 shall be specified in rules developed by the department of
16 human services in consultation with and adopted by the state
17 commission.
18 Sec. 120. Section 331.439, subsection 3, paragraph a, Code
19 Supplement 2011, is amended to read as follows:
20 *a.* For the fiscal year beginning July 1, 1996, and
21 succeeding fiscal years, the county's mental health, ~~mental~~
22 ~~retardation~~ intellectual disability, and developmental
23 disabilities service expenditures for a fiscal year are limited
24 to a fixed budget amount. The fixed budget amount shall be
25 the amount identified in the county's management plan and
26 budget for the fiscal year. The county shall be authorized an
27 allowed growth factor adjustment as established by statute for
28 services paid from the county's services fund under section
29 331.424A which is in accordance with the county's management
30 plan and budget, implemented pursuant to this section. The
31 statute establishing the allowed growth factor adjustment shall
32 establish the adjustment for the fiscal year which commences
33 two years from the beginning date of the fiscal year in
34 progress at the time the statute is enacted.
35 Sec. 121. Section 331.439, subsection 6, Code Supplement

S.F. _____ H.F. _____

1 2011, is amended to read as follows:
2 6. The director's approval of a county's mental health,
3 ~~mental retardation~~ intellectual disability, and developmental
4 disabilities services management plan shall not be construed to
5 constitute certification of the county's budget.
6 Sec. 122. Section 331.440, subsection 1, paragraphs a and b,
7 Code Supplement 2011, are amended to read as follows:
8 *a.* For the purposes of this section, unless the context
9 otherwise requires, *"central point of coordination process"*
10 means a central point of coordination process established
11 by a county or consortium of counties for the delivery of
12 mental health, ~~mental retardation~~ intellectual disability, and
13 developmental disabilities services which are paid for in whole
14 or in part by county funds. The central point of coordination
15 process may include but is not limited to reviewing a person's
16 eligibility for services, determining the appropriateness of
17 the type, level, and duration of services, and performing
18 periodic review of the person's continuing eligibility and
19 need for services. Any recommendations developed concerning
20 a person's plan of services shall be consistent with the
21 person's unique strengths, circumstances, priorities, concerns,
22 abilities, and capabilities. For those services funded
23 under the medical assistance program, the central point of
24 coordination process shall be used to assure that the person
25 is aware of the appropriate service options available to the
26 person.
27 *b.* The central point of coordination process may include
28 a clinical assessment process to identify a person's service
29 needs and to make recommendations regarding the person's plan
30 for services. The clinical assessment process shall utilize
31 qualified mental health professionals and qualified ~~mental~~
32 ~~retardation~~ intellectual disability professionals.
33 Sec. 123. Section 331.440, subsection 2, paragraph d, Code
34 Supplement 2011, is amended to read as follows:
35 *d.* *"State case services and other support"* means the mental

S.F. _____ H.F. _____

1 health, ~~mental retardation~~ intellectual disability, and
2 developmental disabilities services and other support paid for
3 under the rules and requirements in effect prior to October 1,
4 2006, from the annual appropriation made to the department of
5 human services for such services and other support provided
6 to persons who have no established county of legal settlement
7 or the legal settlement is unknown so that the person is
8 deemed to be a state case. Such services and other support do
9 not include medical assistance program services or services
10 provided in a state institution.
11 Sec. 124. Section 331.502, subsection 11, Code 2011, is
12 amended to read as follows:
13 11. Carry out duties relating to the determination of legal
14 settlement, collection of funds due the county, and support of
15 persons with ~~mental retardation~~ an intellectual disability as
16 provided in sections 222.13, 222.50, 222.61 to 222.66, 222.69,
17 and 222.74.
18 Sec. 125. Section 331.756, subsections 42 and 43, Code
19 Supplement 2011, are amended to read as follows:
20 42. Carry out duties relating to the commitment of a person
21 with ~~mental retardation~~ an intellectual disability as provided
22 in section 222.18.
23 43. Proceed to collect, as requested by the county,
24 the reasonable costs for the care, treatment, training,
25 instruction, and support of a person with ~~mental retardation~~
26 an intellectual disability from parents or other persons who
27 are legally liable for the support of the person with ~~mental~~
28 ~~retardation~~ an intellectual disability as provided in section
29 222.82.
30 Sec. 126. Section 335.25, subsection 2, paragraph b,
31 subparagraphs (1) and (2), Code 2011, are amended to read as
32 follows:
33 (1) Attributable to ~~mental retardation~~ an intellectual
34 disability, cerebral palsy, epilepsy, or autism.
35 (2) Attributable to any other condition found to be closely

S.F. _____ H.F. _____

1 related to ~~mental retardation~~ an intellectual disability
2 because the condition results in impairment of general
3 intellectual functioning or adaptive behavior similar to that
4 of persons with ~~mental retardation~~ an intellectual disability
5 or requires treatment and services similar to those required
6 for the persons.
7 Sec. 127. Section 347.9A, subsection 3, Code 2011, is
8 amended to read as follows:
9 3. This section does not prohibit a licensed health
10 care practitioner from serving as a hospital trustee if the
11 practitioner's sole use of the county hospital is to provide
12 health care service to an individual with ~~mental retardation~~ an
13 intellectual disability as defined in section ~~222.2~~ 4.1.
14 Sec. 128. Section 414.22, subsection 2, paragraph b,
15 subparagraphs (1) and (2), Code 2011, are amended to read as
16 follows:
17 (1) Attributable to ~~mental retardation~~ an intellectual
18 disability, cerebral palsy, epilepsy, or autism.
19 (2) Attributable to any other condition found to be closely
20 related to ~~mental retardation~~ an intellectual disability
21 because the condition results in impairment of general
22 intellectual functioning or adaptive behavior similar to that
23 of persons with ~~mental retardation~~ an intellectual disability
24 or requires treatment and services similar to those required
25 for the persons.
26 Sec. 129. Section 422.7, subsection 12, paragraph c,
27 subparagraph (1), Code Supplement 2011, is amended to read as
28 follows:
29 (1) *"Physical or mental impairment"* means any physiological
30 disorder or condition, cosmetic disfigurement, or anatomical
31 loss affecting one or more of the body systems or any mental
32 or psychological disorder, including ~~mental retardation~~
33 intellectual disability, organic brain syndrome, emotional or
34 mental illness and specific learning disabilities.
35 Sec. 130. Section 422.35, subsection 6, paragraph c,

S.F. _____ H.F. _____

1 subparagraph (1), Code Supplement 2011, is amended to read as
2 follows:
3 (1) *"Physical or mental impairment"* means any physiological
4 disorder or condition, cosmetic disfigurement, or anatomical
5 loss affecting one or more of the body systems or any mental
6 or psychological disorder, including ~~mental retardation~~
7 intellectual disability, organic brain syndrome, emotional or
8 mental illness, and specific learning disabilities.
9 Sec. 131. Section 423.3, subsection 18, paragraphs a and c,
10 Code Supplement 2011, are amended to read as follows:
11 *a.* Residential care facilities and intermediate care
12 facilities for persons with ~~mental retardation~~ an intellectual
13 disability and residential care facilities for persons with
14 mental illness licensed by the department of inspections and
15 appeals under chapter 135C.
16 *c.* Rehabilitation facilities that provide accredited
17 rehabilitation services to persons with disabilities which are
18 accredited by the commission on accreditation of rehabilitation
19 facilities or the accreditation council for services for
20 persons with ~~mental retardation~~ an intellectual disability
21 and other persons with developmental disabilities and adult
22 day care services approved for reimbursement by the state
23 department of human services.
24 Sec. 132. Section 426B.2, subsection 3, paragraph b, Code
25 2011, is amended to read as follows:
26 *b.* Any replacement generation tax in the property tax relief
27 fund as of May 1 shall be paid to the county treasurers in July
28 and January of the fiscal year beginning the following July 1.
29 The department of management shall determine the amount each
30 county will be paid pursuant to this lettered paragraph for
31 the following fiscal year. The department shall reduce by the
32 determined amount the amount of each county's certified budget
33 to be raised by property tax for that fiscal year which is to
34 be expended for mental health, ~~mental retardation~~ intellectual
35 disability, and developmental disabilities services and

S.F. _____ H.F. _____

1 shall revise the rate of taxation as necessary to raise the
2 reduced amount. The department of management shall report
3 the reduction in the certified budget and the revised rate of
4 taxation to the county auditors by June 15.
5 Sec. 133. Section 426B.3, subsection 1, Code 2011, is
6 amended to read as follows:
7 1. The county auditor shall reduce the certified budget
8 amount received from the board of supervisors for the
9 succeeding fiscal year for the county mental health, ~~mental~~
10 ~~retardation~~ intellectual disability, and developmental
11 disabilities services fund created in section 331.424A by an
12 amount equal to the amount the county will receive from the
13 property tax relief fund pursuant to section 426B.2, for the
14 succeeding fiscal year and the auditor shall determine the rate
15 of taxation necessary to raise the reduced amount. On the tax
16 list, the county auditor shall compute the amount of taxes due
17 and payable on each parcel before and after the amount received
18 from the property tax relief fund is used to reduce the county
19 budget. The director of human services shall notify the county
20 auditor of each county of the amount of moneys the county will
21 receive from the property tax relief fund pursuant to section
22 426B.2, for the succeeding fiscal year.
23 Sec. 134. Section 426B.5, subsection 1, paragraph d,
24 subparagraph (1), subparagraph divisions (a) and (b), Code
25 Supplement 2011, are amended to read as follows:
26 (a) The county is levying the maximum amount allowed for
27 the county's mental health, ~~mental retardation~~ intellectual
28 disability, and developmental disabilities services fund under
29 section 331.424A for the fiscal year in which the funding is
30 distributed.
31 (b) In the latest fiscal year reported in accordance with
32 section 331.403, the county's mental health, ~~mental retardation~~
33 intellectual disability, and developmental disabilities
34 services fund ending balance under generally accepted
35 accounting principles was equal to or less than twenty-five

S.F. _____ H.F. _____

1 percent of the county's actual gross expenditures for that
2 fiscal year.
3 Sec. 135. Section 426B.5, subsection 2, paragraph a, Code
4 Supplement 2011, is amended to read as follows:
5 *a.* For the purposes of this subsection, unless the context
6 otherwise requires, *"services fund"* means a county's mental
7 health, ~~mental retardation~~ intellectual disability, and
8 developmental disabilities services fund created in section
9 331.424A.
10 Sec. 136. Section 514E.7, subsection 2, paragraph a,
11 subparagraph (1), Code 2011, is amended to read as follows:
12 (1) Incapable of self-sustaining employment by reason
13 of ~~mental retardation~~ an intellectual disability or physical
14 disability.
15 Sec. 137. Section 602.8102, subsections 36 and 37, Code
16 2011, are amended to read as follows:
17 36. Carry out duties relating to the commitment of a person
18 with ~~mental retardation~~ an intellectual disability as provided
19 in sections 222.37 through 222.40.
20 37. Keep a separate docket of proceedings of cases relating
21 to persons with ~~mental retardation~~ an intellectual disability
22 as provided in section 222.57.
23 Sec. 138. Section 633.556, subsection 1, Code 2011, is
24 amended to read as follows:
25 1. If the allegations of the petition as to the status of
26 the proposed ward and the necessity for the appointment of
27 a guardian are proved by clear and convincing evidence, the
28 court may appoint a guardian. If the court appoints a guardian
29 based upon mental incapacity of the proposed ward because
30 the proposed ward is a person ~~described in section 222.2,~~
31 ~~subsection 5~~ with an intellectual disability, as defined in
32 section 4.1, the court shall make a separate determination as
33 to the ward's competency to vote. The court shall find a ward
34 incompetent to vote only upon determining that the person lacks
35 sufficient mental capacity to comprehend and exercise the right

S.F. _____ H.F. _____

to vote.

Sec. 139. Section 633C.1, subsection 4, Code 2011, is amended to read as follows:

4. *"Maximum monthly medical assistance payment rate for services in an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability"* means the allowable rate established by the department of human services and as published in the Iowa administrative bulletin.

Sec. 140. Section 633C.3, subsection 3, paragraph a, Code 2011, is amended to read as follows:

a. For a beneficiary who meets the medical assistance level of care requirements for services in an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability and who either resides in an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability or is eligible for services under the medical assistance home and community-based services waiver except that the beneficiary's income exceeds the allowable maximum, the applicable rate is the maximum monthly medical assistance payment rate for services in an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability.

Sec. 141. Section 904.108, subsection 1, paragraph d, Code 2011, is amended to read as follows:

d. Establish and maintain acceptable standards of treatment, training, education, and rehabilitation in the various state penal and corrective institutions which shall include habilitative services and treatment for offenders with ~~mental retardation~~ an intellectual disability. For the purposes of this paragraph, *"habilitative services and treatment"* means medical, mental health, social, educational, counseling, and other services which will assist a person with ~~mental retardation~~ an intellectual disability to become self-reliant. However, the director may also provide rehabilitative treatment and services to other persons who require the services. The director shall identify all individuals entering the

S.F. _____ H.F. _____

1 correctional system who are persons with ~~mental retardation~~
2 an intellectual disability, as defined in section ~~222.2,~~
3 ~~subsection 5~~ 4.1. Identification shall be made by a qualified
4 professional in the area of ~~mental retardation~~ intellectual
5 disability. In assigning an offender with ~~mental retardation~~
6 an intellectual disability, or an offender with an inadequately
7 developed intelligence or with impaired mental abilities, to
8 a correctional facility, the director shall consider both the
9 program needs and the security needs of the offender. The
10 director shall consult with the department of human services
11 in providing habilitative services and treatment to offenders
12 with mental illness or ~~mental retardation~~ an intellectual
13 disability. The director may enter into agreements with
14 the department of human services to utilize mental health
15 institutions and share staff and resources for purposes of
16 providing habilitative services and treatment, as well as
17 providing other special needs programming. Any agreement to
18 utilize mental health institutions and to share staff and
19 resources shall provide that the costs of the habilitative
20 services and treatment shall be paid from state funds. Not
21 later than twenty days prior to entering into any agreement
22 to utilize mental health institution staff and resources,
23 other than the use of a building or facility, for purposes of
24 providing habilitative services and treatment, as well as other
25 special needs programming, the directors of the departments
26 of corrections and human services shall each notify the
27 chairpersons and ranking members of the joint appropriations
28 subcommittees that last handled the appropriation for their
29 respective departments of the pending agreement. Use of a
30 building or facility shall require approval of the general
31 assembly if the general assembly is in session or, if the
32 general assembly is not in session, the legislative council
33 may grant temporary authority, which shall be subject to final
34 approval of the general assembly during the next succeeding
35 legislative session.

S.F. _____ H.F. _____

1 Sec. 142. Section 904.205, Code 2011, is amended to read as
2 follows:
3 **904.205 Clarinda correctional facility.**
4 The state correctional facility at Clarinda shall be
5 utilized as a secure men's correctional facility primarily
6 for offenders with chemical dependence, ~~mental retardation~~ an
7 intellectual disability, or mental illness.
8 Sec. 143. Section 915.38, subsections 1 and 2, Code 2011,
9 are amended to read as follows:
10 1. Upon its own motion or upon motion of any party, a court
11 may protect a minor, as defined in section 599.1, from trauma
12 caused by testifying in the physical presence of the defendant
13 where it would impair the minor's ability to communicate, by
14 ordering that the testimony of the minor be taken in a room
15 other than the courtroom and be televised by closed-circuit
16 equipment for viewing in the courtroom. However, such an order
17 shall be entered only upon a specific finding by the court that
18 such measures are necessary to protect the minor from trauma.
19 Only the judge, prosecuting attorney, defendant's attorney,
20 persons necessary to operate the equipment, and any person
21 whose presence, in the opinion of the court, would contribute
22 to the welfare and well-being of the minor may be present in
23 the room with the minor during the minor's testimony. The
24 judge shall inform the minor that the defendant will not be
25 present in the room in which the minor will be testifying
26 but that the defendant will be viewing the minor's testimony
27 through closed-circuit television.
28 During the minor's testimony the defendant shall remain in
29 the courtroom and shall be allowed to communicate with the
30 defendant's counsel in the room where the minor is testifying
31 by an appropriate electronic method.
32 In addition, upon a finding of necessity, the court may
33 allow the testimony of a victim or witness with a mental
34 illness, ~~mental retardation~~ an intellectual disability, or
35 other developmental disability to be taken as provided in this

S.F. _____ H.F. _____

1 subsection, regardless of the age of the victim or witness.
2 2. The court may, upon its own motion or upon motion of
3 a party, order that the testimony of a minor, as defined in
4 section 599.1, be taken by recorded deposition for use at
5 trial, pursuant to rule of criminal procedure 2.13(2)(b).
6 In addition to requiring that such testimony be recorded by
7 stenographic means, the court may on motion and hearing, and
8 upon a finding that the minor is unavailable as provided
9 in rule of evidence 5.804(a), order the videotaping of the
10 minor's testimony for viewing in the courtroom by the court.
11 The videotaping shall comply with the provisions of rule
12 of criminal procedure 2.13(2)(b), and shall be admissible
13 as evidence in the trial. In addition, upon a finding of
14 necessity, the court may allow the testimony of a victim
15 or witness with a mental illness, ~~mental retardation~~ an
16 intellectual disability, or other developmental disability to
17 be taken as provided in this subsection, regardless of the age
18 of the victim or witness.
19 EXPLANATION
20 This bill replaces the terms "mental retardation" and
21 "mentally retarded" with the term "intellectual disability"
22 throughout the Iowa Code.
23 The bill defines "intellectual disability" for the entire
24 Iowa Code as a disability of children and adults who as
25 a result of inadequately developed intelligence have a
26 significant impairment in ability to learn or to adapt to
27 the demands of society. This is the current definition of
28 "mental retardation" in Code chapter 222. The bill also
29 provides for the entire Iowa Code that if a diagnosis is
30 required, "intellectual disability" means a diagnosis of mental
31 retardation as defined in the diagnostic and statistical manual
32 of mental disorders, fourth edition, text revised, published by
33 the American psychiatric association. This language currently
34 exists in Code section 222.60.

Senate Study Bill 3137 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED MENTAL HEALTH AND DISABILITY SERVICES STUDY COMMITTEE BILL)

A BILL FOR

1 An Act relating to persons with mental health illnesses and
2 substance-related disorders.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5422XI (11) 84
rh/rj

S.F. _____ H.F. _____

1 Section 1. Section 80B.11, subsection 1, paragraph c, Code
2 2011, is amended by adding the following new subparagraph:
3 NEW SUBPARAGRAPH. (3) In-service training under this
4 paragraph "c" shall include the requirement that all law
5 enforcement officers complete a twelve-hour course on
6 mental health first aid at least once every three years. In
7 developing the requirements for this training, the director
8 shall seek input from mental health care consumers.
9 Sec. 2. Section 125.91, subsection 1, Code Supplement 2011,
10 is amended to read as follows:
11 1. The procedure prescribed by this section shall only be
12 used for an intoxicated person who has threatened, attempted,
13 or inflicted physical self-harm or harm on another, and is
14 likely to inflict physical self-harm or harm on another unless
15 immediately detained, or who is incapacitated by a chemical
16 substance, if ~~that person cannot be taken into immediate~~
17 ~~custody under sections 125.75 and 125.81 because immediate~~
18 ~~access to the court is not possible~~ an application has not been
19 filed naming the person as the respondent pursuant to section
20 125.75 and the person cannot be ordered into immediate custody
21 and detained pursuant to section 125.81.
22 Sec. 3. Section 135C.4, Code 2011, is amended to read as
23 follows:
24 **135C.4 Residential care facilities.**
25 1. Each facility licensed as a residential care facility
26 shall provide an organized continuous twenty-four-hour program
27 of care commensurate with the needs of the residents of the
28 home and under the immediate direction of a person approved
29 and certified by the department whose combined training
30 and supervised experience is such as to ensure adequate and
31 competent care.
32 2. All admissions to residential care facilities shall be
33 based on an order written by a physician certifying that the
34 individual being admitted does not require nursing services or
35 that the individual's need for nursing services can be avoided

S.F. _____ H.F. _____

1 if home and community-based services, other than nursing care,
2 as defined by this chapter and departmental rule, are provided.
3 3. For the purposes of this section, the home and
4 community-based services to be provided shall be limited to the
5 type included under the medical assistance program provided
6 pursuant to chapter 249A, shall be subject to cost limitations
7 established by the department of human services under the
8 medical assistance program, and except as otherwise provided by
9 the department of inspections and appeals with the concurrence
10 of the department of human services, shall be limited in
11 capacity to the number of licensed residential care facilities
12 and the number of licensed residential care facility beds in
13 the state as of December 1, 2003.
14 4. A residential care facility is not required to admit
15 an individual through court order, referral, or other means
16 without the express prior approval of the executive director of
17 the residential care facility.
18 Sec. 4. Section 228.1, subsection 6, Code 2011, is amended
19 by striking the subsection and inserting in lieu thereof the
20 following:
21 6. *"Mental health professional"* means an individual who has
22 either of the following qualifications:
23 *a.* The individual meets all of the following requirements:
24 (1) The individual holds at least a master's degree in a
25 mental health field, including but not limited to psychology,
26 counseling and guidance, nursing, and social work, or is an
27 advanced registered nurse practitioner or a physician and
28 surgeon or an osteopathic physician and surgeon.
29 (2) The individual holds a current Iowa license if
30 practicing in a field covered by an Iowa licensure law.
31 (3) The individual has at least two years of post-degree
32 clinical experience, supervised by another mental health
33 professional, in assessing mental health needs and problems and
34 in providing appropriate mental health services.
35 *b.* The individual holds a current Iowa license if

S.F. _____ H.F. _____

1 practicing in a field covered by an Iowa licensure law and is
2 a psychiatrist, an advanced registered nurse practitioner who
3 holds a national certification in psychiatric mental health
4 care registered by the board of nursing, or an individual who
5 holds a doctorate degree in psychology and is licensed by the
6 board of psychology.
7 Sec. 5. Section 229.1, subsection 14, Code Supplement 2011,
8 is amended by striking the subsection.
9 Sec. 6. Section 229.1, subsection 16, Code Supplement 2011,
10 is amended to read as follows:
11 16. *"Serious emotional injury"* is an injury which does not
12 necessarily exhibit any physical characteristics, but which can
13 be recognized and diagnosed by a licensed physician ~~or other~~
14 ~~qualified mental health professional~~ and which can be causally
15 connected with the act or omission of a person who is, or is
16 alleged to be, mentally ill.
17 Sec. 7. NEW SECTION. **229.5A Preapplication screening**
18 **assessment — program.**
19 Prior to filing an application for involuntary
20 hospitalization pursuant to section 229.6, the clerk of
21 the district court or the clerk's designee shall inform
22 the interested person referred to in section 229.6,
23 subsection 1, about the option of requesting a preapplication
24 screening assessment through a preapplication screening
25 assessment program. The state court administrator shall
26 prescribe practices and procedures for implementation of the
27 preapplication screening assessment program.
28 Sec. 8. Section 229.6, Code 2011, is amended to read as
29 follows:
30 **229.6 Application for order of involuntary hospitalization.**
31 1. Proceedings for the involuntary hospitalization of an
32 individual may be commenced by any interested person by filing
33 a verified application with the clerk of the district court of
34 the county where the respondent is presently located, or which
35 is the respondent's place of residence. The clerk, or the

S.F. _____ H.F. _____

clerk's designee, shall assist the applicant in completing the application. The application shall:

~~1.~~ *a.* State the applicant's belief that the respondent is seriously mentally impaired.

~~2.~~ *b.* State any other pertinent facts.

~~3.~~ *c.* Be accompanied by any of the following:

~~*a.*~~ (1) A written statement of a licensed physician in support of the application~~; or~~.

~~*b.*~~ (2) One or more supporting affidavits otherwise corroborating the application~~; or~~.

~~*c.*~~ (3) Corroborative information obtained and reduced to writing by the clerk or the clerk's designee, but only when circumstances make it infeasible to comply with, or when the clerk considers it appropriate to supplement the information supplied pursuant to, either ~~paragraph "*a*" or paragraph "*b*" of this subsection~~ subparagraph (1) or (2).

2. Prior to the filing of an application pursuant to this section, the clerk or the clerk's designee shall inform the interested person referred to in subsection 1 about the option of requesting a preapplication screening assessment pursuant to section 229.5A.

Sec. 9. Section 229.10, subsection 1, paragraph b, Code 2011, is amended by striking the paragraph.

Sec. 10. Section 229.12, subsection 3, paragraph b, Code 2011, is amended to read as follows:

b. The licensed physician ~~or qualified mental health professional~~ who examined the respondent shall be present at the hearing unless the court for good cause finds that the licensed physician's ~~or qualified mental health professional's~~ presence or testimony is not necessary. The applicant, respondent, and the respondent's attorney may waive the presence or the telephonic appearance of the licensed physician ~~or qualified mental health professional~~ who examined the respondent and agree to submit as evidence the written report of the licensed physician ~~or qualified mental health~~

S.F. _____ H.F. _____

1 ~~professional~~. The respondent's attorney shall inform the
2 court if the respondent's attorney reasonably believes that
3 the respondent, due to diminished capacity, cannot make an
4 adequately considered waiver decision. *"Good cause"* for finding
5 that the testimony of the licensed physician ~~or qualified~~
6 ~~mental health professional~~ who examined the respondent is not
7 necessary may include but is not limited to such a waiver.
8 If the court determines that the testimony of the licensed
9 physician ~~or qualified mental health professional~~ is necessary,
10 the court may allow the licensed physician ~~or the qualified~~
11 ~~mental health professional~~ to testify by telephone.
12 Sec. 11. Section 229.19, subsection 1, paragraph d, Code
13 2011, is amended by adding the following new subparagraph:
14 NEW SUBPARAGRAPH. (7) To utilize the related best practices
15 for the duties identified in this paragraph *"d"* developed and
16 promulgated by the judicial council.
17 Sec. 12. Section 229.19, subsection 1, Code 2011, is amended
18 by adding the following new paragraph:
19 NEW PARAGRAPH. *e.* An advocate may also be appointed
20 pursuant to this section for an individual who has
21 been diagnosed with a co-occurring mental illness and
22 substance-related disorder.
23 Sec. 13. Section 229.22, subsection 1, Code Supplement
24 2011, is amended to read as follows:
25 1. The procedure prescribed by this section shall ~~not~~ be
26 used ~~unless~~ when it appears that a person should be immediately
27 detained due to serious mental impairment, but ~~that person~~
28 ~~cannot be immediately detained by the procedure prescribed~~
29 ~~in sections 229.6 and 229.11 because there is no means of~~
30 ~~immediate access to the district court~~ an application has not
31 been filed naming the person as the respondent pursuant to
32 section 229.6, and the person cannot be ordered into immediate
33 custody and detained pursuant to section 229.11.
34 Sec. 14. Section 602.1209, Code 2011, is amended by adding
35 the following new subsection:

S.F. _____ H.F. _____

1 NEW SUBSECTION. 15A. Prescribe practices and procedures
2 for the implementation of the preapplication screening
3 assessment program referred to in section 229.5A.
4 Sec. 15. CONTINUATION OF WORKGROUP BY JUDICIAL BRANCH AND
5 DEPARTMENT OF HUMAN SERVICES — CONSOLIDATION OF SERVICES —
6 PATIENT ADVOCATE. The judicial branch and department of human
7 services shall continue the workgroup implemented pursuant to
8 2010 Iowa Acts, chapter 1192, section 24, subsection 2, and
9 extended pursuant to 2011 Iowa Acts, chapter 121, section 2, to
10 study and make recommendations relating to the consolidation
11 of the processes for involuntary commitment for persons with
12 substance-related disorders under chapter 125, for intellectual
13 disability under chapter 222, and for serious mental illness
14 under chapter 229. The workgroup shall also study and make
15 recommendations concerning the feasibility of establishing an
16 independent statewide patient advocate program for qualified
17 persons representing the interests of patients suffering from
18 mental illness, intellectual disability, or a substance-related
19 disorder and involuntarily committed by the court, in any
20 matter relating to the patients' hospitalization or treatment
21 under chapters 125, 222, and 229. The workgroup shall also
22 consider the implementation of consistent reimbursement
23 standards for patient advocates supported by a state-funded
24 system and shall also consider the role of the advocate for
25 a person who has been diagnosed with a co-occurring mental
26 illness and substance-related disorder. The workgroup
27 shall solicit input from current mental health advocates and
28 mental health and substance-related disorder care providers
29 and individuals receiving services whose interests would be
30 represented by an independent statewide advocate program and
31 shall submit a report on the study and make recommendations to
32 the governor and the general assembly by December 1, 2012.
33 Sec. 16. COMPREHENSIVE JAIL DIVERSION PROGRAM — MENTAL
34 HEALTH COURTS — STUDY. The division of criminal and juvenile
35 justice planning of the department of human rights shall

S.F. _____ H.F. _____

1 conduct a study regarding the possible establishment of a
2 comprehensive statewide jail diversion program, including the
3 establishment of mental health courts, for nonviolent criminal
4 offenders who suffer from mental illness. The division
5 shall solicit input from the department of human services,
6 the department of corrections, and other members of the
7 criminal justice system including but not limited to judges,
8 prosecutors, and defense counsel, and mental health treatment
9 providers and consumers. The division shall establish the
10 duties, scope, and membership of the study commission and shall
11 also consider the feasibility of establishing a demonstration
12 mental health court. The division shall submit a report on the
13 study and make recommendations to the governor and the general
14 assembly by December 1, 2012.
15 EXPLANATION
16 This bill relates to persons with mental health illnesses
17 and substance-related disorders.
18 MENTAL HEALTH TRAINING —— LAW ENFORCEMENT. The bill
19 requires the director of the law enforcement academy, subject
20 to the approval of the Iowa law enforcement council, to adopt
21 rules relating to in-service mental health first-aid training
22 for law enforcement officers, with input from mental health
23 care consumers.
24 RESIDENTIAL CARE FACILITIES —— ADMITTANCE. The bill
25 provides that a residential care facility is not required to
26 admit an individual through court order, referral, or other
27 means without the express prior approval of the executive
28 director of the residential care facility.
29 EMERGENCY DETENTION AND HOSPITALIZATION —— PERSONS WITH
30 SUBSTANCE-RELATED DISORDERS AND MENTAL HEALTH ILLNESSES.
31 The bill amends Code sections 125.91 and 229.22 relating to
32 after-hours access to emergency detention and hospitalization
33 procedures for an intoxicated person who has threatened,
34 attempted, or inflicted physical self-harm or harm on another,
35 and is likely to inflict physical self-harm or harm on another

S.F. _____ H.F. _____

1 unless immediately detained, or who is incapacitated by a
2 chemical substance, or for a seriously mentally impaired
3 person. Current law provides for the immediate custody of such
4 persons in an emergency situation only after an application
5 for involuntary commitment or hospitalization has been filed,
6 which is an option only during regular court hours. The bill
7 amends the current emergency detention and hospitalization
8 procedures available for such persons to apply only when there
9 is no immediate access to the district court to allow access to
10 emergency detention and treatment services, at all times, even
11 if an application for involuntary commitment or hospitalization
12 has not been filed.
13 QUALIFIED MENTAL HEALTH PROFESSIONAL. The bill eliminates
14 the definition of "qualified mental health professional" in
15 Code chapter 229 (hospitalization of persons with mental
16 illness) and all references to this definition (talk about
17 where this are eliminated). The bill amends the definition of
18 "mental health professional" in Code chapter 228 (relating to
19 the disclosure of mental health and psychological information).
20 PREAPPLICATION SCREENING ASSESSMENT. The bill provides that
21 prior to filing an application for involuntary hospitalization
22 pursuant to Code section 229.6, the clerk of the district court
23 or the clerk's designee is required to inform the interested
24 person referred to in Code section 229.6, subsection 1,
25 about the option of requesting a preapplication screening
26 assessment through a preapplication screening assessment
27 program. The bill requires the state court administrator to
28 prescribe practices and procedures for implementation of the
29 preapplication screening assessment program.
30 A conforming change is made to Code section 229.6 requiring
31 the district court clerk or the clerk's designee to inform
32 the interested person about the option of requesting a
33 preapplication screening assessment of the proposed respondent
34 prior to the filing of an application for involuntary
35 commitment. A conforming change is also made to Code

S.F. _____ H.F. _____

1 section 602.1209 relating to the duties of the state court
2 administrator.
3 MENTAL HEALTH ADVOCATE. The bill provides that a mental
4 health advocate shall utilize the related best practices for
5 the mental health advocate's duties identified in Code section
6 229.19 developed and promulgated by the judicial council.
7 The bill allows a mental health advocate to be appointed by
8 the appropriate appointing authority for an individual who
9 has been diagnosed with a co-occurring mental illness and
10 substance-related disorder.
11 CONTINUATION OF WORKGROUP BY JUDICIAL BRANCH AND DEPARTMENT
12 OF HUMAN SERVICES — CONSOLIDATION OF SERVICES — PATIENT
13 ADVOCATE. The bill requires the judicial branch and department
14 of human services to continue the workgroup implemented
15 pursuant to 2010 Iowa Acts, chapter 1192, section 24,
16 subsection 2, and extended pursuant to 2011 Iowa Acts, chapter
17 121, section 2, to study and make recommendations relating to
18 the consolidation of the processes for involuntary commitment
19 for persons with substance-related disorders under Code chapter
20 125, for intellectual disability under Code chapter 222,
21 and for serious mental illness under Code chapter 229. The
22 workgroup shall also study and make recommendations concerning
23 the feasibility of establishing an independent statewide
24 patient advocate program for qualified persons representing
25 the interests of patients suffering from mental illness,
26 intellectual disability, or a substance-related disorder and
27 involuntarily committed by the court. The workgroup shall
28 also consider the implementation of consistent reimbursement
29 standards for patient advocates and the role of the advocate
30 for a person who has been diagnosed with a co-occurring mental
31 illness and substance-related disorder. The workgroup shall
32 submit a report on the study and make recommendations to the
33 governor and the general assembly by December 1, 2012.
34 COMPREHENSIVE JAIL DIVERSION PROGRAM — MENTAL HEALTH
35 COURTS — STUDY. The bill directs the division of criminal and

S.F. _____ H.F. _____

1 juvenile justice planning of the department of human rights
2 to conduct a study regarding the possible establishment of a
3 comprehensive statewide jail diversion program, including the
4 establishment of mental health courts, for nonviolent criminal
5 offenders who suffer from mental illness. The division
6 shall solicit input from the department of human services,
7 the department of corrections, and other members of the
8 criminal justice system including but not limited to judges,
9 prosecutors, and defense counsel, and mental health treatment
10 providers and consumers. The division shall establish the
11 duties, scope, and membership of the study commission and shall
12 also consider the feasibility of establishing a demonstration
13 mental health court. The division shall submit a report on the
14 study and make recommendations to the governor and the general
15 assembly by December 1, 2012.

Senate Study Bill 3138 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
LOCAL GOVERNMENT BILL BY
CHAIRPERSON WILHELM)

A BILL FOR

1 An Act relating to the powers and duties of county treasurers
2 related to real property by modifying provisions for the
3 payment of taxes and assessments in installments, modifying
4 provisions providing for the apportionment of installment
5 payments on delinquent taxes, modifying certain tax payment
6 provisions following a tax sale, and specifying procedures
7 for the payment of certain prorated taxes and assessments
8 following a real estate transaction.
9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5734SC (3) 84
md/sc

S.F. _____

1 Section 1. Section 161A.35, unnumbered paragraph 1, Code
2 2011, is amended to read as follows:
3 If the owner of any premises against which a levy exceeding
4 ~~one~~ five hundred dollars has been made and certified shall,
5 within thirty days from the date of such levy, agree in writing
6 in a separate agreement, that in consideration of having a
7 right to pay the owner´s assessment in installments, the
8 owner will not make any objection as to the legality of the
9 assessment for benefit, or the levy of the taxes against the
10 owner´s property, then such owner shall have the following
11 options:
12 Sec. 2. Section 311.17, subsection 1, Code 2011, is amended
13 to read as follows:
14 1. If an owner other than the state or a county or city,
15 of any tracts of land on which the assessment is more than
16 ~~one~~ five hundred dollars, shall, within twenty days from the
17 date of the assessment, agree in writing filed in the office
18 of the county auditor, that in consideration of the owner
19 having the right to pay the assessment in installments, the
20 owner will not make any objection of illegality or irregularity
21 as to the assessment upon the real estate, and will pay the
22 assessment plus interest, the assessment shall be payable in
23 ten equal installments. The first installment shall be payable
24 on the date of the agreement. The other installments shall be
25 paid annually at the same time and in the same manner as the
26 September semiannual payment of ordinary taxes with interest
27 accruing as provided in section 384.65, subsection 3. The
28 rate of interest shall be as established by the board, but not
29 exceeding that permitted by chapter 74A.
30 Sec. 3. Section 311.19, unnumbered paragraph 1, Code 2011,
31 is amended to read as follows:
32 Assessments of ~~one~~ five hundred dollars or less against
33 any tract of land, and assessments against lands owned by the
34 state, county, or city, shall be due and payable from the date
35 of levy by the board of supervisors, or in the case of any

S.F. _____

appeal, from the date of final confirmation of the levy by the court.

Sec. 4. Section 331.384, subsection 3, Code 2011, is amended to read as follows:

3. If any amount assessed against property under this section exceeds ~~one~~ five hundred dollars, a county may permit the assessment to be paid in up to ten annual installments in the same manner and with the same interest rates provided for assessments against benefited property under chapter 384, division IV.

Sec. 5. Section 357.20, Code 2011, is amended to read as follows:

357.20 Due date — bonds.

Assessments of ~~less than one~~ five hundred dollars or less will come due at the first taxpaying date after the approval of the final assessment, and assessments of ~~one hundred dollars or~~ more than five hundred dollars may be paid in ten annual installments with interest on the unpaid balance at a rate not exceeding that permitted by chapter 74A. The board of supervisors shall issue bonds against the completed assessment in an amount equal to the total cost of the project, so that the amount of the assessment will be approximately ten percent greater than the amount of the bonds.

Sec. 6. Section 358.16, subsection 3, Code 2011, is amended to read as follows:

3. If any amount assessed against property pursuant to this section will exceed ~~one~~ five hundred dollars, the board of trustees may permit the assessment to be paid in up to ten annual installments, in the manner and with the same interest rates as provided for assessments against benefited property under chapter 384, division IV.

Sec. 7. Section 364.13, Code 2011, is amended to read as follows:

364.13 Installments.

If any amount assessed against property under section 364.12

S.F. _____

1 will exceed ~~one~~ five hundred dollars, a city may permit the
2 assessment to be paid in up to ten annual installments, in
3 the same manner and with the same interest rates provided for
4 assessments against benefited property under chapter 384,
5 division IV.
6 Sec. 8. Section 384.60, subsection 1, paragraph b, Code
7 2011, is amended to read as follows:
8 *b.* State the number of annual installments, not exceeding
9 fifteen, into which assessments of ~~one~~ more than five hundred
10 dollars ~~or more~~ are divided.
11 Sec. 9. Section 384.65, subsection 1, Code 2011, is amended
12 to read as follows:
13 1. The first installment of each assessment, or the total
14 amount if ~~less than one~~ five hundred dollars or less, is due
15 and payable on July 1 next succeeding the date of the levy,
16 unless the assessment is filed with the county treasurer after
17 May 31 in any year. The first installment shall bear interest
18 on the whole unpaid assessment from the date of acceptance of
19 the work by the council to the first day of December following
20 the due date.
21 Sec. 10. Section 435.24, subsection 6, paragraph b, Code
22 2011, is amended to read as follows:
23 *b.* Partial payment of taxes which are delinquent may be
24 made to the county treasurer. For the installment being paid,
25 payment shall first be applied toward any interest, fees, and
26 costs accrued and the remainder applied to the tax due. A
27 partial payment must equal or exceed the interest, fees, and
28 costs of the installment being paid. A partial payment made
29 under this paragraph shall be apportioned in accordance with
30 section 445.57, however, such partial payment may, at the
31 discretion of the county treasurer, be apportioned either on
32 or before the tenth day of the month following the receipt of
33 the partial payment or on or before the tenth day of the month
34 following the due date of the next semiannual tax installment.
35 If the payment does not include the whole of any installment

S.F. _____

of the delinquent tax, the unpaid tax shall continue to accrue interest pursuant to section 445.39. Partial payment shall not be permitted in lieu of redemption if the property has been sold for taxes under chapter 446 and under any circumstances shall not constitute an extension of the time period for a sale under chapter 446.

Sec. 11. Section 445.36A, subsection 2, Code 2011, is amended to read as follows:

2. Partial payment of taxes which are delinquent may be made to the county treasurer. For the installment being paid, payment shall first be applied to any interest, fees, and costs accrued and the remainder applied to the taxes due. A partial payment must equal or exceed the amount of interest, fees, and costs of the installment being paid. A partial payment made under this subsection shall be apportioned in accordance with section 445.57, however, such partial payment may, at the discretion of the county treasurer, be apportioned either on or before the tenth day of the month following the receipt of the partial payment or on or before the tenth day of the month following the due date of the next semiannual tax installment. If the payment does not include the whole of any installment of the delinquent tax, the unpaid tax shall continue to accrue interest pursuant to section 445.39. Partial payment shall not be permitted in lieu of redemption if the property has been sold for taxes under chapter 446 and under any circumstances shall not constitute an extension of the time period for a sale under chapter 446.

Sec. 12. Section 445.57, unnumbered paragraph 1, Code 2011, is amended to read as follows:

On or before the tenth day of each month, the county treasurer shall apportion all taxes collected during the preceding month, except partial payment amounts collected pursuant to section 445.36A, subsection 1 ~~and~~, partial payments collected and not yet designated by the county treasurer for apportionment pursuant to section 445.36A, subsection

S.F. _____

2, partial payments collected pursuant to section 435.24, subsection 6, paragraph *"a"*, and partial payments collected and not yet designated by the county treasurer for apportionment pursuant to section 435.24, subsection 6, paragraph *"b"*, among the several funds to which they belong according to the amount levied for each fund, and shall apportion the interest, fees, and costs on the taxes to the general fund, and shall enter those amounts upon the treasurer's cash account, and report the amounts to the county auditor.

Sec. 13. Section 446.32, Code 2011, is amended to read as follows:

446.32 Payment of subsequent taxes by purchaser.

The county treasurer shall provide to the purchaser of a parcel sold at tax sale a receipt for the total amount paid by the purchaser after the date of purchase for a subsequent year. Taxes for a subsequent year may be paid by the purchaser beginning one month and fourteen days following the date from which an installment becomes delinquent as provided in section 445.37. Notwithstanding any provision to the contrary, a subsequent payment must be received and recorded by the treasurer in the county system no later than ~~five~~ 5:00 p.m. on the last business day of the month for interest for that month to accrue and be added to the amount due under section 447.1. However, the treasurer may establish a deadline for receipt of subsequent payments that is other than ~~five~~ 5:00 p.m. on the last business day of the month to allow for timely processing of the subsequent payments. Late interest shall be calculated through the date that the subsequent payment is recorded by the treasurer in the county system. In no instance shall the date of postmark of a subsequent payment be used by a treasurer either to calculate interest or to determine whether interest shall accrue on the subsequent payment.

Sec. 14. Section 468.57, subsection 1, Code Supplement 2011, is amended to read as follows:

1. If the owner of any land against which a levy exceeding

S.F. _____

1 ~~one~~ five hundred dollars has been made and certified shall,
2 within thirty days from the date of such levy, agree in
3 writing endorsed upon any improvement certificate referred
4 to in section 468.70, or in a separate agreement, that in
5 consideration of having a right to pay the owner's assessment
6 in installments, the owner will not make any objection as to
7 the legality of the assessment for benefit, or the levy of the
8 taxes against the property, then such owner shall have the
9 following options:
10 *a.* To pay one-third of the amount of the assessment at the
11 time of filing the agreement; one-third within twenty days
12 after the engineer in charge certifies to the auditor that the
13 improvement is one-half completed; and the remaining one-third
14 within twenty days after the improvement has been completed
15 and accepted by the board. All installments shall be without
16 interest if paid at said times, otherwise the assessments shall
17 bear interest from the date of the levy at a rate determined by
18 the board notwithstanding chapter 74A, payable annually, and
19 be collected as other taxes on real estate, with like interest
20 for delinquency.
21 *b.* To pay the assessments in not less than ten nor more
22 than twenty equal installments, with the number of payments and
23 interest rate determined by the board, notwithstanding chapter
24 74A. The first installment of each assessment, or the total
25 amount if ~~less than one~~ five hundred dollars or less, is due
26 and payable on July 1 next succeeding the date of the levy,
27 unless the assessment is filed with the county treasurer after
28 May 31 in any year. The first installment shall bear interest
29 on the whole unpaid assessment from the date of the levy as set
30 by the board to the first day of December following the due
31 date. The succeeding annual installments, with interest on the
32 whole unpaid amount, to the first day of December following the
33 due date, are respectively due on July 1 annually, and must
34 be paid at the same time and in the same manner as the first
35 semiannual payment of ordinary taxes. All future installments

S.F. _____

1 of an assessment may be paid on any date by payment of the then
2 outstanding balance plus interest to the next December 1, or
3 additional annual installments may be paid after the current
4 installment has been paid before December 1 without interest.
5 A payment must be for the full amount of the next installment.
6 If installments remain to be paid, the next annual installment
7 with interest added to December 1 will be due. After December
8 1, if a drainage assessment is not delinquent, a property owner
9 may pay one-half or all of the next annual installment of
10 principal and interest of a drainage assessment prior to the
11 delinquency date of the installment. When the next installment
12 has been paid in full, successive principal installments may
13 be prepaid. The county treasurer shall accept the payments
14 of the drainage assessment, and shall credit the next annual
15 installment or future installments of the drainage assessment
16 to the extent of the payment or payments, and shall remit the
17 payments to the drainage fund. If a property owner elects
18 to pay one or more principal installments in advance, the
19 pay schedule shall be advanced by the number of principal
20 installments prepaid. Each installment of an assessment with
21 interest on the unpaid balance is delinquent from October 1
22 after its due date. However, when the last day of September
23 is a Saturday or Sunday, that amount shall be delinquent from
24 the second business day of October. Taxes assessed pursuant
25 to this chapter which become delinquent shall bear the same
26 delinquent interest as ordinary taxes. When collected, the
27 interest must be credited to the same drainage fund as the
28 drainage special assessment.
29 Sec. 15. NEW SECTION. **558.47 Prorated property taxes —**
30 **payment.**
31 When real property is transferred and prorated property
32 taxes or assessments on the property are calculated as part
33 of the transaction for payment by either the grantor or the
34 grantee, the closing agent, real estate agent, or attorney
35 shall, upon the receipt of any such payment for property taxes

S.F. _____

1 or assessments, pay the entire amount to the county treasurer
2 or, if provided for in the transaction, to the designated
3 escrow agent. If paid to the county treasurer, the county
4 treasurer shall apply the amount to the tax liability of the
5 property in the manner described in section 445.36A.
6 EXPLANATION
7 This bill makes several changes to the powers and duties of
8 county treasurers relating to real property.
9 The bill amends Code section 161A.35, relating to
10 installment payments on amounts levied against property for
11 watershed protection and flood prevention improvements, by
12 increasing from $100 to $500 the amount levied against a
13 property in order to allow installment payments.
14 The bill amends Code section 311.17, relating to secondary
15 road assessment payments, by increasing from more than $100
16 to more than $500 the amount owed by the taxpayer before the
17 amount may be paid in installments. The bill also specifies
18 that such assessments of $500 or less are due and payable from
19 the date of levy by the board of supervisors, or in the case of
20 any appeal, from the date of final confirmation of the levy by
21 the court.
22 The bill amends Code sections 331.384 and 364.13, relating
23 to special assessments on property for the abatement of
24 specified public health and safety hazards, by increasing
25 from more than $100 to more than $500 the amount owed by the
26 taxpayer before the amount may be paid in installments.
27 The bill amends Code section 357.20 to increase from $100 or
28 more to $500 or more the amount owed by a taxpayer in a water
29 district before the amount may be paid in installments.
30 The bill amends Code section 358.16 to increase from $100 or
31 more to $500 or more the amount owed by a taxpayer in a sanitary
32 district before the amount may be paid in installments.
33 The bill amends Code chapter 384, relating to city special
34 assessments, to increase from $100 or more to $500 or more the
35 amount owed by a taxpayer for a city special assessment before

S.F. _____

1 the amount may be paid in installments.
2 Current Code sections 435.24(6)(b) and 445.36A(2) allow
3 for the partial payment of taxes which are delinquent to the
4 county treasurer. Current Code section 445.57 provides that
5 such partial payments are to be apportioned monthly to the
6 various local taxing entities. The bill amends Code sections
7 435.24(6)(b) and 445.36A(2) to allow the county treasurer to
8 apportion such partial payments to the various local taxing
9 entities either on a monthly basis after such amounts are
10 collected or following the due date of the next semiannual tax
11 installment.
12 Current Code section 446.32 allows the purchaser of a
13 parcel sold at tax sale to pay taxes on the parcel for a
14 subsequent year beginning 14 days following the date from which
15 a subsequent year's installment becomes delinquent as provided
16 in Code section 445.37. The bill changes the period of time
17 for when the purchaser may begin paying taxes for a subsequent
18 year to one month and 14 days following the date from which an
19 installment becomes delinquent.
20 The bill enacts new Code section 558.47. New Code section
21 558.47 provides that when real property is transferred and
22 prorated property taxes or assessments on the property are
23 calculated as part of the transaction for payment by either the
24 grantor or the grantee, the closing agent, real estate agent,
25 or attorney shall, upon the receipt of any such payment for
26 property taxes or assessments, pay the entire amount to the
27 county treasurer or, if provided for in the transaction, to the
28 designated escrow agent. If paid to the county treasurer, the
29 county treasurer shall apply the amount to the tax liability of
30 the property in the manner described in Code section 445.36A.

Senate Study Bill 3139 - Introduced

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

A BILL FOR

1 An Act relating to the elimination of the college student
2 aid commission, the establishment of a college student
3 aid council, and transferring the commission's duties and
4 responsibilities to the state board of education, the state
5 board of regents, and the department of education; making
6 appropriations; providing for related matters; and including
7 effective date provisions.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. _____ H.F. _____

DIVISION I
TRANSFER OF COMMISSION DUTIES

Section 1. Section 7A.4, subsection 4, Code 2011, is amended by striking the subsection.

Sec. 2. Section 7E.7, Code 2011, is amended to read as follows:

7E.7 Organizational structure.

For organizational purposes only, the ~~following apply:~~

~~1. The Iowa higher education loan authority shall be attached to the college student aid commission.~~

~~2. The~~ Iowa advance funding authority shall be considered part of the department of education. The department of education may provide staff assistance and administrative support to the authority.

Sec. 3. Section 8A.504, subsection 3, Code Supplement 2011, is amended to read as follows:

3. In the case of multiple claims to payments filed under this section, priority shall be given to claims filed by the child support recovery unit or the foster care recovery unit, next priority shall be given to claims filed by the clerk of the district court, ~~next priority shall be given to claims filed by the college student aid commission,~~ next priority shall be given to claims filed by the investigations division of the department of inspections and appeals, and last priority shall be given to claims filed by other state agencies. In the case of multiple claims in which the priority is not otherwise provided by this subsection, priority shall be determined in accordance with rules to be established by the director.

Sec. 4. Section 8A.504, subsection 4, Code Supplement 2011, is amended by striking the subsection.

Sec. 5. Section 35.9, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. A child eligible to receive state educational assistance under this subsection shall begin postsecondary education prior to reaching age twenty-six, shall not receive more than an

S.F. _____ H.F. _____

amount equal to five times the highest resident undergraduate tuition rate established per year for an institution of higher learning under the control of the state board of regents during the child's lifetime, and shall, to remain eligible for assistance, meet the academic progress standards of the postsecondary educational institution. Payments for state educational assistance for a child under this subsection shall be made to the applicable postsecondary educational institution. The ~~college student aid commission~~ department of education may, if requested, assist the department of veterans affairs in administering this subsection.

Sec. 6. Section 135.107, subsection 3, paragraph b, subparagraph (3), Code 2011, is amended to read as follows:

(3) The center for rural health and primary care may enter into an agreement under chapter 28E with the ~~college student aid commission~~ department of education for the administration of this program.

Sec. 7. Section 135.107, subsection 3, paragraph c, subparagraph (3), Code 2011, is amended to read as follows:

(3) The center for rural health and primary care may enter into an agreement under chapter 28E with the ~~college student aid commission~~ department of education for the administration of this program.

Sec. 8. Section 135.175, subsection 5, paragraph b, Code 2011, is amended to read as follows:

b. The health care professional and Iowa needs nurses now initiative account. The health care professional and Iowa needs nurses now initiative account shall be under the control of the ~~college student aid commission created in section 261.1~~ department of education as provided in chapter 261 and the moneys in the account shall be used for the purposes of the health care professional incentive payment program and the Iowa needs nurses now initiative as specified in sections 261.128 and 261.129. Moneys in the account shall consist of moneys appropriated or allocated for deposit in or received by the

S.F. _____ H.F. _____

1 fund or the account and specifically dedicated to the health
2 care professional and Iowa needs nurses now initiative or the
3 account for the purposes of the account.
4 Sec. 9. Section 135.177, subsection 1, Code Supplement
5 2011, is amended to read as follows:
6 1. The department, in cooperation with the ~~college student~~
7 ~~aid commission~~ department of education as provided in chapter
8 261, shall establish a physician assistant mental health
9 fellowship program in accordance with this section. Funding
10 for the program may be provided through the health care
11 workforce shortage fund or the physician assistant mental
12 health fellowship program account created in section 135.175.
13 The purpose of the program is to determine the effect of
14 specialized training and support for physician assistants in
15 providing mental health services on addressing Iowa's shortage
16 of mental health professionals.
17 Sec. 10. Section 135.177, subsection 2, paragraph e, Code
18 Supplement 2011, is amended to read as follows:
19 *e.* A student participating in the program shall be eligible
20 for a stipend of not more than fifty thousand dollars for the
21 twelve months of the fellowship plus related fringe benefits.
22 In addition, a student who completes the program and practices
23 in Iowa in a mental health professional shortage area, as
24 defined in section 135.180, shall be eligible for up to twenty
25 thousand dollars in loan forgiveness. The stipend and loan
26 forgiveness provisions shall be determined by the department of
27 public health and the ~~college student aid commission~~ department
28 of education, in consultation with the clinical partners.
29 Sec. 11. Section 232.2, subsection 4, paragraph f,
30 subparagraph (5), Code 2011, is amended to read as follows:
31 (5) If the child is interested in pursuing higher education,
32 the transition plan shall provide for the child's participation
33 in the ~~college student aid commission's~~ department of
34 education's program of assistance in applying for federal and
35 state aid under section 261.2.

S.F. _____ H.F. _____

1 Sec. 12. Section 256.7, unnumbered paragraph 1, Code
2 Supplement 2011, is amended to read as follows:
3 Except for ~~the college student aid commission,~~ the
4 commission of libraries and division of library services~~,~~ and
5 the public broadcasting board and division, the state board
6 shall:
7 Sec. 13. Section 256.7, subsection 22, Code Supplement
8 2011, is amended to read as follows:
9 22. Adopt rules and a procedure for the approval of
10 para-educator preparation programs offered by a public school
11 district, area education agency, community college, institution
12 of higher education under the state board of regents, or an
13 accredited private institution as defined in section ~~261.9,~~
14 ~~subsection 1~~ 261.1. The programs shall train and recommend
15 individuals for para-educator certification under section
16 272.12.
17 Sec. 14. Section 256.7, Code Supplement 2011, is amended by
18 adding the following new subsection:
19 NEW SUBSECTION. 31. Adopt rules for the administration
20 of chapter 261, including as provided in section 261.3, and
21 chapter 261B.
22 Sec. 15. Section 256.9, unnumbered paragraph 1, Code
23 Supplement 2011, is amended to read as follows:
24 Except for ~~the college student aid commission,~~ the
25 commission of libraries and division of library services~~,~~ and
26 the public broadcasting board and division, the director shall:
27 Sec. 16. Section 261.1, Code 2011, is amended by striking
28 the section and inserting in lieu thereof the following:
29 **261.1 Definitions.**
30 As used in this chapter, unless the context otherwise
31 requires:
32 1. *"Accredited private institution"* means an eligible
33 institution which is operated privately and not controlled or
34 administered by any state agency or any subdivision of the
35 state and which meets the criteria of either paragraphs *"a"* and

S.F. _____ H.F. _____

1 *"b"* or paragraph *"c"* as follows:
2 *a.* Is accredited by the higher learning commission of the
3 north central association of colleges and schools accrediting
4 agency.
5 *b.* Is exempt from taxation under section 501(c)(3) of
6 the Internal Revenue Code, and annually provides a matching
7 aggregate amount of institutional financial aid equal to
8 at least seventy-five percent of the amount received in a
9 fiscal year by the institution's students for Iowa tuition
10 grant assistance under this chapter. The matching aggregate
11 amount of institutional financial aid shall increase annually
12 by the percentage of increase each fiscal year of funds
13 appropriated for Iowa tuition grants under section 261.12,
14 to a maximum match of one hundred percent. The institution
15 shall file annual reports with the department prior to receipt
16 of tuition grant moneys under this chapter. For purposes of
17 this subsection and section 261.12, subsection 2, *"for-profit*
18 *accredited private institution"* means an institution whose
19 students were eligible to receive tuition grants in the fiscal
20 year beginning July 1, 2003, whose income is not exempt from
21 taxation under section 501(c)(3) of the Internal Revenue Code,
22 and that meets the accreditation requirements of paragraph *"a"*
23 and the match requirements of this paragraph. A for-profit
24 accredited private institution is ineligible to receive tuition
25 grant funds awarded pursuant to section 261.12, subsection 1.
26 *c.* Is a specialized college that is accredited by the
27 higher learning commission of the north central association
28 of colleges and schools accrediting agency, and which offers
29 health professional programs that are affiliated with health
30 care systems located in Iowa.
31 2. *"Community college"* means the same as defined in section
32 260C.2.
33 3. *"Course of study"* means a postsecondary educational
34 program that an eligible institution offers through any one or
35 a combination of in-person instruction and distance delivery.

S.F. _____ H.F. _____

1 4. *"Department"* means the department of education.
2 5. *"Eligible borrower"* means a person, or the parent of
3 a person, who is enrolled or will be enrolled at an eligible
4 institution. An eligible borrower must meet the general
5 eligibility requirements established by the state board.
6 6. *"Eligible institution"* means a community college, an
7 institution of higher education governed by the state board of
8 regents, or a postsecondary educational institution that is
9 located in Iowa and meets all of the following requirements:
10 *a.* Submits an annual report in a format approved by the
11 department that includes but is not limited to accurate
12 institutional and student data required by the department
13 for the administration of programs established pursuant to
14 this chapter and to meet policy analysis needs of the general
15 assembly. The report shall include the annual fall enrollment
16 count of full-time, part-time, online, extension, and dual
17 enrollment students determined on the official fall enrollment
18 date set by the United States department of education. The
19 department may withhold payment of funds to students at an
20 otherwise eligible institution if the institution fails to file
21 a timely, accurate, or complete report, until such time as the
22 required reports have been submitted to the department.
23 *b.* Promotes equal opportunity and affirmative action efforts
24 in the recruitment, appointment, assignment, and advancement of
25 personnel at the institution.
26 *c.* Adopts a policy to offer not less than the following
27 options to a student who is a member, or the spouse of a member
28 if the member has a dependent child, of the Iowa national guard
29 or reserve forces of the United States and who is ordered to
30 state military service or federal service or duty:
31 (1) Withdraw from the student's entire registration and
32 receive a full refund of tuition and mandatory fees.
33 (2) Make arrangements with the student's instructors for
34 course grades, or for incompletes that shall be completed by
35 the student at a later date. If such arrangements are made,

S.F. _____ H.F. _____

1 the student's registration shall remain intact and tuition and
2 mandatory fees shall be assessed for the courses in full.
3 (3) Make arrangements with only some of the student's
4 instructors for grades, or for incompletes that shall be
5 completed by the student at a later date. If such arrangements
6 are made, the registration for those courses shall remain
7 intact and tuition and mandatory fees shall be assessed for
8 those courses. Any course for which arrangements cannot be
9 made for grades or incompletes shall be considered dropped and
10 the tuition and mandatory fees for the course refunded.
11 *d.* Is not required to register under chapter 261B.
12 *e.* Is eligible to participate in a federal student aid
13 program authorized under Tit. IV of the federal Higher
14 Education Act of 1965, as amended.
15 7. *"Eligible lender"* means a financial or credit
16 institution, insurance company, or other approved lender which
17 meets the standards prescribed by the state board and has
18 executed a lender participation agreement with the department.
19 8. *"Eligible student"* means a student who complies with all
20 of the following:
21 *a.* Is a citizen or eligible noncitizen of the United States
22 and a resident of this state.
23 *b.* Is enrolled and making satisfactory academic progress or
24 accepted for enrollment at an eligible institution.
25 *c.* Completes and files an application for a scholarship or
26 grant.
27 *d.* Is responsible for the submission of the parents'
28 confidential statement for processing, the processed
29 information to be returned both to the department and to the
30 institution in which the applicant is enrolling.
31 *e.* Reports promptly to the department any information
32 requested.
33 *f.* Files a new application and parents' confidential
34 statement annually on the basis of which the applicant's
35 eligibility for a renewed tuition grant will be evaluated and

S.F. _____ H.F. _____

1 determined.
2 *g.* Has not defaulted on a loan guaranteed by the federal
3 government.
4 9. *"Fee"* means actual charges in addition to tuition that
5 are consistently assessed to all undergraduate students by an
6 eligible institution. Mandatory fees may differ by program,
7 but must be applied to all students enrolled in a specific
8 program.
9 10. *"Financial need"* means the difference between the
10 student's financial resources available, including those
11 available from the student and the student's parents as
12 determined by a completed parents' confidential statement and
13 any federal or state program for which the student is eligible,
14 and the student's anticipated expenses while attending an
15 eligible institution. Financial need shall be determined at
16 least annually.
17 11. *"Full-time student"* means an eligible student who
18 is enrolled in a course of study including at least twelve
19 semester hours or the equivalent of twelve semester hours.
20 12. *"Grant"* means an award by the state of Iowa to an
21 eligible student under a program administered by the department
22 pursuant to this chapter.
23 13. *"Part-time student"* means an eligible student who is
24 enrolled in a course of study including at least three semester
25 hours or the equivalent of three semester hours.
26 14. *"Qualified student"* means an eligible student who has
27 established financial need and is making satisfactory progress
28 toward graduation.
29 15. *"State board"* means the state board of education.
30 16. *"Tuition grant"* means an award by the state of Iowa to a
31 qualified student under 261.10.
32 Sec. 17. Section 261.2, Code Supplement 2011, is amended to
33 read as follows:
34 **261.2 Duties of ~~commission~~ department.**
35 The ~~commission~~ department shall do all of the following:

S.F. _____ H.F. _____

1. *a.* Prepare and administer a state plan for ~~a state supported~~ state-supported and ~~administered~~ state-administered scholarship ~~program~~ and grant programs. The state plan shall provide for scholarships and grants to deserving students of Iowa, matriculating in Iowa universities, colleges, community colleges, or schools of professional nursing. ~~Eligibility of a student for receipt of a scholarship shall be based upon academic achievement and completion of advanced level courses prescribed by the commission.~~

b. Approve and award scholarships and grants under the state plan.

~~2. Administer the tuition grant program under this chapter.~~

~~3.~~ 2. Develop and implement, in cooperation with the state board of regents, an educational program and marketing strategies designed to inform students and parents about the options available for financing a college education and the need to accumulate the financial resources necessary to pay for a college education. The educational program shall include but not be limited to distribution of informational material to public and nonpublic elementary schools for distribution to parents and guardians of five-year and six-year old children.

~~4.~~ 3. ~~Approve~~ Administer and approve transfers from the scholarship and ~~tuition~~ grant reserve fund under section ~~261.20~~ 261.4.

~~5. Develop and implement, in cooperation with the judicial district departments of correctional services and the department of corrections, a program to assist criminal offenders in applying for federal and state aid available for higher education.~~

~~6. Develop and implement, in cooperation with the department of human services and the judicial branch, a program to assist juveniles who are sixteen years of age or older and who have a case permanency plan under chapter 232 or 237 or are otherwise under the jurisdiction of chapter 232 in applying for federal and state aid available for higher education.~~

S.F. _____ H.F. _____

~~The commission shall also develop and implement the all Iowa opportunity foster care grant program in accordance with section 261.6.~~

~~7.~~ 4. ~~*a.* Adopt rules to establish reasonable registration standards for the approval, pursuant to section 261B.3A, of postsecondary schools that are required to register with the commission in order to operate in this state. The registration standards established by the commission shall ensure that all of the following conditions are satisfied:~~

~~(1) The courses, curriculum, and instruction offered by the postsecondary school are of such quality and content as may reasonably and adequately ensure achievement of the stated objective for which the courses, curriculum, or instruction are offered.~~

~~(2) The postsecondary school has adequate space, equipment, instructional material, and personnel to provide education and training of good quality.~~

~~(3) The educational and experience qualifications of the postsecondary school's directors, administrators, and instructors are such as may reasonably ensure that students will receive instruction consistent with the objectives of the postsecondary school's programs of study.~~

~~(4) Upon completion of training or instruction, students are given certificates, diplomas, or degrees as appropriate by the postsecondary school indicating satisfactory completion of the program.~~

~~(5) The postsecondary school is financially responsible and capable of fulfilling commitments for instruction.~~

~~*b.* The commission shall post~~ Post an application for registration as a school operating as a postsecondary educational institution or providing postsecondary instructional programs on ~~the commission's~~ its internet site and shall render a decision on an application for registration within one hundred eighty days of the filing of the application. The department shall charge a reasonable

S.F. _____ H.F. _____

fee to process the applications. The moneys collected from application fees shall be considered a repayment receipt, as defined in section 8.2, and shall be retained by the department.

~~8.~~ 5. ~~Submit by January 15 annually a report to the general assembly which provides, by program, the number of individuals who received loan forgiveness in the previous fiscal year, the amount paid to individuals under sections 261.23, 261.73, and 261.112, and the institutions from which individuals graduated, and that includes any proposed statutory changes and~~ Make an annual report to the state board, the governor, and the general assembly on the activities of the department required under this chapter including but not limited to the number of individuals who received scholarships, grants, and loan forgiveness in the previous fiscal year. The report shall include the methodology and manner in which the department makes the determination of awards for programs for which funds are appropriated under this chapter. The report shall also include the ~~commission's~~ department's findings and recommendations.

~~9.~~ 6. Require any postsecondary institution whose students are eligible for or who receive assistance under programs administered by the ~~commission~~ department pursuant to this chapter and who were enrolled in a school district in Iowa to include in its student management information system the unique student identifiers assigned to the institution's students while the students were in the state's kindergarten through grade twelve system.

~~10. Administer the health care professional incentive payment program established in section 261.128 and the Iowa needs nurses now initiative created in section 261.129. This subsection is repealed June 30, 2014.~~

~~11.~~ 7. Ensure that students receiving state-funded scholarships and grants are attending institutions of higher education that ~~meet all of the following conditions:~~

S.F. _____ H.F. _____

1 ~~*a.* The institutions~~ are not required to register under
2 chapter 261B.
3 ~~*b.* The institutions are eligible to participate in a federal~~
4 ~~student aid program authorized under Tit. IV of the federal~~
5 ~~Higher Education Act of 1965, as amended.~~
6 ~~12.~~ 8. Require any postsecondary institution whose
7 students are eligible for or who receive financial assistance
8 under programs administered by the ~~commission~~ department
9 pursuant to this chapter to transmit annually to the ~~commission~~
10 department information about the numbers of minority students
11 enrolled in and minority faculty members employed at the
12 institution. The ~~commission~~ department shall compile and
13 report the information collected to the general assembly,
14 the governor, and the legislative services agency by March 1
15 annually.
16 9. Maintain an agency operating account as authorized
17 by the federal Higher Education Act of 1965. The department
18 shall credit to this account all moneys provided for the state
19 student loan program by the United States, the state of Iowa,
20 or any of their agencies, departments or instrumentalities, as
21 well as any funds accruing to the program from other sources.
22 The department may expend moneys in the agency operating
23 account as authorized by the federal Higher Education Act
24 of 1965 as necessary to execute the department's powers and
25 duties under this chapter. Notwithstanding section 8.33,
26 funds on deposit in the operating account shall not revert
27 to the general fund of the state at the close of any fiscal
28 year. The treasurer of state shall invest any funds, including
29 those in the operating account, and, notwithstanding section
30 12C.7, the interest income earned shall be credited back to the
31 appropriate accounts.
32 10. Administer all properties and moneys necessary to
33 execute the department's powers and duties under this chapter
34 in accordance with the requirements of the federal Higher
35 Education Act of 1965, as amended.

S.F. _____ H.F. _____

1 11. Enter into any agreements with the United States
2 secretary of education or other federal agency as are necessary
3 to provide programs and services administered pursuant to this
4 chapter to current and future Iowa postsecondary students, to
5 the students' school counselors, parents, and guardians, and
6 to the elementary, secondary, and postsecondary institutions
7 the students attend.
8 12. Administer the college access challenge grant program
9 authorized by 20 U.S.C. § 1141, or its successor program.
10 13. Administer the gaining early awareness and readiness
11 for undergraduate program authorized by 20 U.S.C. § 1070a-21
12 through 1070a-28, or its successor program.
13 14. Enter into any agreements with the United States
14 secretary of education necessary for purposes of receiving the
15 full benefit of state program incentives offered pursuant to
16 the Higher Education Act of 1965.
17 15. Develop and implement programs and other initiatives
18 or services necessary to perform duties that include but are
19 not limited to postsecondary student aid outreach, financial
20 literacy education, career planning, postsecondary student
21 aid program compliance assistance and training, postsecondary
22 student aid program monitoring and compliance relating
23 to eligible institutions, default prevention, and default
24 aversion.
25 16. Conduct college access initiative activities including
26 but not limited to providing publications, programs, training,
27 and internet-based resources for the public relating to college
28 planning, career preparation, and paying for college. As
29 deemed necessary, provide applicants with information about
30 enrollment, placement statistics, and the past default rates
31 of postsecondary institutions.
32 17. Negotiate and contract with private and government
33 agencies for the establishment of financial aid programs;
34 receive gifts of any type for the purpose of establishing,
35 continuing, and increasing financial aid; and administer

S.F. _____ H.F. _____

1 any form of financial aid submitted to and accepted for
2 administration by the department.
3 18. Appoint a chief administrative officer to direct and
4 oversee the day-to-day activities of the department required
5 pursuant to this chapter. The chief administrative officer
6 shall have expertise in student financial aid programs,
7 including but not limited to state and federal scholarship and
8 grant programs and federal student aid programs.
9 Sec. 18. Section 261.3, Code 2011, is amended by striking
10 the section and inserting in lieu thereof the following:
11 **261.3 Duties of the state board — decisions final.**
12 1. The state board shall adopt rules for the administration
13 of this chapter, including but not limited to rules for the
14 following:
15 *a.* Standards, guidelines, and procedures for each
16 individual program administered by the department under this
17 chapter. The rules adopted pursuant to this subsection shall
18 provide for the receipt, processing, and administration of
19 student applications and loans; determining financial need
20 and the priority of grants awarded based on financial need;
21 defining tuition and mandatory fees; processing and approving
22 applications for scholarships, grants, and loans; determining
23 eligibility requirements for eligible borrowers; determining
24 priority for grants and loans; awarding tuition grants;
25 establishing procedures for the repayment of loans and for
26 the deferral of loan repayment for purposes including but
27 not limited to fulfillment of obligations such as military
28 service obligations; and defining residence and determining who
29 is a resident of Iowa. The state board may provide for the
30 proration of funds if the available funds are insufficient to
31 pay all approved scholarships or grants. Such proration shall
32 take primary account of the financial need of the applicant.
33 The rules for determining who is a resident of Iowa shall be at
34 least as restrictive as those of the state board of regents.
35 *b.* Develop and implement a method for allocating moneys

S.F. _____ H.F. _____

1 awarded under section 261.11 based upon the need for skills
2 and occupations for which a career and technical education is
3 required.
4 *c.* Prescribe by rule interest rates for student loans
5 administered by the department.
6 2. For purposes of this chapter, a decision of the state
7 board is final agency action under chapter 17A.
8 Sec. 19. Section 261.4, Code 2011, is amended by striking
9 the section and inserting in lieu thereof the following:
10 **261.4 Scholarships and grant reserve fund.**
11 1. A scholarship and grant reserve fund is created to assure
12 that financial assistance will be available to all students
13 who are awarded scholarships or grants through programs funded
14 under this chapter. The fund is created as a separate fund in
15 the state treasury, and moneys in the fund shall not revert to
16 the general fund unless, and then only to the extent that, the
17 funds exceed the maximum allowed balance.
18 2. The maximum balance of the scholarship and grant
19 reserve fund is an amount equal to two percent of the funds
20 appropriated to the scholarship and grant programs under
21 this chapter during the preceding fiscal year. Moneys in
22 the account shall only be used to alleviate a current fiscal
23 year shortfall in appropriations for scholarships, grants, and
24 other programs under this chapter. At the conclusion of a
25 fiscal year, any surplus appropriations made to the department
26 for scholarships and grant programs are appropriated to the
27 scholarship and grant reserve fund in an amount equal to the
28 amount of the surplus or the amount necessary to achieve the
29 maximum balance, whichever amount is less.
30 3. Transfers of moneys from the scholarship and grant
31 reserve fund to appropriation accounts in which there is
32 a current fiscal year shortfall may be made only with the
33 prior written approval of the governor. At least two weeks
34 before moneys are transferred from the fund, the department
35 shall notify the chairpersons of the standing appropriations

S.F. _____ H.F. _____

1 committees of the general assembly and the co-chairpersons
2 of the education appropriations subcommittee of the proposed
3 transfer. The notice shall include information concerning
4 the amount of and reason for the proposed transfer. The
5 chairpersons shall be given at least two weeks to review and
6 comment on the proposed transfer before the transfer can be
7 made.
8 Sec. 20. Section 261.5, subsections 2, 3, and 4, Code 2011,
9 are amended to read as follows:
10 2. Notwithstanding any other provision of this chapter, in
11 the event of a national emergency declared by the president
12 of the United States by reason of terrorist attack, the
13 ~~commission~~ department may waive or modify any statutory or
14 regulatory provision applicable to state financial aid programs
15 established pursuant to this chapter to ensure, with regard to
16 affected individuals, that the ~~following occurs:~~
17 ~~*a.* The financial positions of affected individuals who are~~
18 ~~state student loan borrowers are not worsened in relation to~~
19 ~~those loans because of their status as affected individuals.~~
20 ~~*b.* Administrative requirements placed on state student~~
21 ~~loan borrowers are minimized, to the extent possible, without~~
22 ~~impairing the integrity of the student loan programs, to~~
23 ~~ease the burden on these borrowers and to avoid inadvertent~~
24 ~~technical violations or defaults.~~
25 ~~*c.* The~~ calculation of "annual adjusted family income" and
26 "available income", as used in the determination of need for
27 student financial assistance under 20 U.S.C. § 1070 et seq.,
28 for affected individuals, or if applicable, for the spouses or
29 dependents of affected individuals, may be modified to mean
30 the sums received in the first calendar year of the award year
31 for which the determination is made, in order to reflect more
32 accurately the financial condition of the affected individuals
33 or their families.
34 3. Notwithstanding any other provision of this chapter, in
35 the event of a national emergency declared by the president

S.F. _____ H.F. _____

1 of the United States by reason of terrorist attack, the
2 ~~commission~~ department may grant temporary relief from
3 requirements rendered infeasible or unreasonable, including
4 due diligence requirements and reporting deadlines, by the
5 national emergency, to an institution of higher education under
6 the state board of regents, a community college, an accredited
7 private institution ~~as defined in section 261.9~~, eligible
8 lenders, and other entities participating in the state student
9 assistance programs in accordance with this chapter, that are
10 located in, or whose operations are directly affected by, areas
11 that are declared disaster areas by any federal, state, or
12 local official in connection with the national emergency. If
13 the ~~commission~~ department issues a waiver in accordance with
14 this section, the report prepared by the ~~commission~~ department
15 pursuant to section 17A.9A, subsection 5, shall include
16 examples of measures that a postsecondary institution may take
17 in the appropriate exercise of discretion, as provided in 20
18 U.S.C. § 1087tt, to adjust financial need and aid eligibility
19 determinations for affected individuals.
20 4. This section shall not be construed as a requirement that
21 the ~~commission~~ department exercise the waiver or modification
22 authority provided pursuant to this section on a case-by-case
23 basis.
24 Sec. 21. Section 261.6, Code Supplement 2011, is amended
25 by striking the section and inserting in lieu thereof the
26 following:
27 **261.6 Iowa state fair scholarship.**
28 The Iowa state fair scholarship fund is established in the
29 office of the treasurer of state to be administered by the
30 department. The rules adopted by the state board for the
31 administration of this chapter pursuant to section 256.7,
32 subsection 31, shall provide, at a minimum, that only residents
33 of Iowa who have actively participated in the Iowa state fair
34 and graduated from an accredited secondary school in Iowa
35 shall be eligible to receive an Iowa state fair scholarship

S.F. _____ H.F. _____

for matriculation at an eligible institution. Notwithstanding section 12C.7, interest earned on money in the Iowa state fair scholarship fund shall be deposited into the fund and may be used by the department only for Iowa state fair scholarship awards.

Sec. 22. Section 261.7, subsections 2 and 3, Code 2011, are amended to read as follows:

2. The general assembly recommends that every public and private institution of higher education in this state, including those institutions referenced in chapters 260C and 262 and section ~~261.9~~ 261.1, post the list of required and suggested textbooks for all courses and the corresponding international standard book numbers for such textbooks at least fourteen days before the start of each semester or term, to the extent possible, at the locations where textbooks are sold on campus and on the website for the respective institution of higher education.

3. The ~~college student aid commission~~ department is directed to convey the legislative intent and recommendation contained in this section to every institution of higher education in the state registered pursuant to chapter 261B at least once a year.

Sec. 23. NEW SECTION. **261.8 College student aid council.**

1. A college student aid council is established consisting of twelve members. Membership of the council shall be as follows:

a. A member of the state board of regents, or the executive director of the board, as appointed by the state board of regents, who shall serve for a four-year term or until the expiration of the member's term of office.

b. The director of the department or the director's designee.

c. Four members of the general assembly serving as ex officio, nonvoting members who shall serve terms as provided in section 69.16B and shall be appointed as follows:

S.F. _____ H.F. _____

1 (1) One representative to be appointed by the speaker of the
2 house of representatives.
3 (2) One representative to be appointed by the minority
4 leader of the house of representatives.
5 (3) One senator to be appointed by the president of the
6 senate after consultation with the majority leader of the
7 senate.
8 (4) One senator to be appointed by the minority leader of
9 the senate.
10 *d.* A college president appointed by an association which
11 represents the largest number of independent colleges and
12 universities in the state.
13 *e.* A community college president appointed by an association
14 which represents the largest number of community colleges in
15 the state.
16 *f.* A college president, appointed by the state board, who
17 represents for-profit colleges and universities in the state.
18 *g.* Three additional members, none of whom shall be official
19 board members or trustees of an institution of higher learning
20 or of an association of institutions of higher learning, shall
21 be selected by the state board to represent the general public.
22 One of these members shall be enrolled as a student at an
23 eligible institution.
24 2. Except as otherwise provided, members shall serve
25 staggered terms of four years beginning on May 1 of the year
26 of appointment. Vacancies on the council shall be filled
27 in the same manner as the original appointment. A person
28 appointed to fill a vacancy shall commence service on the date
29 of appointment and shall serve only for the unexpired portion
30 of the term. A vacancy shall exist on the council when the
31 student member ceases to be enrolled as a student; such vacancy
32 shall be filled within ninety days.
33 3. The council shall assist the state board with substantial
34 issues which are directly related to college student financial
35 aid and registration of postsecondary schools. The state board

S.F. _____ H.F. _____

1 shall refer all substantial issues directly related to college
2 student financial aid and registration of postsecondary schools
3 to the council. The council shall formulate recommendations on
4 each issue referred to it by the state board and shall submit
5 the recommendations to the state board within any time periods
6 specified by the state board.
7 Sec. 24. Section 261.10, Code 2011, is amended by striking
8 the section and inserting in lieu thereof the following:
9 **261.10 Iowa tuition grant program.**
10 1. An Iowa tuition grant program is established to be
11 administered by the department. An Iowa tuition grant may
12 be awarded to a qualified student who is admitted and in
13 attendance as a full-time or part-time student at an accredited
14 private institution. An Iowa tuition grant issued to a
15 qualified student from funds appropriated under section 261.12,
16 subsection 1, may be used for attendance at a not-for-profit
17 accredited private institution. An Iowa tuition grant
18 issued to a qualified student from funds appropriated under
19 section 261.12, subsection 2, may be used for attendance at
20 a for-profit accredited private institution as provided in
21 section 261.12, subsection 2.
22 2. A qualified full-time student may receive tuition grants
23 for not more than eight semesters of undergraduate study or the
24 equivalent. A qualified part-time student may receive tuition
25 grants for not more than sixteen semesters of undergraduate
26 study or the equivalent.
27 3. *a.* The amount of a tuition grant to a qualified
28 full-time student for the fall and spring semesters, or the
29 equivalent, shall be the amount of the student's financial
30 need for that period. However, a tuition grant shall not
31 exceed the lesser of the total tuition and mandatory fees for
32 that student for two semesters or the equivalent, less the
33 base amount determined annually by the department, which base
34 amount shall be within ten dollars of the average tuition for
35 two semesters or the equivalent of undergraduate study at the

S.F. _____ H.F. _____

1 state universities under the board of regents, or six thousand
2 dollars.
3 *b.* The amount of a tuition grant to a qualified full-time
4 student for the summer semester or the equivalent shall be
5 one-half the amount of the tuition grant the student receives
6 under paragraph *"a"*.
7 *c.* The amount of a tuition grant to a qualified part-time
8 student enrolled in a course of study including at least three
9 semester hours but fewer than twelve semester hours for the
10 fall, spring, and summer semesters, or the equivalent, shall be
11 equal to the amount of a tuition grant that would be paid to a
12 full-time student times a number which represents the number
13 of hours in which the part-time student is actually enrolled
14 divided by twelve semester hours, or the equivalent.
15 4. A tuition grant may be made annually for the fall,
16 spring, and summer semesters or the equivalent. Payments under
17 the grant shall be allocated equally among the semesters,
18 or their equivalent and shall be paid at the beginning of
19 each semester, or the equivalent, upon certification by the
20 accredited private institution that the student is admitted and
21 in attendance. If the student discontinues attendance before
22 the end of any semester, or the equivalent, after receiving
23 payment under the grant, the entire amount of any refund due
24 that student, up to the amount of any payments made under
25 the annual grant, shall be paid by the accredited private
26 institution to the state.
27 Sec. 25. Section 261.11, Code 2011, is amended by striking
28 the section and inserting in lieu thereof the following:
29 **261.11 Career and technical tuition grants.**
30 1. A career and technical tuition grant may be awarded to
31 any resident of Iowa who is admitted and in attendance as a
32 full-time or part-time student in a career and technical or
33 career option program at a community college in the state, and
34 who establishes financial need.
35 2. All classes, including liberal arts classes, identified

S.F. _____ H.F. _____

1 by the community college as required for completion of the
2 student's career and technical or career option program shall
3 be considered a part of the student's career and technical
4 or career option program for the purpose of determining the
5 student's eligibility for a grant. Notwithstanding subsection
6 3, if a student is making satisfactory academic progress but
7 the student cannot complete a career and technical or career
8 option program in the time frame allowed for a student to
9 receive a career and technical tuition grant as provided
10 in subsection 3 because additional classes are required to
11 complete the program, the student may continue to receive
12 a career and technical tuition grant for not more than one
13 additional enrollment period.
14 3. *a.* A qualified full-time student may receive career
15 and technical tuition grants for not more than four semesters
16 or the equivalent of two full years of study. A qualified
17 part-time student enrolled in a course of study including at
18 least three semester hours but fewer than twelve semester hours
19 or the equivalent may receive career and technical tuition
20 grants for not more than eight semesters or the equivalent of
21 two full years of full-time study.
22 *b.* However, if a student resumes study after at least a
23 two-year absence, the student may again be eligible for the
24 specified amount of time.
25 4. *a.* The amount of a career and technical tuition grant to
26 a qualified full-time student shall not exceed the lesser of
27 one thousand two hundred dollars per year or the amount of the
28 student's established financial need.
29 *b.* The amount of a career and technical tuition grant to
30 a qualified part-time student enrolled in a course of study
31 including at least three semester hours but fewer than twelve
32 semester hours or the equivalent shall be equal to the amount
33 of a career and technical tuition grant that would be paid to
34 a full-time student, except that the department shall prorate
35 the amount in a manner consistent with the federal Pell grant

S.F. _____ H.F. _____

1 program proration.
2 5. A career and technical tuition grant shall be awarded
3 on an annual basis, requiring reapplication by the student
4 for each year. Payments under the grant shall be allocated
5 equally among the semesters of the year or the equivalent
6 upon certification by the institution that the student is in
7 full-time or part-time attendance in a career and technical or
8 career option program, as defined under rules adopted by the
9 state board. If the student discontinues attendance before
10 the end of any term after receiving payment of the grant, the
11 entire amount of any refund due that student, up to the amount
12 of any payments made under the annual grant, shall be paid by
13 the institution to the state.
14 6. If a student receives financial aid under any other
15 program, the full amount of that financial aid shall be
16 considered part of the student's financial resources available
17 in determining the amount of the student's financial need for
18 that period.
19 Sec. 26. Section 261.12, Code 2011, is amended by striking
20 the section and inserting in lieu thereof the following:
21 **261.12 Appropriations — standing limited.**
22 1. There is appropriated from the general fund of the state
23 to the department for each fiscal year the sum of forty-three
24 million five hundred thirteen thousand four hundred forty-eight
25 dollars for tuition grants.
26 2. There is appropriated from the general fund of the state
27 to the department for each fiscal year the sum of four million
28 dollars for tuition grants for students attending for-profit
29 accredited private institutions located in Iowa. A for-profit
30 accredited institution which, effective March 9, 2005, or
31 effective January 8, 2010, purchased an accredited private
32 institution that was exempt from taxation under section 501(c)
33 of the Internal Revenue Code, shall be an eligible institution
34 under the tuition grant program.
35 3. There is appropriated from the general fund of the state

S.F. _____ H.F. _____

to the department for each fiscal year the sum of two million two hundred fifty thousand one hundred eighty-five dollars for career and technical tuition grants.

4. This section shall not be construed to be a limitation on any of the amounts which may be appropriated by the general assembly for any program enumerated in this section.

5. In the case of a qualified student who was enrolled in an accredited private institution that was exempt from taxation under section 501(c) of the Internal Revenue Code and that was purchased by a for-profit institution effective January 8, 2010, and such qualified student continues to be enrolled in the eligible institution in succeeding years, the student shall continue to be eligible to receive funds under subsection 1 without a change in the student's qualification status.

Sec. 27. Section 261.18, subsections 3 and 9, Code 2011, are amended to read as follows:

3. A qualified full-time student may receive a barber and cosmetology arts and sciences tuition grant for not more than four semesters or the ~~trimester or quarter~~ equivalent of two full years of study. A qualified part-time student enrolled in a course of study including at least three semester hours but fewer than twelve semester hours or the ~~trimester or quarter~~ equivalent may receive barber and cosmetology arts and sciences tuition grants for not more than eight semesters or the ~~trimester or quarter~~ equivalent of two full years of full-time study. However, if a student resumes study after at least a two-year absence, the student may again be eligible for the specified amount of time~~, except that the student shall not receive assistance for courses for which credit was previously received~~.

9. For purposes of this section, *"eligible school"* means a barber school licensed under section 158.7 or a school of cosmetology arts and sciences licensed under chapter 157. An eligible school shall be accredited by a national accrediting agency recognized by the United States department of education

S.F. _____ H.F. _____

1 and shall meet the ~~criteria~~ requirements in section ~~261.9~~
2 261.1, subsection ~~1~~ 6~~, paragraphs "d" through "g"~~. An eligible
3 school shall report promptly to the ~~commission~~ department any
4 information requested.
5 Sec. 28. Section 261.18, subsection 4, paragraph b, Code
6 2011, is amended to read as follows:
7 *b.* The amount of a barber and cosmetology arts and sciences
8 tuition grant to a qualified part-time student enrolled in a
9 course of study including at least three semester hours but
10 fewer than twelve semester hours or the trimester or quarter
11 equivalent shall be equal to the amount of a barber and
12 cosmetology arts and sciences tuition grant that would be paid
13 to a full-time student, except that the ~~commission~~ department
14 shall prorate the amount in a manner consistent with the
15 federal Pell grant program proration.
16 Sec. 29. Section 261.18, subsections 7 and 8, Code 2011, are
17 amended by striking the subsections.
18 Sec. 30. Section 261.19, subsections 1, 2, and 3, Code
19 Supplement 2011, are amended to read as follows:
20 1. A health care professional recruitment program is
21 established to be administered by the ~~college student aid~~
22 ~~commission~~ department for Des Moines university. The program
23 shall consist of a loan repayment program for health care
24 professionals. The ~~commission~~ department shall regularly
25 adjust the service requirement under each aspect of the program
26 to provide, to the extent possible, an equal financial benefit
27 for each period of service required.
28 2. A health care professional shall be eligible for the
29 loan repayment program if the health care professional agrees
30 to practice in an eligible rural community in this state.
31 Des Moines university shall recruit and place health care
32 professionals in rural communities which have agreed to provide
33 additional funds for the recipient's loan repayment. The
34 contract for the loan repayment shall stipulate the time period
35 the recipient shall practice in an eligible rural community in

S.F. _____ H.F. _____

1 this state. In addition, the contract shall stipulate that the
2 recipient repay any funds paid on the recipient's loan by the
3 ~~commission~~ department if the recipient fails to practice in an
4 eligible rural community in this state for the required period
5 of time.
6 3. A health care professional recruitment revolving fund
7 is created in the state treasury as a separate fund under
8 the control of the ~~commission~~ department. The ~~commission~~
9 department shall deposit ~~payments made by health care~~
10 ~~professional recruitment program recipients and the proceeds~~
11 ~~from the sale of osteopathic loans awarded pursuant to~~
12 ~~section 261.19, subsection 2, paragraph "b", Code 2011,~~ moneys
13 appropriated to or received by the department into the health
14 care professional recruitment revolving fund. Moneys credited
15 to the fund shall be used to supplement moneys appropriated
16 for the health care professional recruitment program, for loan
17 repayment in accordance with this section, and to pay for
18 loan or interest repayment defaults by program recipients.
19 Notwithstanding section 8.33, any balance in the fund on June
20 30 of any fiscal year shall not revert to the general fund of
21 the state.
22 Sec. 31. Section 261.19, subsection 5, Code Supplement
23 2011, is amended by striking the subsection.
24 Sec. 32. Section 261.23, subsections 1, 2, 4, and 5, Code
25 2011, are amended to read as follows:
26 1. A registered nurse and nurse educator loan forgiveness
27 program is established to be administered by the ~~commission~~
28 department. The program shall consist of loan forgiveness
29 for eligible federally guaranteed loans for registered nurses
30 and nurse educators who practice or teach in this state.
31 For purposes of this section, unless the context otherwise
32 requires, *"nurse educator"* means a registered nurse who holds
33 a master's degree or doctorate degree and is employed as a
34 faculty member who teaches nursing ~~as provided in 655 IAC~~
35 ~~2.6(152)~~ in a nursing education program approved by the board

S.F. _____ H.F. _____

1 of nursing at a community college, an accredited private
2 institution, or an institution of higher education governed by
3 the state board of regents.
4 2. Each applicant for loan forgiveness shall, in accordance
5 with the rules of the ~~commission~~ state board, do all of the
6 following:
7 *a.* Complete and file an application for registered nurse
8 or nurse educator loan forgiveness. The individual shall
9 be responsible for the prompt submission of any information
10 required by the ~~commission~~ department.
11 *b.* File a new application and submit information as required
12 by the ~~commission~~ department annually on the basis of which the
13 applicant's eligibility for the renewed loan forgiveness will
14 be evaluated and determined.
15 *c.* Complete and return, on a form approved by the ~~commission~~
16 department, an affidavit of practice verifying that the
17 applicant is a registered nurse practicing in this state or a
18 nurse educator teaching at ~~a community college,~~ an ~~accredited~~
19 ~~private~~ eligible institution~~, or an institution of higher~~
20 ~~learning governed by the state board of regents~~.
21 4. A registered nurse and nurse educator loan forgiveness
22 repayment fund is created for deposit of moneys appropriated
23 to or received by the ~~commission~~ department for use under the
24 program. Notwithstanding section 8.33, moneys deposited in the
25 fund shall not revert to any fund of the state at the end of any
26 fiscal year but shall remain in the loan forgiveness repayment
27 fund and be continuously available for loan forgiveness under
28 the program. Notwithstanding section 12C.7, subsection 2,
29 interest or earnings on moneys deposited in the fund shall be
30 credited to the fund.
31 5. The ~~commission~~ department shall submit in a report to
32 the general assembly by January 1, annually, the number of
33 individuals who received loan forgiveness pursuant to this
34 section, where the participants practiced or taught, the
35 amount paid to each program participant, and other information

S.F. _____ H.F. _____

1 identified by the ~~commission~~ department as indicators of
2 outcomes from the program.
3 Sec. 33. Section 261.23, subsection 6, Code 2011, is amended
4 by striking the subsection.
5 Sec. 34. Section 261.71, subsection 1, unnumbered paragraph
6 1, Code 2011, is amended to read as follows:
7 A chiropractic graduate student forgivable loan program
8 is established, to be administered by the ~~college student~~
9 ~~aid commission~~ department for resident graduate students who
10 are enrolled at Iowa chiropractic colleges and universities.
11 A resident graduate student attending an Iowa chiropractic
12 college or university is eligible for loan forgiveness
13 under the program if the student meets all of the following
14 conditions:
15 Sec. 35. Section 261.71, subsection 1, paragraphs c and d,
16 Code 2011, are amended to read as follows:
17 *c.* The student agrees to practice in an underserved area in
18 the state of Iowa for a period of time to be determined by the
19 ~~commission~~ department at the time the loan is awarded.
20 *d.* The student has received a loan from moneys appropriated
21 to the ~~college student aid commission~~ department for this
22 program.
23 Sec. 36. Section 261.71, subsections 2 and 3, Code 2011, are
24 amended to read as follows:
25 2. The contract for the loan repayment shall stipulate
26 the time period the chiropractor shall practice in an
27 underserved area in this state. In addition, the contract
28 shall stipulate that the chiropractor repay any funds paid
29 on the chiropractor's loan by the ~~commission~~ department if
30 the chiropractor fails to practice in an underserved area in
31 this state for the required period of time. Forgivable loans
32 made to eligible students shall not become due, for repayment
33 purposes, until one year after the student has graduated. A
34 loan that has not been forgiven may be sold to a bank, savings
35 and loan association, credit union, or nonprofit agency

S.F. _____ H.F. _____

eligible to participate in the guaranteed student loan program under the federal Higher Education Act of 1965, 20 U.S.C. § 1071 et seq., by the ~~commission~~ department when the loan becomes due for repayment.

3. For purposes of this section *"graduate student"* means a student who has completed at least ninety semester hours, or the trimester or quarter equivalent, of postsecondary course work at a public higher education institution or at an accredited private institution~~, as defined under section 261.9~~. *"Underserved area"* means a geographical area included on the Iowa governor's health practitioner shortage area list, which is compiled by the center for rural health and primary care of the Iowa department of public health. ~~The commission shall adopt rules, consistent with rules used for students enrolled in higher education institutions under the control of the state board of regents, for purposes of determining Iowa residency status of graduate students under this section. The commission shall also adopt rules which provide standards, guidelines, and procedures for the receipt, processing, and administration of student applications and loans under this section.~~

Sec. 37. Section 261.72, Code Supplement 2011, is amended to read as follows:

261.72 Chiropractic loan revolving fund.

A chiropractic loan revolving fund is created in the state treasury as a separate fund under the control of the ~~commission~~ department. The ~~commission~~ department shall deposit payments made by chiropractic loan recipients and the proceeds from the sale of chiropractic loans, less costs of collection of delinquent chiropractic loans, into the chiropractic loan revolving fund. Moneys credited to the fund shall be used to supplement moneys appropriated for the chiropractic graduate student forgivable loan program, for loan forgiveness to eligible chiropractic physicians, and to pay for loan or interest repayment defaults by eligible chiropractic physicians. Notwithstanding section 8.33, any balance in the

S.F. _____ H.F. _____

fund on June 30 of any fiscal year shall not revert to the general fund of the state.

Sec. 38. Section 261.73, subsections 1, 2, and 4, Code 2011, are amended to read as follows:

1. A chiropractic loan forgiveness program is established to be administered by the ~~commission~~ department. A chiropractor is eligible for the program if the chiropractor is a resident of this state, is licensed to practice under chapter 151, and is engaged in the practice of chiropractic in this state.

2. Each applicant for loan forgiveness shall, in accordance with the rules of the ~~commission~~ state board, do all of the following:

a. Complete and file an application for chiropractic loan forgiveness. The individual shall be responsible for the prompt submission of any information required by the ~~commission~~ department.

b. File a new application and submit information as required by the ~~commission~~ department annually on the basis of which the applicant's eligibility for the renewed loan forgiveness will be evaluated and determined.

c. Complete and return on a form approved by the ~~commission~~ department an affidavit of practice verifying that the applicant meets the eligibility requirements of subsection 1.

4. A chiropractic loan forgiveness repayment fund is created for deposit of moneys appropriated to or received by the ~~commission~~ department for use under the program. Notwithstanding section 8.33, moneys deposited in the fund shall not revert to any fund of the state at the end of any fiscal year but shall remain in the chiropractic loan forgiveness repayment fund and be continuously available for loan forgiveness under the program. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

Sec. 39. Section 261.73, subsection 5, Code 2011, is amended

S.F. _____ H.F. _____

by striking the subsection.

Sec. 40. Section 261.81, Code 2011, is amended to read as follows:

261.81 Work-study program.

The Iowa college work-study program is established to stimulate and promote the part-time employment of students attending ~~Iowa postsecondary educational institutions~~ an eligible institution, and the part-time or full-time summer employment of students registered for classes at ~~Iowa postsecondary institutions~~ an eligible institution during the succeeding school year, who are in need of employment earnings in order to pursue postsecondary education. The program shall be administered by the ~~commission~~ department. ~~The commission shall adopt rules under chapter 17A to carry out the program.~~ The employment under the program shall be employment by the postsecondary education institution itself or work in a public agency or private nonprofit organization under a contract between the institution or the ~~commission~~ department and the agency or organization. The work shall not result in the displacement of employed workers or impair or affect existing contracts for services. Moneys used by an institution for the work-study program shall supplement and not supplant jobs and existing financial aid programs provided for students through the institution.

Sec. 41. Section 261.82, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The ~~college student aid commission~~ department shall do all of the following:

Sec. 42. Section 261.82, subsection 2, Code 2011, is amended to read as follows:

2. Allocate funds to participating postsecondary education institutions if funds are available to the ~~commission~~ department for that purpose.

Sec. 43. Section 261.82, subsections 3 and 5, Code 2011, are amended by striking the subsections.

S.F. _____ H.F. _____

1 Sec. 44. Section 261.83, subsection 1, Code 2011, is amended
2 to read as follows:
3 1. An eligible postsecondary education institution is
4 an institution of higher education under the state board
5 of regents, a community college, or an accredited private
6 institution ~~as defined in section 261.9, subsection 1~~. The
7 ~~commission~~ department may enter into an agreement with an
8 eligible postsecondary education institution under which the
9 ~~commission~~ department will make grants to the institution for
10 the work-study program.
11 Sec. 45. Section 261.83, subsection 2, paragraphs a and c,
12 Code 2011, are amended to read as follows:
13 *a.* File the proper forms with the ~~commission~~ department for
14 participation in the program.
15 *c.* Supervise and evaluate employment and maintain the
16 records required by the ~~commission~~ department.
17 Sec. 46. Section 261.85, Code Supplement 2011, is amended
18 to read as follows:
19 **261.85 Appropriation.**
20 1. There is appropriated from the general fund of the state
21 to the ~~commission~~ department for each fiscal year the sum
22 of two million seven hundred fifty thousand dollars for the
23 work-study program.
24 2. From moneys appropriated in this section, one
25 million five hundred thousand dollars shall be allocated to
26 institutions of higher education under the state board of
27 regents and community colleges and the remaining dollars
28 appropriated in this section shall be allocated by the
29 ~~commission~~ department on the basis of need as determined by the
30 ~~portion of the federal formula for distribution of work-study~~
31 ~~funds that relates to the current need of institutions~~
32 department.
33 Sec. 47. Section 261.86, subsection 1, unnumbered paragraph
34 1, Code Supplement 2011, is amended to read as follows:
35 A national guard educational assistance program is

S.F. _____ H.F. _____

1 established to be administered by the ~~college student aid~~
2 ~~commission~~ department for members of the Iowa national guard
3 who are enrolled as undergraduate students in ~~a community~~
4 ~~college, an institution of higher learning under the state~~
5 ~~board of regents, or an accredited private institution~~ eligible
6 institutions. ~~The college student aid commission shall adopt~~
7 ~~rules pursuant to chapter 17A to administer this section.~~ An
8 individual is eligible for the national guard educational
9 assistance program if the individual meets all of the following
10 conditions:
11 Sec. 48. Section 261.86, subsection 1, paragraph d, Code
12 Supplement 2011, is amended to read as follows:
13 *d.* Is ~~enrolled as an undergraduate student in a community~~
14 ~~college as defined in section 260C.2, an institution of higher~~
15 ~~learning under the control of the board of regents, or an~~
16 ~~accredited private institution as defined in section 261.9, and~~
17 ~~is~~ maintaining satisfactory academic progress.
18 Sec. 49. Section 261.86, subsections 2 and 4, Code
19 Supplement 2011, are amended to read as follows:
20 2. Educational assistance paid pursuant to this section
21 shall not exceed the resident tuition and fee rate established
22 for institutions of higher learning under the control of the
23 state board of regents. If the amount appropriated in a fiscal
24 year for purposes of this section is insufficient to provide
25 educational assistance to all national guard members who apply
26 for the program and who are determined by the adjutant general
27 to be eligible for the program, the adjutant general shall,
28 in coordination with the ~~commission~~ department, determine the
29 distribution of educational assistance. However, educational
30 assistance paid pursuant to this section shall not be less than
31 fifty percent of the resident tuition and fee rate established
32 for institutions of higher learning under the control of the
33 state board of regents or fifty percent of the tuition and fee
34 rate at the institution attended by the national guard member,
35 whichever is lower. Neither eligibility nor educational

S.F. _____ H.F. _____

assistance determinations shall be based upon a national guard member's unit, the location at which drills are attended, or whether the eligible individual is a member of the Iowa army or air national guard.

4. The eligibility of applicants and amounts of educational assistance to be paid shall be certified by the adjutant general of Iowa to the ~~college student aid commission~~ department, and all amounts that are or become due to a community college, accredited private institution, or institution of higher learning under the control of the state board of regents under this section shall be paid to the college or institution by the ~~college student aid commission~~ department upon receipt of certification by the president or governing board of the ~~educational~~ eligible institution as to accuracy of charges made, and as to the attendance and academic progress of the individual at the ~~educational~~ eligible institution. The ~~college student aid commission~~ department shall maintain an annual record of the number of participants and the dollar value of the educational assistance provided.

Sec. 50. Section 261.87, subsections 1, 4, and 5, Code Supplement 2011, are amended to read as follows:

1. ~~*Definitions.*~~ As used in this division, unless the context otherwise requires~~:~~,

~~*a. "Commission"* means the college student aid commission.~~

~~*b. "Eligible*~~ *"eligible institution"* means a community college established under chapter 260C or an institution of higher learning governed by the state board of regents.

~~*c. "Financial need"* means the difference between the student's financial resources available, including those available from the student's parents as determined by a completed parents' confidential statement, and the student's anticipated expenses while attending an eligible institution.~~

~~*d. "Full-time resident student"* means an individual resident of Iowa who is enrolled at an eligible institution in a program of study including at least twelve semester hours or the~~

S.F. _____ H.F. _____

1 ~~trimester or quarter equivalent.~~
2 ~~*e. "Part-time resident student"* means an individual resident~~
3 ~~of Iowa who is enrolled at an eligible institution in a~~
4 ~~program of study including at least three semester hours or the~~
5 ~~trimester or quarter equivalent.~~
6 ~~*f. "Qualified student"* means a resident student who has~~
7 ~~established financial need and who is meeting all program~~
8 ~~requirements.~~
9 4. *Discontinuance of attendance — remittance.* If a student
10 receiving a scholarship pursuant to this section discontinues
11 attendance before the end of any academic term, the entire
12 amount of any refund due to the student, up to the amount of any
13 payments made by the state, shall be remitted by the eligible
14 institution to the ~~commission~~ department. The ~~commission~~
15 department shall deposit refunds paid to the ~~commission~~
16 department in accordance with this subsection into the fund
17 established pursuant to subsection 5.
18 5. *Fund established.* An all Iowa opportunity scholarship
19 fund is created in the state treasury as a separate fund under
20 the control of the ~~commission~~ department. All moneys deposited
21 or paid into the fund are appropriated and made available
22 to the ~~commission~~ department to be used for scholarships
23 for students meeting the requirements of this section.
24 Notwithstanding section 8.33, any balance in the fund on June
25 30 of each fiscal year shall not revert to the general fund of
26 the state, but shall be available for purposes of this section
27 in subsequent fiscal years.
28 Sec. 51. Section 261.87, subsection 2, unnumbered paragraph
29 1, Code Supplement 2011, is amended to read as follows:
30 An all Iowa opportunity scholarship program is established
31 to be administered by the ~~commission~~ department. The awarding
32 of scholarships under the program is subject to appropriations
33 made by the general assembly. A person who meets all of the
34 following requirements is eligible for the program:
35 Sec. 52. Section 261.87, subsection 2, paragraph g, Code

S.F. _____ H.F. _____

1 Supplement 2011, is amended to read as follows:
2 *g.* Begins enrollment at an eligible institution within two
3 academic years of graduation from high school and continuously
4 receives awards as a full-time or part-time student to maintain
5 eligibility. However, the student may defer participation in
6 the program for up to two years in order to pursue obligations
7 that meet conditions established by the ~~commission~~ state board
8 by rule or to fulfill military obligations.
9 Sec. 53. Section 261.87, subsection 3, paragraph c, Code
10 Supplement 2011, is amended to read as follows:
11 *c.* Scholarships awarded pursuant to this section shall
12 not exceed the student's financial need, as determined by the
13 ~~commission~~ department, the average resident tuition rate and
14 mandatory fees established for institutions of higher learning
15 governed by the state board of regents, or the resident tuition
16 and mandatory fees charged for the program of enrollment by
17 the eligible institution at which the student is enrolled,
18 whichever is least.
19 Sec. 54. NEW SECTION. **261.88 All Iowa opportunity foster**
20 **care grant program.**
21 1. The department shall develop and implement, in
22 cooperation with the department of human services and the
23 judicial branch, the all Iowa opportunity foster care grant
24 program in accordance with this section.
25 2. The program shall provide financial assistance for
26 postsecondary education or training to a person who has a high
27 school diploma or a high school equivalency diploma under
28 chapter 259A and is described by any of the following:
29 *a.* Is age seventeen and is in a court-ordered placement
30 under chapter 232 under the care and custody of the department
31 of human services or juvenile court services.
32 *b.* Is age seventeen and has been placed in the state
33 training school or the Iowa juvenile home pursuant to a court
34 order entered under chapter 232 under the care and custody of
35 the department of human services.

S.F. _____ H.F. _____

1 *c.* Is age eighteen through twenty-three and is described by
2 any of the following:
3 (1) On the date the person reached age eighteen or during
4 the thirty calendar days preceding or succeeding that date,
5 the person was in a licensed foster care placement pursuant
6 to a court order entered under chapter 232 under the care and
7 custody of the department of human services or juvenile court
8 services.
9 (2) On the date the person reached age eighteen or during
10 the thirty calendar days preceding or succeeding that date, the
11 person was under a court order under chapter 232 to live with a
12 relative or other suitable person.
13 (3) The person was in a licensed foster care placement
14 pursuant to an order entered under chapter 232 prior to being
15 legally adopted after reaching age sixteen.
16 (4) On the date the person reached age eighteen or during
17 the thirty calendar days preceding or succeeding that date,
18 the person was placed in the state training school or the Iowa
19 juvenile home pursuant to a court order entered under chapter
20 232 under the care and custody of the department of human
21 services.
22 3. The program requirements shall include but are not
23 limited to all of the following:
24 *a.* Program assistance shall cover a program participant's
25 expenses associated with attending an approved postsecondary
26 education or training program in this state. The expenses
27 shall include tuition and fees, books and supplies, child
28 care, transportation, housing, and other expenses approved by
29 the department. If a participant is attending on less than a
30 full-time basis, assistance provisions shall be designed to
31 cover tuition and fees and books and supplies, and assistance
32 for other expenses shall be prorated to reflect the hours
33 enrolled.
34 *b.* If the approved education or training program is more
35 than one year in length, the program assistance may be renewed.

S.F. _____ H.F. _____

To renew the assistance, the participant must annually reapply for the program and meet the academic progress standards of the eligible institution or make satisfactory progress toward completion of the training program.

c. A person shall be less than age twenty-three upon both the date of the person's initial application for the program and the start date of the education or training program for which the assistance is provided. Eligibility for program assistance shall end upon the participant reaching age twenty-four.

d. Assistance under the program shall not be provided for expenses that are paid for by other programs for which funding is available to assist the participant.

e. The department shall implement assistance provisions in a manner to ensure that the total amount of assistance provided under the program remains within the funding available for the program.

Sec. 55. Section 261.93, Code 2011, is amended to read as follows:

261.93 Program established — who qualified.

1. An Iowa grant program is established to be administered by the department.

2. A grant may be awarded to a resident of Iowa who is admitted and in attendance as a full-time or part-time resident student at ~~an accredited higher education~~ a community college or an institution of higher education governed by the state board of regents, and who establishes financial need. Grants awarded shall be distributed to the appropriate ~~accredited higher education~~ community college or institution of higher education for payment of educational expenses, including tuition, room, board, and mandatory fees, with any balance to be distributed to the student for whom the grant is awarded.

Sec. 56. Section 261.93A, Code 2011, is amended to read as follows:

261.93A Appropriation — percentages.

S.F. _____ H.F. _____

1 Of the funds appropriated to the ~~college student aid~~
2 ~~commission~~ department to be allocated for the Iowa grant
3 program for each fiscal year, thirty-seven and six-tenths
4 percent shall be reserved for students attending regents
5 institutions, twenty-five and nine-tenths percent shall
6 be reserved for students attending community colleges, and
7 thirty-six and five-tenths percent shall be reserved for
8 students attending private colleges and universities. Funds
9 appropriated for the Iowa grant program shall be used to
10 supplement, not supplant, funds appropriated for other existing
11 programs at the eligible institutions.
12 Sec. 57. Section 261.111, subsections 1, 3, 4, 6 through 9,
13 Code 2011, are amended to read as follows:
14 1. A teacher shortage forgivable loan program is
15 established to be administered by the ~~college student aid~~
16 ~~commission~~ department. An individual is eligible for the
17 forgivable loan program if the individual is a resident of
18 this state who is enrolled as a sophomore, junior, senior,
19 or graduate student in an approved practitioner preparation
20 program in a designated area in which teacher shortages are
21 anticipated at an institution of higher learning under the
22 control of the state board of regents or an accredited private
23 institution ~~as defined in section 261.9~~.
24 3. Each applicant shall, in accordance with the rules of the
25 ~~commission~~ department, do all of the following:
26 *a.* Complete and file an application for a teacher shortage
27 forgivable loan. The individual shall be responsible for the
28 prompt submission of any information required by the ~~commission~~
29 department.
30 *b.* File a new application and submit information as required
31 by the ~~commission~~ department annually on the basis of which the
32 applicant's eligibility for the renewed forgivable loan will be
33 evaluated and determined.
34 4. Forgivable loans to eligible students shall not become
35 due until after the student graduates or leaves school. The

S.F. _____ H.F. _____

1 individual's total loan amount, including principal and
2 interest, shall be reduced by twenty percent for each year in
3 which the individual remains an Iowa resident and is employed
4 in Iowa by a school district or an accredited nonpublic school
5 as a practitioner in the teacher shortage area for which the
6 loan was approved. If the ~~commission~~ department determines
7 that the person does not meet the criteria for forgiveness of
8 the principal and interest payments, the ~~commission~~ department
9 shall establish a plan for repayment of the principal and
10 interest over a ten-year period. If a person required to
11 make the repayment does not make the required payments, the
12 ~~commission~~ department shall provide for payment collection.
13 ~~6. The commission shall prescribe by rule the interest rate~~
14 ~~for the forgivable loan.~~
15 ~~7.~~ 6. A teacher shortage forgivable loan repayment
16 fund is created for deposit of payments made by forgivable
17 loan recipients who do not fulfill the conditions of the
18 forgivable loan program and any other moneys appropriated to
19 or received by the ~~commission~~ department for deposit in the
20 fund. Notwithstanding section 8.33, moneys deposited in the
21 fund shall not revert to the general fund of the state at the
22 end of any fiscal year but shall remain in the forgivable loan
23 repayment fund and be continuously available to make additional
24 loans under the program. Notwithstanding section 12C.7,
25 subsection 2, interest or earnings on moneys deposited in the
26 fund shall be credited to the fund.
27 ~~8.~~ 7. For purposes of this section, unless the context
28 otherwise requires, *"teacher"* means the same as defined in
29 section 272.1.
30 ~~9.~~ 8. The ~~commission~~ department shall submit in a report
31 to the general assembly by January 1, annually, the number
32 of students who received forgivable loans pursuant to this
33 section, which institutions the students were enrolled in, and
34 the amount paid to each of the institutions on behalf of the
35 students who received forgivable loans pursuant to this section

S.F. _____ H.F. _____

1 and the total amount of loans outstanding, including a schedule
2 of years remaining on the outstanding loans.
3 Sec. 58. Section 261.112, subsections 1, 3, 5, and 6, Code
4 Supplement 2011, are amended to read as follows:
5 1. A teacher shortage loan forgiveness program is
6 established to be administered by the ~~commission~~ department.
7 A teacher is eligible for the program if the teacher is
8 practicing in a teacher shortage area as designated by the
9 department ~~of education~~ pursuant to subsection 2. For purposes
10 of this section, *"teacher"* means an individual holding a
11 practitioner's license issued under chapter 272, who is
12 employed in a nonadministrative position in a designated
13 shortage area by a school district or area education agency
14 pursuant to a contract issued by a board of directors under
15 section 279.13.
16 3. Each applicant for loan forgiveness shall, in accordance
17 with the rules of the ~~commission~~ state board, do all of the
18 following:
19 *a.* Complete and file an application for teacher shortage
20 loan forgiveness. The individual shall be responsible for the
21 prompt submission of any information required by the ~~commission~~
22 department.
23 *b.* File a new application and submit information as required
24 by the ~~commission~~ department annually on the basis of which the
25 applicant's eligibility for the renewed loan forgiveness will
26 be evaluated and determined.
27 *c.* Complete and return on a form approved by the ~~commission~~
28 department an affidavit of practice verifying that the
29 applicant is a teacher in an eligible teacher shortage area.
30 5. A teacher shortage loan forgiveness repayment fund
31 is created for deposit of moneys appropriated to or received
32 by the ~~commission~~ department for use under the program.
33 Notwithstanding section 8.33, moneys deposited in the fund
34 shall not revert to any fund of the state at the end of any
35 fiscal year but shall remain in the loan forgiveness repayment

S.F. _____ H.F. _____

1 fund and be continuously available for loan forgiveness under
2 the program. Notwithstanding section 12C.7, subsection 2,
3 interest or earnings on moneys deposited in the fund shall be
4 credited to the fund.
5 6. The ~~commission~~ department shall submit in a report to
6 the general assembly by January 1, annually, the number of
7 individuals who received loan forgiveness pursuant to this
8 section, which shortage areas the teachers taught in, the
9 amount paid to each program participant, and other information
10 identified by the ~~commission~~ department as indicators of
11 outcomes from the program.
12 Sec. 59. Section 261.112, subsection 7, Code Supplement
13 2011, is amended by striking the subsection.
14 Sec. 60. Section 261.128, subsections 1 and 2, Code 2011,
15 are amended to read as follows:
16 1. The ~~commission~~ department shall establish a health
17 care professional incentive payment program to recruit and
18 retain health care professionals in this state. Funding for
19 the program may be provided through the health care workforce
20 shortage fund or the health care professional and Iowa needs
21 nurses now initiative account created in section 135.175.
22 2. The ~~commission~~ department shall administer the incentive
23 payment program with the assistance of Des Moines university
24 — osteopathic medical center.
25 Sec. 61. Section 261.128, subsection 3, unnumbered
26 paragraph 1, Code 2011, is amended to read as follows:
27 The ~~commission~~ state board, with the assistance of Des
28 Moines university — osteopathic medical center, shall adopt
29 rules pursuant to chapter 17A relating to the establishment
30 and administration of the health care professional incentive
31 payment program. The rules adopted shall address all of the
32 following:
33 Sec. 62. Section 261.128, subsection 3, paragraph b, Code
34 2011, is amended to read as follows:
35 *b.* The process for awarding incentive payments.

S.F. _____ H.F. _____

The ~~commission~~ department of education shall receive recommendations from the department of public health regarding selection of incentive payment recipients. The process shall require each recipient to enter into an agreement with the ~~commission~~ department of education that specifies the obligations of the recipient and the ~~commission~~ department prior to receiving the incentive payment.

Sec. 63. Section 261.129, subsection 1, paragraphs a, c, and d, Code 2011, are amended to read as follows:

a. The ~~commission~~ department shall establish a nurse educator incentive payment program. Funding for the program may be provided through the health care workforce shortage fund or the health care professional and Iowa needs nurses now initiative account created in section 135.175. For the purposes of this subsection, *"nurse educator"* means a registered nurse who holds a master's degree or doctorate degree and is employed as a faculty member who teaches nursing in a nursing education program ~~as provided in 655 IAC 2.6~~ approved by the board of nursing at a community college, an accredited private institution, or an institution of higher education governed by the state board of regents.

c. The nurse educator and the ~~commission~~ department shall enter into an agreement specifying the obligations of the nurse educator and the ~~commission~~ department. If the nurse educator leaves the qualifying teaching position prior to teaching for four consecutive academic years, the nurse educator shall be liable to repay the incentive payment amount to the state, plus interest as specified by rule. However, if the nurse educator leaves the qualifying teaching position involuntarily, the nurse educator shall be liable to repay only a pro rata amount of the incentive payment based on incompleted years of service.

d. The ~~commission~~ state board, in consultation with the department of public health, the board of nursing, ~~the department of education,~~ and the Iowa nurses association, shall adopt rules pursuant to chapter 17A relating to the

S.F. _____ H.F. _____

1 establishment and administration of the nurse educator
2 incentive payment program. The rules shall include provisions
3 specifying what constitutes a qualifying teaching position.
4 Sec. 64. Section 261.129, subsection 2, paragraphs a, b, and
5 c, Code 2011, are amended to read as follows:
6 *a.* The ~~commission~~ department shall establish a nursing
7 faculty fellowship program to provide funds to nursing schools
8 in the state, including but not limited to nursing schools
9 located at community colleges, for fellowships for individuals
10 employed in qualifying positions on the nursing faculty.
11 Funding for the program may be provided through the health care
12 workforce shortage fund or the health care professional and the
13 Iowa needs nurses now initiative account created in section
14 135.175. The program shall be designed to assist nursing
15 schools in filling vacancies in qualifying positions throughout
16 the state.
17 *b.* The ~~commission~~ department, in consultation with the
18 department of public health, the board of nursing, ~~the~~
19 ~~department of education,~~ and the Iowa nurses association, and
20 in cooperation with nursing schools throughout the state, shall
21 develop a distribution formula which shall provide that no more
22 than thirty percent of the available moneys are awarded to a
23 single nursing school. Additionally, the program shall limit
24 funding for a qualifying position in a nursing school to no
25 more than ten thousand dollars per year for up to three years.
26 *c.* The ~~commission~~ state board, in consultation with
27 the department of public health, the board of nursing, ~~the~~
28 ~~department of education,~~ and the Iowa nurses association, shall
29 adopt rules pursuant to chapter 17A to administer the program.
30 The rules shall include provisions specifying what constitutes
31 a qualifying position at a nursing school.
32 Sec. 65. Section 261.129, subsection 2, paragraph d,
33 unnumbered paragraph 1, Code 2011, is amended to read as
34 follows:
35 In determining eligibility for a fellowship, the ~~commission~~

S.F. _____ H.F. _____

1 department shall consider all of the following:
2 Sec. 66. Section 261.129, subsection 3, paragraphs a and c,
3 Code 2011, are amended to read as follows:
4 *a.* The ~~commission~~ department shall establish a nurse
5 educator scholarship program. Funding for the program may
6 be provided through the health care workforce shortage fund
7 or the health care professional and the Iowa needs nurses
8 now initiative account created in section 135.175. The goal
9 of the nurse educator scholarship program is to address the
10 waiting list of qualified applicants to Iowa's nursing schools
11 by providing incentives for the training of additional nursing
12 educators. For the purposes of this subsection, *"nurse*
13 *educator"* means a registered nurse who holds a master's degree
14 or doctorate degree and is employed as a faculty member who
15 teaches nursing in a nursing education program ~~as provided in~~
16 ~~655 IAC 2.6~~ approved by the board of nursing at a community
17 college, an accredited private institution, or an institution
18 of higher education governed by the state board of regents.
19 *c.* The ~~commission~~ state board, in consultation with
20 the department of public health, the board of nursing, ~~the~~
21 ~~department of education,~~ and the Iowa nurses association,
22 shall adopt rules pursuant to chapter 17A relating to the
23 establishment and administration of the nurse educator
24 scholarship program. The rules shall include provisions
25 specifying what constitutes a qualifying teaching position and
26 the amount of any scholarship.
27 Sec. 67. Section 261.129, subsection 4, paragraphs a, c, and
28 e, Code 2011, are amended to read as follows:
29 *a.* The ~~commission~~ department shall establish a nurse
30 educator scholarship-in-exchange-for-service program.
31 Funding for the program may be provided through the
32 health care workforce shortage fund or the health care
33 professional and Iowa needs nurses now initiative account
34 created in section 135.175. The goal of the nurse educator
35 scholarship-in-exchange-for-service program is to address

S.F. _____ H.F. _____

1 the waiting list of qualified applicants to Iowa's nursing
2 schools by providing incentives for the education of additional
3 nursing educators. For the purposes of this subsection, "*nurse*
4 *educator*" means a registered nurse who holds a master's degree
5 or doctorate degree and is employed as a faculty member who
6 teaches nursing in a nursing education program ~~as provided in~~
7 ~~655 IAC 2.6~~ approved by the board of nursing at a community
8 college, an accredited private institution, or an institution
9 of higher education governed by the state board of regents.
10 *c.* The scholarship-in-exchange-for-service recipient
11 and the ~~commission~~ department shall enter into an agreement
12 specifying the obligations of the applicant and the ~~commission~~
13 department. If the nurse educator leaves the qualifying
14 teaching position prior to teaching for four consecutive
15 academic years, the nurse educator shall be liable to repay the
16 scholarship-in-exchange-for-service amount to the state plus
17 interest as specified by rule. However, if the nurse educator
18 leaves the qualified teaching position involuntarily, the nurse
19 educator shall be liable to repay only a pro rata amount of the
20 scholarship based on incomplete years of service.
21 *e.* The ~~commission~~ state board, in consultation with
22 the department of public health, the board of nursing, ~~the~~
23 ~~department of education,~~ and the Iowa nurses association,
24 shall adopt rules pursuant to chapter 17A relating to the
25 establishment and administration of the nurse educator
26 scholarship-in-exchange-for-service program. The rules
27 shall include the provisions specifying what constitutes
28 a qualifying teaching position and the amount of any
29 scholarship-in-exchange-for-service.
30 Sec. 68. Section 261A.5, Code 2011, is amended to read as
31 follows:
32 **261A.5 Creation as public instrumentality.**
33 The Iowa higher education loan authority is created as
34 a body politic and corporate. The authority is a public
35 instrumentality and the exercise by the authority of the

S.F. _____ H.F. _____

1 powers conferred by this chapter is the performance of an
2 essential public function. The authority is attached to the
3 ~~college student aid commission~~ department of education for
4 administrative purposes.
5 Sec. 69. Section 261D.3, subsection 2, paragraph e, Code
6 2011, is amended to read as follows:
7 *e.* One alternate member appointed by the ~~Iowa college~~
8 ~~student aid commission~~ director of the department of education.
9 Sec. 70. Section 261E.2, subsection 4, Code 2011, is amended
10 to read as follows:
11 4. *"Eligible postsecondary institution"* means an institution
12 of higher learning under the control of the state board of
13 regents, a community college established under chapter 260C, or
14 an accredited private institution as defined in section ~~261.9~~
15 261.1.
16 Sec. 71. Section 261F.2, subsection 1, paragraph a, Code
17 2011, is amended to read as follows:
18 *a.* Develop, in consultation with the ~~college student~~
19 ~~aid commission~~ department of education, a code of conduct
20 governing educational loan activities with which the covered
21 institution's officers, employees, and agents shall comply.
22 Sec. 72. Section 261F.2, subsections 2 and 3, Code 2011, are
23 amended to read as follows:
24 2. The ~~college student aid commission~~ department of
25 education shall provide to covered institutions assistance
26 and guidance relating to the development, administration, and
27 monitoring of a code of conduct governing educational loan
28 activities.
29 3. Except as provided in this section, the ~~college student~~
30 ~~aid commission~~ department of education is not subject to the
31 duties, restrictions, prohibitions, and penalties of this
32 chapter.
33 Sec. 73. NEW SECTION. **262.83 Minority academic grants for**
34 **economic success.**
35 1. The general assembly finds that the failure of many young

S.F. _____ H.F. _____

1 Iowans to complete their education limits their opportunity
2 for a life of fulfillment and hinders the state's efforts to
3 provide a well-trained workforce for business and industry
4 in Iowa. The general assembly also declares that it is the
5 policy of this state to apply positive measures to ensure
6 that equal opportunities exist for minority persons to
7 pursue their educational goals. Therefore, the Iowa minority
8 academic grants for economic success program is established
9 to be administered by the state board of regents to provide
10 additional funding to the state board of regents institutions,
11 community colleges, and accredited private institutions in
12 order to encourage resident minority students to remain in
13 Iowa, to attend community colleges, private colleges, and
14 universities in Iowa, and to assure that a limited family
15 income will not be a barrier for a minority person to pursue a
16 postsecondary education.
17 2. As used in this section, unless the context otherwise
18 requires:
19 *a. "Accredited private institution"* means an accredited
20 private institution as defined in section 261.1.
21 *b. "Financial need"* means the difference between the
22 student's financial resources, including resources available
23 from the student's parents and the student, as determined
24 by a completed parents' financial statement and including
25 any noncampus-administered federal or state grants and
26 scholarships, and the student's estimated expenses while
27 attending the institution. A student shall accept all
28 available federal and state grants and scholarships before
29 being considered eligible for grants under the Iowa minority
30 academic grants for economic success program. Financial need
31 shall be reconsidered on at least an annual basis.
32 *c. "Full-time student"* means an individual who is enrolled
33 at an accredited private institution, community college, or
34 board of regents university for at least twelve semester hours
35 or the trimester or quarter equivalent.

S.F. _____ H.F. _____

1 *d. "Minority person"* means an individual who is African
2 American, Hispanic, Asian, or a Pacific Islander, an American
3 Indian, or an Alaskan Native American.
4 *e. "Part-time student"* means an individual who is enrolled
5 at an accredited private institution, community college, or
6 board of regents university in a course of study including
7 at least three semester hours or the trimester or quarter
8 equivalent of three semester hours.
9 *f. "Program"* means the Iowa minority academic grants for
10 economic success program established in this section.
11 3. A grant under the program may be awarded to any
12 minority person who is a resident of Iowa, who is accepted
13 for admission or is attending a board of regents university,
14 community college, or an accredited private institution, and
15 who demonstrates financial need.
16 4. Full-time students may receive grants for not more than
17 eight semesters of undergraduate study or the trimester or
18 quarter equivalent of eight semesters of undergraduate study.
19 Part-time students may receive grants for not more than sixteen
20 semesters of undergraduate study or the trimester or quarter
21 equivalent of sixteen semesters of undergraduate study.
22 5. The amount of the grant shall not exceed a student's
23 yearly financial need or three thousand five hundred dollars,
24 whichever is less. If the student is attending or seeking to
25 enroll in an accredited private institution, fifty percent of
26 the amount of the grant shall be provided by the accredited
27 private institution and fifty percent shall be provided by the
28 state board of regents from state funds appropriated for that
29 purpose.
30 6. Grants shall be awarded on an annual basis and shall
31 be credited by the institution against the student's tuition,
32 fees, room, and board, at the beginning of each semester,
33 trimester, or quarter in equal installments upon certification
34 by the institution that the student is admitted and attending
35 the institution.

S.F. _____ H.F. _____

1 7. If a student receiving a grant under the program
2 discontinues attendance before the end of any academic period,
3 but after receiving payment of grant moneys for the academic
4 period, the entire amount of any refund due the student, up to
5 the amount of any payments made by the state, shall be remitted
6 by the private institution to the state board of regents.
7 8. In administering the program for the community colleges
8 and the private institutions, the state board of regents shall
9 do all of the following:
10 *a.* Provide application forms to students enrolled and
11 attending or seeking to enroll and attend community colleges or
12 accredited private institutions.
13 *b.* Develop and provide confidential financial statement
14 forms to the parents or guardians of students applying for
15 grants under the program.
16 *c.* Approve and award grants to community colleges and
17 accredited private institutions under the program.
18 *d.* Adopt rules for determining financial need and residency
19 for the purpose of awarding grants to qualified students,
20 and any other rules necessary for the administration of the
21 program.
22 *e.* Report annually to the governor and the general assembly
23 on the progress and implementation of the program.
24 *f.* Require postsecondary institutions that receive moneys
25 from students awarded grants under the program to furnish any
26 information necessary for the implementation or administration
27 of the program.
28 *g.* Solicit and receive private contributions and federal
29 grants available for purposes of the program.
30 *h.* Maintain records on the recipients of grants awarded
31 under this section.
32 *i.* Administer funds appropriated for the Iowa minority
33 academic grants for economic success program to carry out the
34 duties of the state board of regents.
35 *j.* Provide for the proration of funds among qualified

S.F. _____ H.F. _____

applicants if funds available are insufficient to pay all approved grants.

9. An applicant for a grant under the program shall do all of the following:

a. Complete and file an application for a grant on forms provided by the state board of regents.

b. Submit the financial information required for evaluation of the applicant's financial need for a grant.

c. Comply with rules and information requests of the state board of regents made in relation to the program.

Sec. 74. Section 262.92, subsection 3, Code 2011, is amended to read as follows:

3. The board of regents shall adopt rules to establish program guidelines for the universities under the board's control and for the administration and coordination of program efforts. Rules adopted shall include methods of recording data relating to voucher recipients and making the data available to the ~~college student aid commission~~ department of education.

Sec. 75. Section 262.93, Code 2011, is amended to read as follows:

262.93 Reports to general assembly.

The ~~college student aid commission~~ department of education and the state board of regents each shall submit, by January 15 of each year, a report on the progress and implementation of the programs which they administer under sections 261.102 through 261.105, 262.82, and 262.92. The reports shall include, but are not limited to, the numbers of students participating in the programs and allocation of funds appropriated for the programs.

Sec. 76. Section 272C.4, subsection 10, Code 2011, is amended to read as follows:

10. Establish procedures consistent with the provisions of section 261.121, subsection 2, Code 2011, and sections 261.122 through 261.127, Code 2011, by which, in the board's discretion, a license shall be suspended, denied, or revoked,

S.F. _____ H.F. _____

or other disciplinary action imposed, with regard to a licensee subject to the board's jurisdiction who has defaulted on a repayment or service obligation under any federal or state educational loan or service-conditional scholarship program. Notwithstanding any other provision to the contrary, each board shall defer to the federal or state program's determination of default upon certification by the program of such a default on the part of a licensee, and shall remove the suspension, grant the license, or stay the revocation or other disciplinary action taken if the federal or state program certifies that the defaulting licensee has agreed to fulfill the licensee's obligation, or is complying with an approved repayment plan. Licensure sanctions shall be reinstated upon certification that a defaulting licensee has failed to comply with the repayment or service requirements, as determined by the federal or state program. The provisions of this subsection relating to board authority to act in response to notification of default shall apply not only to a licensing board, as defined in section 272C.1, but also to any other licensing board or authority regulating a license authorized by the laws of this state.

Sec. 77. Section 303.17, subsection 3, paragraph b, subparagraph (5), subparagraph division (e), Code 2011, is amended to read as follows:

(e) A faculty member of an accredited private institution as defined in section ~~261.9~~ 261.1.

Sec. 78. Section 522B.11, subsection 1, paragraph n, Code Supplement 2011, is amended to read as follows:

n. Failing to comply with an administrative or court order related to repayment of loans issued under chapter 261 to the ~~college student aid commission~~ department of education.

DIVISION II

POSTSECONDARY REGISTRATION — REQUIREMENTS

Sec. 79. Section 261B.2, Code 2011, is amended to read as follows:

261B.2 Definitions.

S.F. _____ H.F. _____

1 As used in this chapter, unless the context otherwise
2 requires:
3 1. ~~*"Commission"* means the college student aid commission~~
4 ~~created pursuant to section 261.1.~~ *"Course of instruction"*
5 means a postsecondary educational program that a school
6 offers through in-person instruction, distance delivery,
7 correspondence study methods, or any combination thereof.
8 2. *"Degree"* means a postsecondary credential conferring
9 on the recipient the title of associate, bachelor, master,
10 or doctor, or an equivalent title, signifying educational
11 attainment based on ~~any one or a combination of~~ study ~~or~~
12 ~~the equivalent~~ which may be supplemented by experience or
13 achievement testing. A postsecondary degree under this chapter
14 shall not include an honorary degree or other unearned degree.
15 3. *"Department"* means the department of education.
16 4. *"Presence"* means ~~maintaining an address within Iowa~~
17 a location in Iowa at which a student participates in any
18 structured activity related to a school's distance education
19 course of instruction, with the exception of proctored
20 examinations. *"Presence"* also means an address, location,
21 telephone number, or internet protocol address in Iowa from
22 which a school conducts any aspect of its operations. For the
23 purpose of a residential course of instruction offered on a
24 school's campus that is not located in Iowa, *"presence"* does not
25 include:
26 *a.* Occasional, short-term activities conducted at a location
27 in Iowa for the purpose of recruiting students for the school's
28 residential course of instruction.
29 *b.* A residency, practicum, internship, clinical, or
30 similar experience that the school permits the student to
31 participate in at a location in Iowa, provided that a person
32 who provides instruction or supervision at the Iowa location is
33 not compensated by the school.
34 ~~4.~~ 5. *"School"* means an agency of the state or political
35 subdivision of the state, individual, partnership, company,

S.F. _____ H.F. _____

1 firm, society, trust, association, corporation, or any
2 combination which meets any of the following criteria:
3 *a.* Is, owns, or operates a ~~nonprofit~~ postsecondary
4 educational institution.
5 *b.* Provides a postsecondary ~~instructional program or~~ course
6 of instruction leading to a degree.
7 *c.* Uses in its name the term *"college"*, *"academy"*,
8 *"institute"*, or *"university"* or a similar term to imply that the
9 person is primarily engaged in the education of students at the
10 postsecondary level, and which makes a charge for its services.
11 ~~5.~~ 6. *"State board"* means the state board of education.
12 7. *"Student"* means a person who enrolls in or seeks to
13 enroll in a course of instruction offered or conducted by a
14 school.
15 Sec. 80. Section 261B.3, Code 2011, is amended to read as
16 follows:
17 **261B.3 Registration.**
18 1. Except as provided in section 261B.11, a school ~~that~~
19 ~~maintains or~~ shall register with the department if a person
20 compensated by the school conducts ~~one or more courses~~ any
21 portion of a course of instruction~~, including courses of~~
22 ~~instruction by correspondence or other distance delivery~~
23 ~~method, offered~~ in this state or ~~which~~ if the school otherwise
24 has a presence in this state ~~and offers courses in other states~~
25 ~~or foreign countries shall register with the commission~~.
26 *a.* Registrations shall be renewed every ~~four~~ two years
27 ~~or~~ and shall be amended upon any substantive change in
28 location, program offering, or accreditation. A school
29 makes a substantive change in a program offering when the
30 school proposes to offer or modify a program that requires
31 the approval of the state board or any other state agency
32 authorized to approve the school or its program in this state.
33 *b.* Registration shall be made on application forms
34 approved and ~~supplied~~ made available by the ~~commission~~
35 department and at the time and in the manner prescribed by

S.F. _____ H.F. _____

the ~~commission~~ department. ~~Upon receipt of a complete and accurate registration application, the commission shall issue an acknowledgment of document filed and send it to the school.~~

2. The ~~commission~~ department may ~~request~~ require a school to provide additional information ~~as~~ the department deems necessary to ~~enable the commission to determine the accuracy and completeness of the information contained in the~~ evaluate a school's suitability for registration ~~application~~.

3. The department shall notify a school in writing of its decision to grant or deny registration and any stipulation associated with the school's registration.

4. If a school fails to meet any of the registration criteria, or if the ~~commission~~ department believes that false, misleading, or incomplete information has been submitted in connection with an application for registration, the ~~commission~~ department may deny registration. The ~~commission~~ department shall conduct a hearing on the denial if a hearing is requested by a school. ~~The commission may withhold an acknowledgment of document filed pending the outcome of the hearing.~~ Upon a finding after the hearing that the school fails to meet any of the registration criteria, or that information contained in the registration application is false, misleading, or incomplete, the ~~commission~~ department shall deny ~~an acknowledgment of document filed to the school~~ registration. The ~~commission~~ department shall make the final decision on each registration. However, the decision of the ~~commission~~ department is subject to judicial review in accordance with section 17A.19.

~~3. The commission shall adopt rules under chapter 17A for the implementation of this chapter.~~

Sec. 81. Section 261B.3A, Code 2011, is amended to read as follows:

261B.3A Requirements.

1. In order to register, a school shall be accredited by an agency or organization approved or recognized by the United States department of education or a successor agency,

S.F. _____ H.F. _____

be approved by any other state agency authorized to approve the school in this state, and, subsequently, be approved for operation by the ~~commission~~ department.

2. A practitioner preparation program, as defined in section 272.1, operated by a school that applies to register the program in accordance with this chapter shall, in order to register, be accredited by an agency or organization approved or recognized by the United States department of education or a successor agency, be approved by the state board ~~of education~~ pursuant to section 256.7, subsection 3, and, subsequently, be approved for operation by the ~~commission~~ department.

3. The department may grant a provisional registration to a school that is not accredited by an agency or organization that is recognized by the United States department of education or its successor agency. The department shall determine the duration of the provisional registration. During the provisional registration period, the school shall, at six-month intervals, submit to the department documentation of its progress toward achieving accreditation. The department may renew the school's provisional registration at its discretion if the documentation submitted indicates that the school is making progress toward accreditation.

~~3.~~ 4. Nothing in this chapter shall be construed to exempt a school from the requirements of chapter 490, ~~or~~ 491, or 714.

Sec. 82. Section 261B.4, Code 2011, is amended to read as follows:

261B.4 Registration information.

As a basis for registration, schools shall provide the ~~commission~~ department with the following information:

1. The name or title of the school.

2. ~~The~~ As applicable, the principal location of the school in this state, in other states, and in foreign countries, and the location of the place or places in this state, in other states, and in foreign countries where instruction is likely to be given.

S.F. _____ H.F. _____

1 3. A schedule of the total tuition charges, fees, and other
2 costs payable to the school by a student during the course of
3 instruction.
4 4. The refund policy of the school for the return of
5 refundable portions of tuition, fees, or other charges.
6 The tuition refund policy for Iowa resident students of a
7 for-profit school with at least one program of more than
8 four months in length that leads to a recognized educational
9 credential, such as an academic or professional degree,
10 diploma, or license, must comply with section 714.23.
11 ~~5. The degrees granted by the school.~~
12 ~~6.~~ 5. The names and addresses of the principal owners of
13 the school or the officers and members of the legal governing
14 body of the school.
15 ~~7.~~ 6. The name and address of the chief executive officer
16 of the school.
17 ~~8.~~ 7. A copy of or a description of the means by which the
18 school intends to comply with section 261B.9.
19 ~~9.~~ 8. The name of the accrediting agency recognized by the
20 United States department of education or a successor agency
21 which has accredited the school, ~~and~~ the status under which
22 accreditation is held, the name of any other accrediting or
23 licensing entity that has accredited or licensed the school or
24 its programs, a copy of the accrediting or licensure notice
25 issued by the entity, and a record of any sanctions the entity
26 has levied against the school.
27 ~~10.~~ 9. The name, address, and telephone number of a contact
28 person in this state. A school that applies for registration
29 to offer a course of instruction by distance delivery may
30 provide the name and address of its registered agent in Iowa.
31 ~~11.~~ 10. The names or titles and a description of the
32 courses and degrees to be offered in Iowa.
33 ~~12.~~ 11. A description of procedures for the preservation
34 of student records and the contact information to be used
35 by students and graduates who seek to obtain transcript

S.F. _____ H.F. _____

information.

~~13.~~ 12. The academic and instructional methodologies and delivery systems to be used by the school and the extent to which the school anticipates each methodology and delivery system will be used, including~~,~~ but not limited to~~,~~ classroom instruction, correspondence, ~~electronic telecommunications~~ distance delivery, independent study, and portfolio experience evaluation.

13. The name, title, business address, telephone number, and resume of an Iowa resident compensated by the school to perform duties at a location in Iowa. A school that applies for registration to offer a course of instruction by distance delivery may provide an internet address as the business address for an Iowa resident it compensates to perform duties remotely from a location in Iowa.

14. The school's official Stafford loan cohort default rate as calculated by the United States department of education for the three most recent federal fiscal years, if applicable.

15. Average student loan debt upon graduation of students completing programs at the school.

16. The graduation rate of undergraduate students as reported to the United States department of education.

17. Evidence that the school meets the conditions of financial responsibility established in section 714.18, or that the school qualifies for an exemption under section 714.19 or 714.22.

Sec. 83. Section 261B.5, Code 2011, is amended to read as follows:

261B.5 Changes.

If any information provided to the ~~commission~~ department under section 261B.3 or 261B.4 changes, the school shall inform the ~~commission~~ department within ninety days of the effective date of the change in the format specified by the ~~commission~~ department.

Sec. 84. Section 261B.6, Code 2011, is amended to read as

S.F. _____ H.F. _____

1 follows:
2 **261B.6 List of schools.**
3 The ~~commission~~ department shall maintain a list of
4 registered schools and the list and the information submitted
5 under sections 261B.3 and 261B.4 are public records under
6 chapter 22.
7 Sec. 85. Section 261B.7, Code 2011, is amended to read as
8 follows:
9 **261B.7 Unauthorized representation.**
10 ~~Neither a~~ A school ~~nor its~~ or a school's officials or
11 employees shall not advertise or represent that the school is
12 approved or accredited by the ~~commission~~ department or the
13 state of Iowa ~~nor shall it use the registration as a~~. However,
14 a registered school shall reference in promotional materials
15 that the school is registered by the department on behalf
16 of the state of Iowa and provide the department's contact
17 information for students who wish to inquire about the school
18 or file a complaint.
19 Sec. 86. Section 261B.8, subsection 1, Code 2011, is amended
20 to read as follows:
21 1. The ~~commission~~ department shall ~~set by rule and~~ collect
22 a nonrefundable initial registration fee and a renewal of
23 registration fee from each registered school. Moneys collected
24 as initial registration fees and registration renewal fees
25 shall be considered a repayment receipt, as defined in section
26 8.2, and shall be retained by the department.
27 Sec. 87. Section 261B.8, subsection 3, Code 2011, is amended
28 by striking the subsection.
29 Sec. 88. Section 261B.9, subsection 5, Code 2011, is amended
30 to read as follows:
31 5. Whether the postsecondary credential ~~or certificate~~
32 issued, awarded, or credited to a student upon completion
33 of the course or the fact of completion of the course is
34 applicable toward a degree granted by the school and, if so,
35 under what circumstances the application will be made.

S.F. _____ H.F. _____

1 Sec. 89. Section 261B.9, Code 2011, is amended by adding the
2 following new subsection:
3 NEW SUBSECTION. 7. The disclosures required by the
4 department for an out-of-state school that the state board
5 approves to offer a practitioner preparation program by
6 distance delivery method.
7 Sec. 90. NEW SECTION. **261B.10 Duties of the state board.**
8 The state board shall do all of the following:
9 1. Adopt rules under chapter 17A for the implementation of
10 this chapter.
11 2. Establish reasonable registration standards for the
12 approval of postsecondary schools that are required to register
13 with the department in order to operate in this state. The
14 registration standards established by the state board shall
15 ensure that all of the following conditions are satisfied:
16 *a.* The courses, curriculum, and instruction offered by the
17 postsecondary school are of such quality and content as may
18 reasonably and adequately ensure achievement of the stated
19 objective for which the courses, curriculum, or instruction is
20 offered.
21 *b.* The postsecondary school has adequate space, equipment,
22 instructional material, and personnel to provide education and
23 training of good quality.
24 *c.* The educational and experience qualifications of
25 the postsecondary school's directors, administrators, and
26 instructors are such as may reasonably ensure that students
27 will receive instruction consistent with the objectives of the
28 postsecondary school's programs of study.
29 *d.* Upon completion of training or instruction, students are
30 given certificates, diplomas, or degrees as appropriate by the
31 postsecondary school indicating satisfactory completion of the
32 program.
33 *e.* The postsecondary school is financially responsible and
34 capable of fulfilling commitments for instruction.
35 3. Set by rule registration fees.

S.F. _____ H.F. _____

Sec. 91. Section 261B.11, Code 2011, is amended to read as follows:

261B.11 Exceptions.

1. This chapter does not apply to the following types of schools and courses of instruction:

~~1.~~ *a.* Schools and educational programs conducted by firms, corporations, or persons solely for the training of their own employees.

~~2.~~ *b.* Apprentice or other training programs provided by labor unions solely to members or applicants for membership.

~~3.~~ *c.* Courses of instruction of an avocational or recreational nature that do not lead to an occupational objective.

~~4.~~ *d.* Seminars, refresher courses, and programs of instruction sponsored by professional, business, or farming organizations or associations for the members and employees of members of these organizations or associations.

~~5.~~ *e.* Courses of instruction conducted by a public school district or a combination of public school districts.

~~6.~~ *f.* Colleges and universities authorized by the laws of this state to grant degrees.

~~7.~~ *g.* Schools or courses of instruction or courses of training that are offered by a vendor solely to the purchaser or prospective purchaser of the vendor's product when the objective of the school or course is to enable the purchaser or the purchaser's employees to gain skills and knowledge to enable the purchaser to use the product.

~~8.~~ *h.* Schools and educational programs conducted by religious organizations solely for the religious instruction of leadership practitioners of that religious organization.

~~9.~~ *i.* Postsecondary educational institutions licensed by the state of Iowa ~~prior to July 1, 2009,~~ under section 157.8 or 158.7 to ~~conduct business~~ operate as schools of cosmetology arts and sciences or as barber schools in the state.

~~10.~~ *j.* ~~Accredited higher education~~ Eligible institutions

S.F. _____ H.F. _____

1 ~~that meet the criteria established under~~ as defined in section
2 ~~261.92, subsection 1~~ 261.1.
3 ~~11.~~ *k.* Postsecondary educational institutions offering
4 programs limited to nondegree specialty vocational training
5 programs.
6 ~~12. Not-for-profit colleges and universities established~~
7 ~~and authorized by city ordinance to grant degrees.~~
8 *l.* Higher education institutions located in Iowa that are
9 affiliated with health care systems located in Iowa, and which
10 offer health professions programs that are accredited by an
11 accrediting agency recognized by the United States department
12 of education.
13 *m.* Higher education institutions located in Iowa whose
14 massage therapy curriculum is approved under administrative
15 rules of the professional licensure division of the department
16 of public health and whose instructors are licensed massage
17 therapists under chapter 152C.
18 2. A school that claims an exemption from registration
19 under subsection 1, paragraph *"h"*, *"i"*, *"k"*, *"l"*, or *"m"*, must
20 demonstrate to the department or its designee that it qualifies
21 for the exemption. The school must apply for approval of its
22 exemption claim on an application supplied by the department.
23 The department or its designee may approve the school's
24 exemption claim or deny it. A school whose exemption claim is
25 approved must reapply to renew its exemption no less frequently
26 than every two years.
27 *a.* A school that is granted an exemption under this section
28 must file evidence of financial responsibility under section
29 714.18 or demonstrate to the department or its designee that
30 the school qualifies for an exemption under section 714.19 or
31 714.22.
32 *b.* A for-profit school with at least one program of
33 more than four months in length that leads to a recognized
34 educational credential, such as an academic or professional
35 degree, diploma, or license, must submit to the department or

S.F. _____ H.F. _____

its designee a tuition refund policy that meets the conditions of section 714.23.

3. A school that is denied an exemption claim by the department or its designee, or that no longer qualifies for a claimed exemption, shall apply for registration or cease operating in Iowa.

Sec. 92. NEW SECTION. **261B.11A Ineligibility for state student aid programs.**

1. Students attending schools required to register under this chapter are ineligible for state student financial aid programs established under chapter 261.

2. A school required to register under this chapter is prohibited from offering state aid or advertising that state aid is or may be available to students attending the school.

Sec. 93. Section 261B.12, subsections 1 and 2, Code 2011, are amended to read as follows:

1. When the ~~commission or the commission's designee believes~~ department determines a school is in violation of this chapter, the ~~commission~~ department shall order the school to show cause why the ~~commission~~ department should not issue a cease and desist order to the school.

2. After the school's response to the show cause order has been reviewed by the ~~commission~~ department, the ~~commission~~ department may issue a cease and desist order to the school if the ~~commission believes~~ department determines that the school continues to be in violation of this chapter. If the school does not cease and desist, the ~~commission~~ department may seek judicial enforcement of the cease and desist order in any district court.

DIVISION III

POSTSECONDARY REGISTRATION UNLAWFUL ACTIVITY

Sec. 94. Section 714.17, Code 2011, is amended to read as follows:

714.17 Unlawful advertising and selling of educational courses ~~of instruction~~.

S.F. _____ H.F. _____

It shall be unlawful for any person, firm, association, or corporation maintaining, advertising, or conducting in Iowa any educational course ~~of instruction~~ for profit, or for tuition charge, whether by classroom instructions, ~~or~~ by correspondence, or by other delivery method to:

1. Falsely advertise or represent to any person any matter material to ~~such~~ an educational course ~~of instruction~~. All advertising of such courses ~~of instruction~~ shall adhere to and comply with the rules and regulations of the federal trade commission ~~as of July 4, 1965~~.

2. Collect tuition or other charges in excess of one hundred fifty dollars in the case of educational courses offered by correspondence ~~courses of study~~, in advance of the receipt and approval by the pupil of the first assignment or lesson of such course. Any contract providing for advance payment of more than one hundred fifty dollars shall be voidable on the part of the pupil or any person liable for the tuition provided for in the contract.

3. Promise or guarantee employment utilizing information, training, or skill purported to be provided or otherwise enhanced by ~~a~~ an educational course, unless the promisor or guarantor offers the student or prospective student a bona fide contract of employment agreeing to employ said student or prospective student for a period of not less than one hundred twenty days in a business or other enterprise regularly conducted by the promisor or guarantor and in which such information, training, or skill is a normal condition of employment.

Sec. 95. Section 714.18, subsection 1, Code 2011, is amended to read as follows:

1. Except as otherwise provided in subsection 2, every person, firm, association, or corporation maintaining or conducting in Iowa any ~~such~~ educational course ~~of instruction~~ by classroom instruction or by correspondence or by other ~~distance~~ delivery method, or soliciting in Iowa the sale of

S.F. _____ H.F. _____

1 such course, shall file with the ~~college student aid commission~~
2 department of education all of the following:
3 *a.* A continuous corporate surety bond to the state of
4 Iowa in the sum of fifty thousand dollars conditioned ~~for~~
5 on the faithful performance of all contracts and agreements
6 with students made by such person, firm, association, or
7 corporation, or their salespersons; but the aggregate liability
8 of the surety for all breaches of the conditions of the bond
9 shall not exceed the sum of the bond. The surety on the
10 bond may cancel the bond upon giving thirty days' written
11 notice to the ~~college student aid commission~~ department of
12 education and thereafter shall be relieved of liability for any
13 breach of condition occurring after the effective date of the
14 cancellation.
15 *b.* A statement designating a resident agent for the purpose
16 of receiving service in civil actions. In the absence of such
17 designation, service may be had upon the secretary of state if
18 service cannot otherwise be made in this state.
19 *c.* A copy of any catalog, prospectus, brochure, or other
20 advertising material intended for distribution in Iowa.
21 Such material shall state the cost of the educational course
22 offered, the schedule of tuition refunds for portions of the
23 educational course not completed, and if no refunds are to
24 be paid, the material shall so state. Any contract induced
25 by advertising materials not previously filed as provided in
26 this chapter shall be voidable on the part of the pupil or any
27 person liable for the tuition provided for in the contract.
28 Sec. 96. Section 714.18, subsection 2, unnumbered paragraph
29 1, Code 2011, is amended to read as follows:
30 A school licensed under the provisions of section 157.8
31 or 158.7 shall file with the ~~college student aid commission~~
32 department of education the following:
33 Sec. 97. Section 714.18, subsection 2, paragraph a, Code
34 2011, is amended to read as follows:
35 *a.* (1) A continuous corporate surety bond to the state of

S.F. _____ H.F. _____

1 Iowa in the sum of fifty thousand dollars or ten percent of the
2 total annual tuition collected, whichever is less, conditioned
3 ~~for~~ on the faithful performance of all contracts and agreements
4 with students made by such school. A school desiring to file
5 a surety bond based on a percentage of annual tuition shall
6 provide to the ~~college student aid commission~~ department of
7 education, in the form prescribed by the ~~commission~~ department,
8 a notarized statement attesting to the total amount of tuition
9 collected in the preceding twelve-month period. The ~~commission~~
10 department shall determine the sufficiency of the statement and
11 the amount of the bond. Tuition information submitted pursuant
12 to this subparagraph shall be kept confidential.
13 (2) If the school has filed a performance bond with an
14 agency of the United States government pursuant to federal law,
15 the ~~college student aid commission~~ department of education
16 shall reduce the bond required by this paragraph ~~"a"~~ by an
17 amount equal to the amount of the federal bond.
18 (3) The aggregate liability of the surety for all breaches
19 of the conditions of the bond shall not exceed the sum of
20 the bond. The surety on the bond may cancel the bond upon
21 giving thirty days' written notice to the ~~college student aid~~
22 ~~commission~~ department of education and thereafter shall be
23 relieved of liability for any breach of condition occurring
24 after the effective date of the cancellation.
25 (4) The ~~college student aid commission~~ department of
26 education may accept a letter of credit ~~from~~ issued by a bank
27 in lieu of the corporate surety bond required by ~~this paragraph~~
28 ~~"a"~~ subparagraphs (1) through (3), as applicable.
29 Sec. 98. Section 714.19, unnumbered paragraph 1, Code 2011,
30 is amended to read as follows:
31 ~~None of the~~ The provisions of sections 714.17 to ~~714.22~~
32 714.25 shall not apply to the following:
33 Sec. 99. Section 714.19, subsections 6 through 8, Code 2011,
34 are amended to read as follows:
35 6. Schools and educational programs conducted by firms,

S.F. _____ H.F. _____

1 corporations, or persons ~~for the training of their own~~
2 ~~employees,~~ for which no fee is charged.
3 7. Seminars, refresher courses, and schools of instruction
4 ~~sponsored~~ conducted by professional, business, or farming
5 organizations or associations for the members and employees of
6 members of such organizations or associations. A person who
7 provides instruction under this subsection who is not a member
8 or an employee of a member of the organization or association
9 shall not be eligible for this exemption.
10 8. Private business schools accredited by ~~the accrediting~~
11 ~~commission for business schools or~~ an ~~acknowledged~~ accrediting
12 agency recognized by the United States department of education
13 or the council for higher education accreditation.
14 Sec. 100. Section 714.19, Code 2011, is amended by adding
15 the following new subsection:
16 NEW SUBSECTION. 10. Accredited private institutions as
17 defined in section 261.1.
18 Sec. 101. Section 714.22, subsection 1, Code 2011, is
19 amended to read as follows:
20 1. File a bond or a bond is filed on their behalf by a
21 parent corporation with the ~~college student aid commission~~
22 department of education as required by section 714.18.
23 Sec. 102. Section 714.23, Code 2011, is amended by adding
24 the following new subsection:
25 NEW SUBSECTION. 01. *a.* For the purposes of this section
26 and section 714.25, *"postsecondary educational program"* means
27 a series of postsecondary educational courses that lead to
28 a recognized educational credential such as an academic or
29 professional degree, diploma, or license.
30 *b.* For the purposes of this section, *"school period"* means
31 the course, term, payment period, postsecondary educational
32 program, or other period for which the school assessed tuition
33 charges to the student. A school that assesses tuition charges
34 to the student at the beginning of each course, term, payment
35 period, or other period that is shorter than the postsecondary

S.F. _____ H.F. _____

educational program's length shall base its tuition refund on the amount of tuition costs the school charged for the course, term, or other period in which the student terminated. A school shall not base its tuition refund calculation on any portion of a postsecondary educational program that remains after a student terminates unless the student was charged for that remaining portion of the postsecondary educational program before the student's termination.

Sec. 103. Section 714.23, subsections 1 through 5, Code 2011, are amended to read as follows:

1. A person offering ~~a course of instruction at the postsecondary level~~ at least one postsecondary educational program, for profit, that is more than four months in length and leads to a ~~degree, diploma, or license~~ recognized educational credential, shall make a pro rata refund of ~~no less than ninety percent of the~~ tuition ~~for a terminating student to the appropriate agency based upon~~ charges to an Iowa resident student who terminates from any of the school's postsecondary educational programs in an amount that is not less than ninety percent of the amount of tuition charged to the student multiplied by the ratio of ~~completed number of scheduled school days to~~ the number of calendar days remaining in the school period until the date equivalent to the completion of sixty percent of the ~~scheduled school~~ calendar days ~~of~~ in the school ~~term or course~~ period to the total number of calendar days in the school period until the date equivalent to the completion of sixty percent of the calendar days in the school period.

2. Notwithstanding the provisions of subsection 1, the following tuition refund policy shall apply:

a. If a terminating student has completed sixty percent or more of a school ~~term or course that is more than four months in length~~ period, the person offering the ~~course of instruction~~ postsecondary educational program is not required to refund tuition ~~for~~ charges to the student. However, if, at any time, a student terminates a ~~school term or course that is more than~~

S.F. _____ H.F. _____

1 ~~four months in length~~ postsecondary educational program due
2 to the student's physical incapacity or, for a program that
3 requires classroom instruction, due to the transfer of the
4 student's spouse's employment to another city, the terminating
5 student shall receive a refund of tuition charges in an amount
6 ~~which~~ that equals the amount of tuition charged to the student
7 multiplied by the ratio of the remaining number of ~~school~~
8 calendar days in the school period to the total ~~school~~ number
9 of calendar days ~~of~~ in the school ~~term or course~~ period.
10 *b.* ~~A refund of ninety percent of the tuition for a~~
11 ~~terminating student shall be paid to the appropriate agency~~
12 ~~based upon the ratio of completed number of school days to~~
13 ~~the total school days of the school term or course.~~ A school
14 shall provide to a terminating student a refund of tuition
15 charges in an amount that is not less than ninety percent of
16 the amount of tuition charged to the student multiplied by the
17 ratio of the remaining number of calendar days in the school
18 period to the total number of calendar days in the school
19 period. This paragraph *"b"* applies to those persons offering
20 ~~courses of instruction at the postsecondary level~~ at least one
21 postsecondary educational program of more than four months in
22 length, for profit, whose cohort default rate for students
23 under the Stafford loan program as ~~defined~~ reported by the
24 United States department of education for the most recent
25 federal fiscal year is more than one hundred ten percent of the
26 national average cohort default rate of all schools for ~~that~~
27 ~~program for that period~~ the same federal fiscal year or six
28 percent, whichever is higher.
29 3. ~~If the financial obligations of a student are for three~~
30 ~~or fewer months duration, this section does not apply.~~ In the
31 case of a program in which student progress is measured only in
32 clock hours, all occurrences of "calendar days" in subsections
33 1 and 2 shall be replaced with "scheduled clock hours".
34 4. ~~Refunds~~ A refund of tuition charges shall be ~~paid~~
35 provided to the ~~appropriate agency~~ student within ~~thirty~~

S.F. _____ H.F. _____

1 forty-five days following the ~~student's termination~~ date of the
2 school's determination that a student has terminated from a
3 postsecondary educational program.
4 5. A student who terminates a ~~course of instruction or~~
5 ~~term~~ postsecondary educational program shall not be charged
6 any fee or other monetary penalty for terminating ~~a course of~~
7 ~~instruction or term~~ the postsecondary educational program,
8 other than a reduction in tuition refund as specified in this
9 section.
10 Sec. 104. NEW SECTION. **714.24 Additional requirements.**
11 1. A required filing of evidence of financial
12 responsibility pursuant to section 714.18 must be completed at
13 least once every two years.
14 2. An entity that claims an exemption under section 714.19
15 or 714.22 must file an exemption claim with the department of
16 education. The department of education may approve or deny the
17 exemption claim. Except for a school that claims an exemption
18 under section 714.19, subsection 1, 3, or 10, a filing of a
19 claim for an exemption pursuant to section 714.19 or 714.22
20 must be completed at least once every two years.
21 3. An entity that claims an exemption under section 714.19
22 or 714.22 must file evidence of financial responsibility
23 pursuant to section 714.18 within sixty calendar days following
24 the date upon which conditions that qualify the entity for an
25 exemption under section 714.19 no longer exist. The department
26 of education may grant an entity a longer period to file
27 evidence of financial responsibility based on documentation
28 the entity provides to the department of education of its
29 substantial progress to comply with section 714.18, subsection
30 1, paragraph *"a"*.
31 4. An entity that is required to file evidence of financial
32 responsibility under section 714.18, or an entity that files
33 a claim of exemption under section 714.19 or 714.22, shall
34 utilize required forms approved and supplied by the department
35 of education.

S.F. _____ H.F. _____

5. The department of education may, at its discretion, require a proprietary school that must comply with section 714.23 to submit its tuition refund policy to the department of education for its review and approval.

6. The department of education and the attorney general may, individually or jointly, adopt rules pursuant to chapter 17A for the implementation of sections 714.18 through 714.25.

7. Except as provided in section 714.18, subsection 2, paragraph *"a"*, the information submitted under sections 714.18, 714.22, 714.23, and 714.25 are public records under chapter 22.

Sec. 105. Section 714.25, Code 2011, is amended to read as follows:

714.25 Disclosure.

1. For purposes of this ~~chapter~~ section, ~~unless the context otherwise requires,~~ *"proprietary school"* means a person offering a ~~course of instruction at the postsecondary level~~ postsecondary educational program, for profit, that is more than four months in length and leads to a ~~degree, diploma, or license~~ recognized educational credential, such as an academic or professional degree, diploma, or license.

2. A proprietary school shall, prior to the time a student is obligated for payment of any moneys, inform the student, the ~~college student aid commission~~ department of education, and in the case of a school licensed under section 157.8, the board of cosmetology arts and sciences or in the case of a school licensed under section 158.7, the board of barbering, of all of the following:

a. The total cost of the ~~course of instruction~~ postsecondary educational program as charged by the proprietary school.

b. An estimate of any fees which may be charged the student by others which would be required if the student is to successfully complete the ~~course~~ postsecondary educational program and~~, if applicable,~~ obtain a ~~degree, diploma, or license~~ recognized educational credential.

c. The percentage of students who successfully complete

S.F. _____ H.F. _____

1 the ~~course~~ postsecondary educational program, the percentage
2 who terminate prior to completing the ~~course~~ postsecondary
3 educational program, and the period of time upon which the
4 proprietary school has based these percentages. The reporting
5 period shall not be less than one year in length and shall not
6 extend more than five years into the past.
7 *d.* If claims are made by the proprietary school as to
8 successful placement of students in jobs upon completion of the
9 ~~course of study~~ proprietary school's postsecondary educational
10 programs, the proprietary school shall provide the student with
11 all of the following:
12 (1) The percentage of graduating students who were placed
13 in jobs in fields related to the ~~course of instruction~~
14 postsecondary educational programs.
15 (2) The percentage of graduating students who went on to
16 further education immediately upon graduation.
17 (3) The percentage of students who, ninety days after
18 graduation, were without a job and had not gone on to further
19 education.
20 (4) The period of time upon which the reports required by
21 paragraphs *"a"* through *"c"* were based. The reporting period
22 shall not be less than one year in length and shall not extend
23 more than five years into the past.
24 *e.* If claims are made by the proprietary school as to income
25 levels of students who have graduated and are working in fields
26 related to the proprietary school's ~~course of instruction~~
27 postsecondary educational programs, the proprietary school
28 shall inform the student of the method used to derive such
29 information.
30 3. The requirements of subsection 2 shall not apply to
31 a proprietary school that is eligible for federal student
32 financial aid under Tit. IV of the federal Higher Education Act
33 of 1965, as amended.
34 DIVISION IV
35 MISCELLANEOUS PROVISIONS

S.F. _____ H.F. _____

1 Sec. 106. REPEAL. Sections 261.9, 261.13 through 261.17A,
2 261.20, 261.22, 261.24, 261.25, 261.35 through 261.39, 261.41
3 through 261.43A, 261.44, 261.48, 261.54, 261.81A, 261.84,
4 261.92, 261.96, 261.97, 261.101 through 261.105, 261.121
5 through 261.127, and 714.22, Code and Code Supplement 2011, are
6 repealed.
7 Sec. 107. TRANSITION PROVISIONS.
8 1. Any scholarship, loan, or grant awarded under a
9 program administered by the college student aid commission in
10 accordance with chapter 261, Code and Code Supplement 2011,
11 prior to the effective date of this Act is valid and shall
12 continue as provided in the terms of the award. On or after the
13 effective date of this Act, such awards shall be administered
14 by the department of education.
15 2. Any rule, regulation, form, order, or directive
16 promulgated by the college student aid commission as required
17 to administer and enforce the provisions of chapters 261 and
18 261B, Code and Code Supplement 2011, shall continue in full
19 force and effect until amended, repealed, or supplemented by
20 affirmative action of the state board of education.
21 3. An administrative hearing or court proceeding arising
22 out of an enforcement action under chapters 261 and 261B,
23 pending on the effective date of this Act, shall not be
24 affected by this Act. Any cause of action or statute of
25 limitation relating to an action taken by the college student
26 aid commission shall not be affected by this Act and such
27 cause of action or statute of limitation shall apply to the
28 state board of education or the department of education, as
29 applicable.
30 4. a. All employees of the college student aid commission
31 shall be considered employees of the department of education on
32 the effective date of this Act without incurring any loss in
33 salary, benefits, or accrued years of service.
34 b. If an employee of the commission is an employee covered
35 under the collective bargaining provisions of chapter 20, that

S.F. _____ H.F. _____

1 employee shall also be covered under chapter 20 upon becoming
2 employed by the department of education.
3 c. All employees of the commission becoming employed by
4 the department pursuant to this subsection shall be considered
5 employees for purposes of chapter 97B.
6 5. Any replacement of signs, logos, stationery, insignia,
7 uniforms, and related items that is made due to the effect of
8 this Act shall be done as part of the normal replacement cycle
9 for such items.
10 6. The college student aid commission shall assist the
11 department of education in implementing this Act by providing
12 for an effective transition of powers and duties from one
13 agency to another under chapters 256, 261, and 261B and
14 related administrative rules. To the extent requested by the
15 department of education, such assistance shall include but is
16 not limited to assisting in cooperating with federal agencies
17 such as the United States department of education.
18 7. Any moneys remaining in any account or fund under the
19 control of the college student aid commission on the effective
20 date of this Act and relating to the provisions of this Act
21 shall be transferred to a comparable fund or account under
22 the control of the department of education for such purposes.
23 Notwithstanding section 8.33, the moneys transferred in
24 accordance with this subsection shall not revert to the account
25 or fund from which appropriated or transferred.
26 8. Any registration or contract issued or entered into by
27 the college student aid commission relating to the provisions
28 of chapter 261 or 261B, Code and Code Supplement 2011, in
29 effect on the effective date of this Act shall continue in
30 full force and effect pending transfer of such registration or
31 contract to the department of education.
32 9. Federal funds utilized by the college student aid
33 commission prior to the effective date of this Act to employ
34 personnel necessary for the administration of the commission's
35 programs shall be applied to and be available for the transfer

S.F. _____ H.F. _____

1 of such personnel from the commission office to the department
2 of education.
3 Sec. 108. TRANSITIONAL PROVISION FOR COLLEGE STUDENT
4 AID COUNCIL — MEMBERS' TERMS ON THE COLLEGE STUDENT AID
5 COMMISSION. The initial organizational meeting of the college
6 student aid council established pursuant to section 261.8 shall
7 be convened by the director of the department of education.
8 The members serving on the college student aid commission on
9 the effective date of this Act shall serve as the initial
10 members of the college student aid council and shall fulfill
11 the duties of the college student aid council until the end of
12 the terms to which they were appointed under section 261.1,
13 Code and Code Supplement 2011, when members to the council
14 shall be appointed in accordance with section 261.8.
15 Sec. 109. CODE EDITOR AUTHORIZATION. The Code editor may
16 reorganize the sections and divisions of chapter 261 in a
17 manner other than that provided in this Act in order to enhance
18 the chapter's readability.
19 Sec. 110. EFFECTIVE DATE. This Act takes effect January 1,
20 2013.
21 EXPLANATION
22 This bill strikes provisions relating to the creation of the
23 college student aid commission and transfers the duties and
24 responsibilities over Code chapter 261, administering student
25 financial aid programs, and Code chapter 261B, registering
26 postsecondary schools, to the state board of education and to
27 the department of education. The department is charged with
28 carrying out programs and policies as determined by the state
29 board. The bill establishes a college student aid council
30 to advise the state board. The bill increases the maximum
31 balance of the scholarship and grant reserve fund from 1 to 2
32 percent of the funds appropriated to the scholarship and grant
33 programs, and increases the maximum annual tuition grant award
34 from $4,000 to $6,000. The bill also includes transitional
35 provisions relating to the transfer of employees from the

S.F. _____ H.F. _____

1 commission to the department, the validity of awards made
2 by the commission prior to the effective date of the bill,
3 cooperation with federal agencies, transfer of funds, and
4 enforcement actions.
5 DIVISION I — TRANSFER OF COMMISSION DUTIES. The bill
6 authorizes the department to enter into any agreements with
7 the United States secretary of education or other federal
8 agency that are necessary to provide education programs and
9 services to current and future Iowa postsecondary students and
10 their counselors, parents and guardians, and to elementary,
11 secondary, and postsecondary institutions. The bill also
12 specifically authorizes the department to administer the
13 college access initiative and the gaining early awareness and
14 readiness for undergraduate programs authorized under federal
15 law.
16 The bill requires the department to develop and provide
17 information, materials, and services to eligible lenders,
18 postsecondary institutions, elementary and secondary schools,
19 students, parents, education loan borrowers, and the general
20 public; to develop and implement programs, initiatives and
21 services relating to postsecondary student aid outreach,
22 financial literacy education, career planning, student aid
23 program compliance assistance and training, program monitoring
24 and compliance review, default prevention, default aversion,
25 and defaulted federal student loan collection; and to conduct
26 college access initiative activities as required under federal
27 law.
28 The bill requires the department to expend property and
29 moneys belonging to the agency operating account to execute the
30 department's powers and duties.
31 The bill establishes a college student aid council
32 consisting of 12 members. Membership on the new council
33 reflects the current membership on the college student aid
34 commission except that the council's membership includes a
35 college president who represents for-profit colleges and

S.F. _____ H.F. _____

1 universities in the state, it does not include a member who
2 represents a lending institution or a member who is repaying or
3 has repaid a student loan guaranteed by the commission, and it
4 has one less member to represent the general public. Except as
5 otherwise provided, members shall serve staggered terms of four
6 years beginning on May 1 of the year of appointment.
7 The council is tasked with assisting the state board with
8 substantial issues which are directly related to college
9 student financial aid and registration of postsecondary
10 schools. The state board shall refer all substantial issues
11 directly related to college student financial aid and
12 registration of postsecondary schools to the council. The
13 council shall formulate recommendations on each issue referred
14 to it by the state board and shall submit the recommendations
15 to the state board within any specified time periods.
16 The initial organizational meeting of the college student
17 aid council shall be called by the director of the department.
18 The members serving on the college student aid commission on
19 the effective date of the bill shall serve as the initial
20 members of the council and shall fulfill the duties of the
21 council until the end of the terms to which they were appointed
22 under Code section 261.1 (Code and Code Supplement 2011), when
23 members to the council shall be appointed in accordance with
24 Code section 261.8.
25 Under the bill, the barber and cosmetology schools must
26 submit an annual report to the department, as other accredited
27 private institutions are required to submit, relating to
28 institution and student data.
29 DIVISION II —— POSTSECONDARY REGISTRATION REQUIREMENTS.
30 The bill expands the definition of a postsecondary school
31 which maintains a presence in Iowa to include, with certain
32 exceptions, a location in the state at which a student
33 participates in any structured activity related to a school's
34 distance education course of instruction, as well as any
35 address, location, telephone number, or internet protocol

S.F. _____ H.F. _____

1 address in Iowa from which the school conducts any aspect of
2 its operations.
3 The bill requires postsecondary schools to renew
4 registration with the department every two years instead of
5 every four years.
6 The bill allows the department to grant a provisional
7 registration to a postsecondary school that is not accredited
8 by an agency or organization that is recognized by the United
9 States department of education. Such a school must report on
10 its progress toward seeking accreditation every six months.
11 Provisional registration may be renewed at the department's
12 discretion.
13 The bill expands the information a postsecondary school
14 seeking to register must provide to the department. The
15 new requirements include the name, title, business address,
16 telephone number, and resume of an Iowa resident compensated
17 by the school to perform duties at a location in the state;
18 the school's official Stafford loan cohort default rate as
19 calculated by the United States department of education for the
20 three most recent federal fiscal years; the average student
21 loan debt upon graduation of students completing programs at
22 the school; the graduation rate of undergraduate students as
23 reported to the United States department of education; and
24 evidence that the school meets the conditions of financial
25 responsibility established in Code chapter 714.
26 The bill makes changes to postsecondary schools exempt from
27 Code chapter 261B, including exemptions for schools at which
28 students are eligible for tuition grants under Code chapter
29 261; certain schools affiliated with health care systems; and
30 certain schools offering approved massage therapy curriculums.
31 The bill specifies that students attending schools which
32 must register with the department under Code chapter 261B
33 are ineligible for state student financial aid programs
34 established by Code chapter 261, and such schools may not offer
35 such financial aid or advertise that such financial aid is

S.F. _____ H.F. _____

1 available.
2 The bill also makes changes to terminology and other
3 technical changes relating to the department's registration
4 requirements under Code chapter 261B.
5 DIVISION III — POSTSECONDARY REGISTRATION — UNLAWFUL
6 ACTIVITY. The bill makes various changes relating to the
7 department's oversight functions over the advertising,
8 financial responsibility, tuition refund, and disclosure
9 requirements and restrictions governing certain educational
10 programs and courses under Code chapter 714.
11 The bill amends Code section 714.19, relating to the
12 nonapplicability of Code sections 714.17 to 714.25, governing
13 business and financial practices of sellers of educational
14 courses, to provide that instructors for courses conducted
15 by professional, business, or farming organizations or
16 associations for the members and employees of members of such
17 entities who are not members or employees of members themselves
18 are ineligible for exemption from Code sections 714.17 to
19 714.25. The bill specifies accreditation standards for private
20 business schools exempt from Code sections 714.17 to 714.25.
21 The bill creates a new exemption from Code sections 714.17
22 to 714.25 for private, nonprofit schools eligible for state
23 student financial aid programs authorized under Code chapter
24 261. The bill repeals Code section 714.22, which exempts trade
25 and vocational schools from Code sections 714.17 to 714.25 if
26 certain conditions are met.
27 The bill amends Code section 714.23 to remove the exemption
28 for students with financial obligations of three or fewer
29 months' duration from standards regarding tuition refund
30 policies. The bill provides for the inclusion of educational
31 programs in which student progress is measured only in clock
32 hours under standards regarding tuition refund policies. The
33 bill also provides that certain tuition refunds must be paid
34 directly to students. A violation of Code section 714.23 is a
35 simple misdemeanor, which is punishable by confinement for not

S.F. _____ H.F. _____

1 more than 30 days or a fine of at least $65 but not more than
2 $625 or by both.
3 The bill amends Code section 714.25 to exempt from certain
4 disclosure requirements proprietary schools, as defined in the
5 bill, that are eligible for federal student financial aid under
6 Title IV of the Higher Education Act of 1965.
7 The bill provides that the department and the attorney
8 general may, individually or jointly, adopt rules pursuant
9 to Code chapter 17A to carry out the department's oversight
10 functions under Code chapter 714.
11 The bill also makes changes to terminology, demonstration
12 of compliance, and exemptions relating to the department's
13 oversight functions under Code chapter 714.
14 DIVISION IV — MISCELLANEOUS PROVISIONS. The bill repeals
15 a number of Code sections that have not been funded in
16 recent years, including provisions relating to the Iowa hope
17 loan program, accelerated career education grants, the Iowa
18 guaranteed loan program, guaranteed loan payment program,
19 minority teacher loan payments, repayment of science and
20 mathematics loans, and the Iowa heritage corps. Because of
21 changes in federal law, the bill repeals provisions that
22 authorized the college student aid commission to initiate
23 action to deny, revoke, or suspend any license authorized by
24 state law, to any person who defaulted on an obligation owed
25 or collected by the commission. Provisions relating to the
26 minority academic grants for economic success are transferred
27 to new Code section 262.83, as the state board of regents
28 currently administers the program.
29 The bill includes a number of conforming amendments.
30 The bill takes effect January 1, 2013.

Senate Study Bill 3140 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP BILL)

A BILL FOR

1 An Act revising provisions affecting the administration
2 of the department of agriculture and land stewardship,
3 including associated regulations and licensing, as it
4 relates to biofuels, weather and market information,
5 internet publications, soil and water conservation, feed,
6 vaccinations, tuberculosis, brucellosis, classical swine
7 fever, Johne's disease, treatment for sheep, branding,
8 manufactured articles, grain, pesticides, coal mining, and
9 weights and measures, making penalties applicable, and
10 including applicability provisions.
11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5225DP (17) 84
da/rj

S.F. _____ H.F. _____

DIVISION I
GENERAL

Section 1. Section 159.2, subsection 1, Code 2011, is amended to read as follows:

1. To encourage, promote, and advance the interests of agriculture, including horticulture, livestock industry, dairying, cheese making, poultry raising, biofuels, beekeeping, production of wool, production of domesticated fur-bearing animals, and other kindred and allied industries.

Sec. 2. Section 159.5, subsection 4, Code 2011, is amended to read as follows:

4. Maintain a weather ~~division~~ bureau which shall, in cooperation with the national weather service, collect and disseminate weather and phenological statistics and meteorological data, and promote knowledge of meteorology, phenology, and climatology of the state. The ~~division~~ bureau shall be headed by the state climatologist who shall be appointed by the secretary of agriculture, and shall be an officer of the national weather service, if one is detailed for that purpose by the federal government.

Sec. 3. Section 159.5, subsection 5, Code 2011, is amended by striking the subsection.

Sec. 4. Section 159.5, subsection 7, Code 2011, is amended to read as follows:

7. ~~Maintain a division of agricultural statistics, which shall, in cooperation~~ Cooperate with the United States department of agriculture statistical reporting service, to gather, compile, and publish statistical information concerning the condition and progress of crops, the production of crops, livestock, livestock products, poultry, and other such related agricultural statistics, as will generally promote knowledge of the agricultural industry in the state of Iowa. The statistics, when published, constitute official agricultural statistics for the state of Iowa. ~~The division is in the charge of an administrator, who shall be appointed by the~~

S.F. _____ H.F. _____

~~secretary of agriculture and who shall be an officer of the United States department of agriculture statistical reporting service, if one is detailed for that purpose by the federal government.~~

Sec. 5. Section 159.5, subsection 8, Code 2011, is amended to read as follows:

8. Establish and maintain a marketing news service ~~division~~ bureau in the department which shall, in cooperation with the federal market news and grading division of the United States department of agriculture, collect and disseminate data and information relative to the market prices and conditions of agricultural products raised, produced, and handled in the state. ~~The division is in the charge of an administrator, who shall be appointed by the secretary of agriculture and shall be an officer of the federal market news and grading division of the United States department of agriculture, if one is detailed for that purpose by the federal government.~~

Sec. 6. Section 159.9, Code 2011, is amended to read as follows:

159.9 ~~Publication and distribution of rules~~ Internet access to statutes and rules.

~~A sufficient number of pamphlets setting forth the~~ The statutes relating to and rules ~~of~~ adopted by the department ~~shall be published from time to time to supply the various needs for the same and shall be furnished to any resident of the state upon request~~ shall be made available on the internet.

Sec. 7. REPEAL. Section 159.14, Code 2011, is repealed.

DIVISION II

SOIL AND WATER CONSERVATION

Sec. 8. Section 159.8, Code 2011, is amended to read as follows:

159.8 Comprehensive management plan — highly erodible acres.

1. The department shall request cooperation from the federal government, including the United States department of agriculture consolidated farm service agency and the

S.F. _____ H.F. _____

United States department of agriculture natural resources conservation service, to investigate methods to preserve land which is highly erodible, as provided in the federal Food Security Act of 1985, 16 U.S.C. § 3801 et seq., for the purpose of developing with owners of the land a comprehensive management plan for the land. The plan may be based on the soil conservation plan of the natural resources conservation service and may include a farm unit conservation plan and a comprehensive agreement as provided in chapter 161A. The extension services at Iowa state university of science and technology shall cooperate with the department in developing the comprehensive plan.

2. The investigation shall include methods which help to preserve highly erodible land from row crop production through production of alternative commodities, and financial incentives. ~~The department shall report to the governor and the general assembly not later than January 15, 1990, of the department's progress in the investigation. The department shall report to the governor and the general assembly not later than January 15, 1991, on the department's recommendation for programs necessary to preserve highly erodible land from injury or destruction.~~

Sec. 9. Section 161A.7, subsection 3, Code 2011, is amended to read as follows:

3. The commissioners ~~shall~~, as a condition for the receipt of any state cost-sharing funds for permanent soil conservation practices, shall require the owner of the land on which the practices are to be established to covenant and file, in the office of the soil and water conservation district of the county in which the land is located, an agreement identifying the particular lands upon which the practices for which state cost-sharing funds are to be received will be established, and providing that the project will not be removed, altered, or modified so as to lessen its effectiveness without the consent of the commissioners, obtained in advance and based on

S.F. _____ H.F. _____

guidelines drawn up by the state soil conservation committee, for a period ~~of~~ not to exceed twenty years after the date of receiving payment. The commissioners shall assist the division in the enforcement of this subsection. The agreement does not create a lien on the land, but is a charge personally against the owner of the land at the time of removal, alteration, or modification if an administrative order is made under section 161A.61, subsection 3.

Sec. 10. Section 161A.12, Code 2011, is amended to read as follows:

161A.12 Statement to department of management.

On or before October 1 next preceding each annual legislative session, the ~~division~~ department shall submit to the department of management, on official estimate blanks furnished for those purposes, statements and estimates of the expenditure requirements for each fiscal year, and a statement of the balance of funds, if any, available to the division, and the estimates of the division as to the sums needed for the administrative and other expenses of the division for the purposes of this chapter.

Sec. 11. Section 161A.42, subsection 3, Code 2011, is amended by striking the subsection.

Sec. 12. Section 161A.42, subsection 7, Code 2011, is amended to read as follows:

7. *"Farm unit soil conservation plan"* means a plan jointly developed by the owner and, if appropriate, the operator of a farm unit and the commissioners of the soil and water conservation district within which that farm unit is located, ~~based on the conservation folder for that farm unit and~~ identifying those permanent soil and water conservation practices and temporary soil and water conservation practices the use of which may be expected to prevent soil loss by erosion from that farm unit in excess of the applicable soil loss limit or limits. The plan shall if practicable identify alternative practices by which this objective may be attained.

S.F. _____ H.F. _____

1 Sec. 13. Section 161A.61, subsection 2, unnumbered
2 paragraph 1, Code 2011, is amended to read as follows:
3 ~~Beginning January 1, 1985, or five years after the~~
4 ~~completion of the conservation folder for a particular farm~~
5 ~~unit pursuant to this section, whichever date is later, the~~ The
6 commissioners of the soil and water conservation district in
7 which that farm unit is located may petition the district court
8 for an appropriate order with respect to that farm unit if its
9 owner or occupant has been sent a notice by the commissioners
10 under subsection 1, paragraph "*b*", for three or more consecutive
11 years. The commissioners' petition shall seek a court order
12 which states a time not more than six months after the date of
13 the order when the owner or occupant must commence, and a time
14 when the owner or occupant must complete the steps necessary
15 to comply with the order. The time allowed to complete the
16 establishment of a temporary soil and water conservation
17 practice employed to comply or advance toward compliance
18 with the court's order shall be not more than one year after
19 the date of that order, and the time allowed to complete
20 the establishment of a permanent soil and water conservation
21 practice employed to comply with the court's order shall be not
22 more than five years after the date of that order. Section
23 161A.48 applies to a court order issued under this subsection.
24 The steps required of the farm unit owner or operator by the
25 court order are those which are necessary to do one of the
26 following:
27 Sec. 14. Section 161A.62, subsection 1, Code 2011, is
28 amended by striking the subsection.
29 Sec. 15. Section 161A.62, subsection 2, Code 2011, is
30 amended to read as follows:
31 2. The commissioners of each soil and water conservation
32 district shall complete preparation of a farm unit soil
33 conservation plan for each farm unit within the district~~, not~~
34 ~~later than January 1, 1985, or five years after completion of~~
35 ~~the conservation folder for that farm unit, whichever date is~~

S.F. _____ H.F. _____

1 ~~later, or~~ as soon ~~thereafter~~ as adequate funding is available
2 to permit compliance with this requirement.
3 *a.* Technical assistance in the development of the farm
4 unit soil conservation plan may be provided by the United
5 States department of agriculture natural resources conservation
6 service through the memorandum of understanding with the
7 district or by the department. The commissioners shall make
8 every reasonable effort to consult with the owner and, if
9 appropriate, with the operator of that farm unit, and to
10 prepare the plan in a form which is acceptable to that person
11 or those persons.
12 *b.* The farm unit soil conservation plan shall be drawn
13 up and completed without expense to the owner or operator of
14 the farm unit, except that the owner or operator shall not be
15 reimbursed for the value of the owner's or occupant's own time
16 devoted to participation in the preparation of the plan.
17 *c.* If the commissioners' farm unit soil conservation plan
18 is unacceptable to the owner or operator of the farm unit,
19 that person or those persons may prepare an alternative farm
20 unit soil conservation plan identifying permanent or temporary
21 soil and water conservation practices which may be expected
22 to achieve compliance with the soil loss limit or limits
23 applicable to that farm unit, and submit that plan to the soil
24 and water conservation district commissioners for their review.
25 Sec. 16. Section 161A.63, Code 2011, is amended to read as
26 follows:
27 **161A.63 Right of purchaser of agricultural land to obtain**
28 **information.**
29 A prospective purchaser of an interest in agricultural land
30 located in this state is entitled to obtain from the seller, or
31 from the office of the soil and water conservation district in
32 which the land is located, a copy of the most recently updated
33 ~~conservation folder and of any~~ farm unit soil conservation
34 plan, developed pursuant to section 161A.62, subsection 2,
35 which are applicable to the agricultural land proposed to

S.F. _____ H.F. _____

be purchased. A prospective purchaser of an interest in agricultural land located in this state is entitled to obtain additional copies of either or both of the documents referred to in this section from the office of the soil and water conservation district in which the land is located, promptly upon request, at a fee not to exceed the cost of reproducing them. All persons who identify themselves to the commissioners or staff of a soil and water conservation district as prospective purchasers of agricultural land in the district shall be given information, prepared in accordance with rules of the department, which clearly explains the provisions of section 161A.76.

Sec. 17. Section 161A.73, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. The allocation of cost-share moneys as financial incentives to encourage summer construction of permanent soil and water conservation practices. The practices must be constructed on or after June ~~1~~ 15 but not later than ~~September~~ October 15. The commissioners may also provide for the payment of moneys on a prorated basis to compensate persons for the production loss on an area disturbed by construction, according to rules which shall be adopted by the division. ~~The commissioners shall not allocate cost-share moneys to support summer construction during a fiscal year in which applications for cost-share moneys required to establish permanent soil and water conservation practices, other than established by summer construction, equal the total amount available to support the nonsummer construction practices. The financial incentives shall not exceed sixty percent of the estimated cost of establishing the practice as determined by the commissioners, or sixty percent of the actual cost of establishing the practice, whichever is less.~~

Sec. 18. Section 161A.76, subsection 1, Code 2011, is amended to read as follows:

1. It is the intent of this chapter that~~, effective~~

S.F. _____ H.F. _____

1 ~~January 1, 1981,~~ each tract of agricultural land which has
2 not been plowed or used for growing row crops at any time
3 within the prior fifteen years ~~prior to that date~~, shall
4 for purposes of this section be considered classified as
5 agricultural land under conservation cover. If a tract of land
6 so classified is thereafter plowed or used for growing row
7 crops, the commissioners of the soil and water conservation
8 district in which the land is located shall not approve
9 use of state cost-sharing funds for establishing permanent
10 or temporary soil and water conservation practices on that
11 tract of land in an amount greater than one-half the amount
12 of cost-sharing funds which would be available for that land
13 if it were not considered classified as agricultural land
14 under conservation cover. The restriction imposed by this
15 section applies even if an administrative order or court order
16 has been issued requiring establishment of soil and water
17 conservation practices on that land. The commissioners may
18 waive the restriction imposed by this section if they determine
19 in advance that the purpose of plowing or row cropping land
20 classified as land under conservation cover is to revitalize
21 permanent pasture and that the land will revert to permanent
22 pasture within two years after it is plowed.
23 DIVISION III
24 ANIMAL HEALTH — GENERAL
25 Sec. 19. Section 163.7, Code 2011, is amended to read as
26 follows:
27 **163.7 State and federal rules.**
28 The rules adopted by the department regarding interstate
29 shipments of animals shall not be in conflict with the rules
30 of the ~~federal~~ United States department of agriculture, unless
31 there is an outbreak of a malignant contagious disease in any
32 locality, state, or territory, in which event the department
33 ~~shall have the right to~~ of agriculture and land stewardship may
34 place an embargo on such locality, state, or territory.
35 Sec. 20. Section 163.25, Code 2011, is amended to read as

S.F. _____ H.F. _____

1 follows:
2 **163.25 Altering certificate.**
3 1. A person shall not remove or alter a tag or mark of
4 identification appearing on an animal, tested or being tested
5 for disease, if the tag or mark of identification is authorized
6 by the department or inserted by any qualified veterinarian.
7 2. A person shall not ~~alter a~~ falsify any of the following:
8 *a.* A certificate of vaccination, issued by a person
9 authorized to vaccinate the animal.
10 *b.* A certificate of veterinary inspection.
11 Sec. 21. Section 163.26, Code 2011, is amended to read as
12 follows:
13 **163.26 Definition.**
14 For the purposes of this subchapter, *"garbage"* means
15 putrescible animal and vegetable wastes resulting from the
16 handling, preparation, cooking, and consumption of foods,
17 including animal carcasses or parts~~, and~~. *"Garbage"* includes
18 all waste material, by-products of a kitchen, restaurant,
19 hotel, or slaughterhouse, every refuse accumulation of animal,
20 fruit, or vegetable matter, liquids or otherwise, ~~except~~ or
21 grain not consumed, that is collected from hog sales pen
22 floors in public stockyards ~~and fed under the control of the~~
23 ~~department of agriculture and land stewardship~~. Animals or
24 parts of animals, which are processed by slaughterhouses or
25 rendering establishments, and which as part of the processing
26 are heated to not less than 212 degrees F. for thirty minutes,
27 are not garbage for purposes of this chapter.
28 Sec. 22. Section 163.27, Code 2011, is amended to read as
29 follows:
30 **163.27 Boiling garbage.**
31 1. ~~It shall be unlawful for any person, firm, partnership,~~
32 ~~or corporation to feed garbage~~ Garbage shall not be fed to
33 ~~animals~~ an animal unless such garbage has been heated to a
34 temperature of two hundred twelve degrees Fahrenheit for thirty
35 minutes, or other acceptable method, as provided by rules

S.F. _____ H.F. _____

1 ~~promulgated~~ adopted by the department~~, provided~~. However, this
2 requirement shall not apply to an individual who feeds to the
3 individual's own animals only the garbage obtained from the
4 individual's own household. ~~It shall be unlawful for any~~
5 2. A person~~, firm, partnership, or corporation to~~ shall not
6 feed ~~any~~ public or commercial garbage to swine ~~after September~~
7 ~~1, 1970~~.
8 Sec. 23. Section 163.28, unnumbered paragraph 4, Code 2011,
9 is amended to read as follows:
10 The license fee for each processing plant shall be fifty
11 dollars, except that the first license fee may be prorated on a
12 monthly basis as prescribed by the department. The secretary
13 shall not issue a license which would permit the processing of
14 any garbage for swine feeding ~~after September 1, 1970~~.
15 Sec. 24. Section 163.30, subsection 11, Code Supplement
16 2011, is amended to read as follows:
17 11. ~~All~~ Any swine found by a registered veterinarian to have
18 any infectious or contagious disease after delivery to ~~any~~ a
19 livestock sale barn or auction market for resale, other than
20 for slaughter, shall be immediately returned to the consignor's
21 premises to be quarantined separate and apart for fifteen
22 days. Such swine shall not be moved from such premises for
23 any purpose unless a certificate of veterinary inspection
24 accompanies the swine's movement or unless ~~they~~ the swine are
25 sent to slaughter. ~~This subsection shall in no way supersede~~
26 ~~the requirements of sections 163A.2 and 163A.3.~~
27 Sec. 25. Section 163.61, subsection 3, paragraph a, Code
28 2011, is amended to read as follows:
29 *a.* A person who falsifies a certificate of vaccination or
30 certificate of veterinary inspection shall be subject to a
31 civil penalty of not more than five thousand dollars for each
32 reference to an animal falsified on the certificate. However,
33 a person who falsifies a certificate issued pursuant to chapter
34 166D shall be subject to a civil penalty as provided in this
35 section or section 166D.16, but not both. A person shall not

S.F. _____ H.F. _____

be subject to a civil penalty totaling more than twenty-five thousand dollars for falsifying a certificate, regardless of the number of animals falsified on the certificate.

DIVISION IV

ANIMAL HEALTH — BOVINE TUBERCULOSIS

Sec. 26. Section 165.1, Code 2011, is amended to read as follows:

165.1 Cooperation.

The ~~state~~ department ~~of agriculture and land stewardship~~ is ~~hereby~~ authorized to cooperate with the ~~federal~~ United States department of agriculture for the purpose of eradicating tuberculosis from the dairy and beef breeds of cattle in the state.

Sec. 27. Section 165.2, Code 2011, is amended to read as follows:

165.2 State as accredited area.

1. The state of Iowa is ~~hereby~~ declared to be and is ~~hereby~~ established as an accredited area for the eradication of bovine tuberculosis from the dairy and breeding cattle of the state. It shall be the duty of the department ~~of agriculture and land stewardship~~ to eradicate bovine tuberculosis in all of the counties of the state in the manner provided by law as it appears in this chapter. ~~Said~~ The department shall proceed with the examination, including the tuberculin test, of all such cattle as rapidly as practicable and as is consistent with efficient work, and as funds are available for paying the indemnities as provided by law.

2. An owner of dairy or breeding cattle in the state shall conform to and abide by the rules ~~laid down~~ adopted by the department and rules promulgated by the ~~federal~~ United States department of agriculture ~~and~~. The owner shall follow ~~their~~ instructions of the department of agriculture and land stewardship and the United States department of agriculture designed to suppress the disease, prevent its spread, and avoid reinfection of the herd.

S.F. _____ H.F. _____

1 Sec. 28. Section 165.3, Code 2011, is amended to read as
2 follows:
3 **165.3 Appraisal.**
4 Before being tested, such animals shall be appraised
5 at their cash value for breeding, dairy, or beef purposes
6 by the owner and a representative of the department, or a
7 representative of the ~~federal~~ United States department of
8 agriculture, or by the owner and both of such representatives.
9 If these parties cannot agree as to the amount of the
10 appraisal, there shall be appointed three competent and
11 disinterested persons, one by the department, one by the owner,
12 and the third by the first two appointed, to appraise such
13 animals, which appraisal shall be final. Every appraisal shall
14 be under oath or affirmation and the expense of the same shall
15 be paid by the state, except as provided in this chapter.
16 Sec. 29. Section 165.12, Code 2011, is amended to read as
17 follows:
18 **165.12 Tuberculosis-free herds.**
19 The department shall establish rules for determining when
20 a herd of cattle, tested and maintained under the provisions
21 of this chapter, the laws of the United States, and the rules
22 of the ~~state~~ department ~~of agriculture and land stewardship~~
23 and regulations of the ~~federal~~ United States department of
24 agriculture, shall be considered as tuberculosis-free. When
25 any herd meets such requirements, the owner shall be entitled
26 to a certificate from the department of agriculture and land
27 stewardship showing that the herd is a tuberculosis-free
28 accredited herd. Such certificate shall be revoked whenever
29 the herd no longer meets the necessary requirements for
30 an accredited herd, but the herd may be reinstated as
31 an accredited herd upon subsequent compliance with such
32 requirements.
33 Sec. 30. Section 165.15, Code 2011, is amended to read as
34 follows:
35 **165.15 Accredited veterinarian.**

S.F. _____ H.F. _____

1 An accredited veterinarian is one who has successfully
2 passed an examination set by the department and the ~~federal~~
3 United States department of agriculture and may make tuberculin
4 tests of accredited herds of cattle under the uniform methods
5 and rules governing accredited herd work which are approved by
6 the United States department of agriculture.
7 DIVISION V
8 ANIMAL HEALTH — BRUCELLOSIS
9 CONTROL IN SWINE
10 Sec. 31. Section 163A.6, Code 2011, is amended to read as
11 follows:
12 **163A.6 Exhibition swine.**
13 ~~All Iowa~~ Any breeding swine four months of age and over
14 for exhibition within ~~the~~ this state ~~of Iowa~~ shall meet
15 all requirements for exhibition purposes ~~and shall also be~~
16 ~~accompanied by an official brucellosis test report showing the~~
17 ~~swine to have been negative to the brucellosis test conducted~~
18 ~~within sixty days of date of exhibition unless such swine are~~
19 ~~from validated brucellosis-free herds~~.
20 Sec. 32. REPEAL. Sections 163A.2, 163A.3, 163A.4, and
21 163A.11, Code 2011, are repealed.
22 DIVISION VI
23 ANIMAL HEALTH — CLASSICAL SWINE FEVER
24 Sec. 33. Section 159.6, subsection 4, Code 2011, is amended
25 to read as follows:
26 4. ~~Hog-cholera~~ Classical-swine-fever virus and
27 classical-swine-fever serum, chapter 166.
28 Sec. 34. Section 163.2, subsection 5, Code Supplement 2011,
29 is amended to read as follows:
30 5. *"Infectious or contagious disease"* means glanders, farcy,
31 maladie du coit (dourine), anthrax, foot and mouth disease,
32 scabies, ~~hog cholera,~~ classical swine fever, tuberculosis,
33 brucellosis, vesicular exanthema, scrapie, rinderpest,
34 avian influenza or Newcastle disease as provided in chapter
35 165B, pseudorabies as provided in chapter 166D, or any other

S.F. _____ H.F. _____

transmissible, transferable, or communicable disease so designated by the department.

Sec. 35. Section 163.30, subsections 7 and 10, Code Supplement 2011, are amended to read as follows:

7. The department may require issuance of movement permits on certain categories of swine moved, prior to their movement, pursuant to ~~departmental rule~~ rules adopted by the department. The ~~rule~~ rules shall be ~~promulgated~~ adopted when in the judgment of the secretary, such ~~movements~~ movement would otherwise threaten or imperil the eradication of ~~hog cholera~~ classical swine fever in Iowa.

10. The use of ~~anti-hog-cholera~~ anti-classical-swine-fever serum or antibody concentrate shall be in accordance with rules ~~issued~~ adopted by the department.

Sec. 36. Section 166.1, subsection 1, Code 2011, is amended to read as follows:

1. ~~The words "*biological*~~ "*Biological products*" shall include and be deemed to embrace only ~~anti-hog-cholera~~ anti-classical-swine-fever serum and viruses which are either virulent or nonvirulent, alive or dead.

Sec. 37. Section 166.16, unnumbered paragraph 1, Code 2011, is amended to read as follows:

~~No~~ A person shall not sell, distribute, use, or offer to sell, distribute, or use virulent blood or virus from ~~cholera-infected hogs~~ classical-swine-fever-infected swine except for one or more of the following purposes:

Sec. 38. Section 166.16, subsection 4, Code 2011, is amended to read as follows:

4. For the purpose of manufacturing any biological products or for the purpose of producing immune ~~hogs~~ swine to be used in the production of ~~hog-cholera~~ anti-classical-swine-fever serum.

Sec. 39. Section 166.41, Code 2011, is amended to read as follows:

166.41 ~~Hog-cholera~~ Classical-swine-fever vaccine prohibited — emergency.

S.F. _____ H.F. _____

The sale or use of ~~hog-cholera~~ classical-swine-fever vaccine, except as provided in section 166.16, is prohibited and ~~it~~ a person shall ~~be unlawful to~~ not use such ~~products~~ a product in ~~the~~ this state ~~of Iowa, except that~~. However, in the case of an emergency as defined in section 166.42, a special permit for the use of vaccines may be issued by the secretary.

Sec. 40. Section 166.42, Code 2011, is amended to read as follows:

166.42 Biological products reserve — use.

1. The secretary may establish a reserve supply of biological products of approved modified live virus ~~hog-cholera~~ classical-swine-fever vaccine and of ~~anti-hog-cholera~~ anti-classical-swine-fever serum or its equivalent in antibody concentrate to be used as directed by the secretary in the event of an emergency resulting from a ~~hog-cholera~~ classical-swine-fever outbreak. Vaccine and serum or antibody concentrate from the reserve supply, if used for such an emergency, shall be made available to swine producers at a price which will not result in a profit. Payment shall be made by the producer to the department and such vaccine shall be administered by a licensed practicing veterinarian. The secretary may cooperate with other states in the accumulation, maintenance and disbursement of such reserve supply of biological products. The secretary, with the advice and written consent of the state veterinarian, and the advice and written consent of the veterinarian-in-charge for Iowa of the animal and plant health inspection service — veterinary services, United States department of agriculture, shall determine when an emergency resulting from a ~~hog-cholera~~ classical-swine-fever outbreak exists.

2. The secretary is authorized to sell or otherwise dispose of ~~such~~ classical-swine-fever vaccine and serum at such time as the state is declared a ~~hog-cholera-free~~ classical-swine-fever-free state by the United States

S.F. _____ H.F. _____

1 department of agriculture, or if the potency of such vaccine
2 and serum is in doubt. Money received under provisions of this
3 section shall be paid into the state treasury.
4 Sec. 41. Section 166B.1, Code 2011, is amended by adding the
5 following new subsection:
6 NEW SUBSECTION. 01. *"Classical swine fever"* means the
7 contagious, infectious, and communicable disease of swine
8 commonly known as hog cholera.
9 Sec. 42. Section 166B.1, subsection 3, Code 2011, is amended
10 by striking the subsection.
11 Sec. 43. Section 166B.2, Code 2011, is amended to read as
12 follows:
13 **166B.2 General authority.**
14 The department may destroy or require the destruction of any
15 swine which the state veterinarian knows to be, or suspects is,
16 affected with or exposed to ~~hog cholera~~ classical swine fever,
17 whenever the department finds such destruction to be necessary
18 to prevent or reduce the danger of the spread of ~~hog cholera~~
19 classical swine fever. Disposal of condemned swine shall
20 be under the supervision of a regulatory employee. Salvage
21 of apparently healthy marketable swine is permissible as a
22 minimum provision and may be discontinued in favor of total
23 herd disposition with indemnification as necessary and without
24 such salvage in any case or at any time when it is determined by
25 the department and the United States department of agriculture
26 that the procedure would constitute an undue threat to the
27 eradication program. Before being condemned and ordered to
28 be destroyed, a positive diagnosis of ~~hog cholera~~ classical
29 swine fever affecting the herd must be confirmed by a state or
30 federal laboratory or personnel approved by the department and
31 the United States department of agriculture.
32 Sec. 44. Section 166B.4, Code 2011, is amended to read as
33 follows:
34 **166B.4 Institution of indemnification.**
35 It is hereby recognized and declared that indemnification

S.F. _____ H.F. _____

for destruction of swine infected with or exposed to ~~hog cholera~~ classical swine fever is an expression of the public policy of this state but employed only in the final stages of eradication of the disease, or as a means of preventing or minimizing its recurrence. The department ~~of agriculture and land stewardship~~ shall not therefore institute an initial program of indemnification pursuant to the chapter until it is mutually agreed between the ~~state~~ department ~~of agriculture and land stewardship~~ and the United States department of agriculture that such action is necessary in order to carry out the ~~hog-cholera~~ classical-swine-fever eradication program.

Sec. 45. Section 166B.5, Code 2011, is amended to read as follows:

166B.5 Cooperation with United States.

The department may cooperate with the United States, or any department, agency or officer thereof, in the control and eradication of ~~hog cholera~~ classical swine fever, including the sharing in payment of indemnities for swine destroyed.

DIVISION VII

ANIMAL HEALTH — DAIRY CATTLE
AFFECTED WITH JOHNE'S DISEASE

Sec. 46. Section 165A.1, subsection 3, Code 2011, is amended to read as follows:

3. *"Infected"* means infected with ~~paratuberculosis~~ Johne's disease as provided in section 165A.3.

Sec. 47. Section 165A.1, subsection 4, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

4. *"Johne's disease"* means a disease caused by the bacterium mycobacterium paratuberculosis, and which is also referred to as paratuberculosis disease.

Sec. 48. Section 165A.3, Code 2011, is amended to read as follows:

165A.3 Determination of infection.

The department shall adopt rules providing methods and

S.F. _____ H.F. _____

1 procedures to determine whether cattle are infected, which
2 may include detection and analysis of ~~paratuberculosis~~
3 Johne's disease using techniques approved by the United States
4 department of agriculture.
5 Sec. 49. Section 165A.4, Code 2011, is amended to read as
6 follows:
7 **165A.4 Infected cattle.**
8 ~~The owner of infected cattle shall mark the cattle by~~
9 ~~punching the letter "C" through the right ears of the cattle~~
10 ~~as required by the department.~~ Cattle infected with Johne's
11 disease shall be accompanied by an owner-shipper statement. A
12 person shall not sell infected cattle other than directly to
13 a slaughtering establishment, or to a concentration point for
14 sale directly to a slaughtering establishment, for immediate
15 slaughter. Cattle ~~marked with a letter "C"~~ infected with
16 Johne's disease that are kept at a concentration point shall be
17 kept separate and apart.
18 DIVISION VIII
19 ANIMAL HEALTH — TREATMENT FOR SHEEP
20 Sec. 50. Section 166A.1, Code 2011, is amended by adding the
21 following new subsection:
22 NEW SUBSECTION. 10. *"Treatment"* includes but is not limited
23 to administering medication.
24 Sec. 51. Section 166A.4, Code 2011, is amended to read as
25 follows:
26 **166A.4 ~~Dipping~~ Treatment.**
27 All breeding and feeding sheep offered for sale or exchange
28 or otherwise moved or released from any premises, vehicle,
29 or conveyance, shall, within ten days prior to exchange,
30 release, or movement, be ~~dipped~~ treated in an approved ~~dip~~
31 manner under the supervision of the department or the animal
32 and plant health inspection service of the United States
33 department of agriculture. When sheep are moved within or from
34 a certified scabies-free area in this state, the sheep must
35 be accompanied by a certificate of veterinary inspection as

S.F. _____ H.F. _____

1 provided in chapter 163. The ~~dipping~~ treatment shall not be
2 required prior to such movement. Sheep may be moved from a
3 premises to an approved facility for the purpose of ~~dipping~~
4 treatment under such conditions as may be required by the rules
5 of the department or the regulations of the animal and plant
6 health inspection service of the United States department of
7 agriculture. In addition, sheep are not required to be ~~dipped~~
8 treated if moved to a livestock auction market until after
9 sale. Sheep are not required to be ~~dipped~~ treated if consigned
10 directly for slaughter.
11 Sec. 52. Section 166A.6, Code 2011, is amended to read as
12 follows:
13 **166A.6 Records kept.**
14 Market operators and dealers in sheep shall use satisfactory
15 ~~dipping facilities~~ treatment, approved by the department ~~and~~.
16 Market operators and dealers shall maintain records which show
17 the true origin of the sheep including name and address of the
18 seller or consignor, number, date of receipt, date of ~~dipping~~
19 treatment, and including all certificates, permits, waybills,
20 and bills of lading for each consignment of sheep consigned to
21 and leaving the market or dealer's premises. All records shall
22 be retained for a period of one year and made available upon
23 demand by a representative of the department.
24 Sec. 53. Section 166A.7, Code 2011, is amended to read as
25 follows:
26 **166A.7 Slaughter without ~~dipping~~ treatment.**
27 Animals may be sold for slaughter without ~~dipping~~ treatment.
28 Sheep when inspected at the market or dealer's premises and
29 found free of scabies or no known exposure thereto, may be
30 sold for slaughter purposes without ~~dipping~~ treatment if
31 consigned directly and immediately on a slaughter affidavit to
32 a slaughtering establishment operating under federal, state
33 or municipal meat inspection service. ~~Such sheep shall be~~
34 ~~identified with the letter "K" in red branding paint at least~~
35 ~~four inches high on their back except those consigned to such~~

S.F. _____ H.F. _____

~~slaughtering establishment by the original owner.~~

Sec. 54. Section 166A.8, Code 2011, is amended to read as follows:

166A.8 Quarantine of infected sheep.

1. Sheep found to be infected with or exposed to scabies shall be immediately ~~dipped~~ treated, as directed by and under the supervision of the department, at owner's expense. Such sheep shall remain under quarantine until released by the department, except that sheep infected with or exposed to scabies may be moved, without ~~dipping~~ treatment, directly to a slaughter establishment under federal inspection, under permit from the department. No sheep shall be moved into or within the state of Iowa for any purpose except as provided in this chapter and the ~~regulations~~ rules of the department, provided sheep may be moved without ~~dipping~~ treatment between properties owned or rented by the owner of ~~said~~ the sheep, if not moved from a noncertified scabies-free area to a certified scabies-free area.

2. Any person may sell or exchange sheep on the farm between November 1 and April 1 without ~~dipping~~ treatment if accompanied by a certificate from a licensed veterinarian that ~~they~~ the sheep are free from scabies issued within ten days prior to such sale or exchange until such time as the county is declared a scabies-free area.

Sec. 55. Section 166A.10, Code 2011, is amended to read as follows:

166A.10 Restraint of movement.

Sheep from noncertified scabies-free areas within this state shall not enter certified scabies-free areas unless they have been ~~dipped~~ treated in an approved ~~dip~~ manner under supervision within ten days preceding movement and satisfactory evidence of ~~dipping~~ treatment accompanies the shipment. However, such sheep may be moved into certified scabies-free areas if consigned directly to a stockyard market, auction market, or slaughter establishment, under federal inspection, provided the

S.F. _____ H.F. _____

sheep are accompanied by a certificate of veterinary inspection stating number, description, consignor, and consignee.

Sec. 56. Section 166A.11, subsection 1, paragraph b, Code 2011, is amended to read as follows:

b. ~~Dipped~~ Treated in an approved ~~dip~~ manner within ten days prior to movement.

Sec. 57. REPEAL. Section 166A.5, Code 2011, is repealed.

DIVISION IX

ANIMAL HEALTH — CHRONIC WASTING DISEASE AFFECTING FARM DEER

Sec. 58. Section 170.1, subsection 1, Code 2011, is amended to read as follows:

1. *"Chronic wasting disease"* means the animal disease afflicting deer, ~~and~~ elk, or moose that is a transmissible disease of the nervous system resulting in distinctive lesions in the brain and that belongs to the group of diseases that is known as transmissible spongiform encephalopathies (TSE).

Sec. 59. Section 170.1, subsection 4, paragraph a, Code 2011, is amended to read as follows:

a. *"Farm deer"* means an animal belonging to the cervidae family and classified as part of the dama species of the dama genus, commonly referred to as fallow deer; part of the elaphus species of the cervus genus, commonly referred to as red deer or elk; part of the virginianus species of the odocoileus genus, commonly referred to as whitetail; part of the hemionus species of the odocoileus genus, commonly referred to as mule deer; ~~or~~ part of the nippon species of the cervus genus, commonly referred to as sika; or part of the alces species of the alces genus, commonly referred to as moose.

DIVISION X

ANIMAL INDUSTRY

Sec. 60. Section 169A.11, Code 2011, is amended to read as follows:

169A.11 Publication of brands list.

The secretary from time to time shall ~~cause to be published~~

S.F. _____ H.F. _____

~~in book form~~ publish on the internet a list of all brands on record at the time of the publication. ~~The secretary may supplement the lists from time to time.~~ The publication shall contain a facsimile of all brands recorded and the owner's name and post office address. The records shall be arranged in convenient form for reference. ~~The secretary shall deliver one copy of the brand book and supplements to the sheriff of each county. The books and supplements shall be delivered without cost to the county. The books and supplements shall be public records as provided in chapter 22. The secretary may sell the books and supplements to the general public at the cost of printing and mailing each book.~~

Sec. 61. Section 172A.1, subsection 2, Code 2011, is amended to read as follows:

2. *"Animals"* or *"livestock"* includes cattle, calves, swine, ~~or~~ sheep, goats, turkeys, chickens, or horses.

DIVISION XI

AGRICULTURAL MARKETING — GENERAL

Sec. 62. Section 189.1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

For the purpose of this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ unless the context otherwise requires:

Sec. 63. Section 189.1, subsections 1, 4, and 6, Code 2011, are amended to read as follows:

1. *"Article"* ~~includes~~ means food, commercial feed, agricultural seed, commercial fertilizer, drug, ~~insecticide, fungicide,~~ pesticide, and paint, ~~linseed oil, turpentine, and illuminating oil,~~ in the sense in which they are defined in the various provisions of this subtitle~~, excluding chapters 203, 203C, 203D, 207, and 208~~.

4. *"Package"* or *"container"*, unless otherwise defined, includes wrapper, box, carton, case, basket, ~~hamper,~~ can, bottle, jar, tube, cask, vessel, tub, ~~firkin,~~ keg, jug, barrel, tank, tank car, and other receptacles of a like nature; and

S.F. _____ H.F. _____

the expression *"offered or exposed for sale or sold in package or wrapped form"* means the offering or exposing for sale, or selling of an article which is contained in a package or container as defined in this section.

6. *"Person"* includes a corporation, company, firm, society, or association; and the act, omission, or conduct of any officer, agent, or other person acting in a representative capacity shall be imputed to the organization or person represented, and the person acting in that capacity shall also be liable for violations of this subtitle~~, excluding chapters 203, 203C, 203D, 207, and 208~~.

Sec. 64. Section 189.2, Code 2011, is amended to read as follows:

189.2 Duties.

The department shall do all of the following:

1. Execute and enforce this subtitle~~, except chapter 205~~.

2. ~~Make and publish~~ Adopt all necessary rules, not inconsistent with law, for enforcing the provisions of this subtitle~~, excluding chapters 203, 203C, 203D, 207, and 208~~.

3. Provide educational measures and exhibits, and conduct educational campaigns as are deemed advisable in fostering and promoting the production and sale of the articles dealt with in this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ in accordance with the rules adopted pursuant to this subtitle.

4. Issue from time to time, bulletins showing the results of inspections, analyses, and prosecutions under this subtitle~~, excluding chapters 203, 203C, 203D, 207, and 208~~. These bulletins shall be ~~printed in such numbers as may be approved by the director of the department of administrative services and shall be distributed to the newspapers of the state and to all interested persons~~ posted on the department's internet site.

Sec. 65. Section 189.3, Code 2011, is amended to read as follows:

S.F. _____ H.F. _____

189.3 Procuring samples.

The department shall, for the purpose of examination or analysis, procure from time to time, or whenever the department has occasion to believe any of the provisions of this subtitle~~, excluding chapters 203, 203C, 203D, 207, and 208,~~ are being violated, samples of the articles dealt with in these provisions which have been shipped into this state, offered or exposed for sale, or sold in the state.

Sec. 66. Section 189.4, Code 2011, is amended to read as follows:

189.4 Access to factories and buildings.

The department shall have full access to all places, factories, buildings, stands, or premises, and to all wagons, auto trucks, vehicles, or cars used in the preparation, production, distribution, transportation, offering or exposing for sale, or sale of any article dealt with in this subtitle~~, excluding chapters 203, 203C, 203D, 207, and 208~~.

Sec. 67. Section 189.5, Code 2011, is amended to read as follows:

189.5 Dealer to furnish samples.

Upon request and tender of the selling price by the department any person who prepares, manufactures, offers or exposes for sale, or delivers to a purchaser any article dealt with in this subtitle~~, excluding chapters 203, 203C, 203D, 207, and 208,~~ shall furnish, within business hours, a sample of the same, sufficient in quantity for a proper analysis or examination as shall be provided by the rules of the department.

Sec. 68. Section 189.6, Code 2011, is amended to read as follows:

189.6 Taking of samples.

The department may, without the consent of the owner, examine or open any package containing, or believed to contain, any article or product which it suspects may be prepared, manufactured, offered, or exposed for sale, sold, or held in

S.F. _____ H.F. _____

1 possession in violation of the provisions of this subtitle,
2 ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ in order to
3 secure a sample for analysis or examination, and the sample and
4 damage to container shall be paid for at the current market
5 price out of the contingent fund of the department.
6 Sec. 69. Section 189.7, Code 2011, is amended to read as
7 follows:
8 **189.7 Preservation of sample.**
9 After the sample is taken, it shall be carefully sealed
10 ~~with the seal of the department~~ and labeled with the name or
11 brand of the article, the name of the party from whose stock
12 it was taken, and the date and place of taking such sample.
13 Upon request a duplicate sample, sealed and labeled in the
14 same manner, shall be delivered to the person from whose stock
15 the sample was taken. The label and duplicate shall be signed
16 by the person taking the same. The method of taking samples
17 of particular articles may be prescribed by the rules of the
18 department.
19 Sec. 70. Section 189.8, Code 2011, is amended to read as
20 follows:
21 **189.8 Witnesses.**
22 In the enforcement of the provisions of this subtitle,
23 ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ the
24 department shall have power to issue subpoenas for witnesses,
25 enforce their attendance, and examine them under oath. The
26 witnesses shall be allowed the same fees as witnesses in
27 district court. The fees shall be paid out of the contingent
28 fund of the department.
29 Sec. 71. Section 189.9, subsection 1, unnumbered paragraph
30 1, Code 2011, is amended to read as follows:
31 All articles in package or wrapped form which are required
32 by this subtitle~~, excluding chapters 203, 203C, 203D, 207,~~
33 ~~and 208,~~ to be labeled, unless otherwise provided, shall be
34 conspicuously marked in the English language in legible letters
35 ~~of not less than eight point heavy gothic caps~~ on the principal

S.F. _____ H.F. _____

label with the following items:

Sec. 72. Section 189.11, Code 2011, is amended to read as follows:

189.11 Labeling of mixtures — federal requirements.

1. In addition to the requirements of section 189.9, unless otherwise provided, articles which are mixtures, compounds, combinations, blends, or imitations shall be marked as such and immediately followed, without any intervening matter and in the same size and style of type, by the names of all the ingredients contained therein, beginning with the one present in the largest proportion.

2. Notwithstanding any other requirements of this chapter or of chapter 190, ~~foods and~~ food or food products, or pesticides, labeled in conformance with the labeling requirements of the government of the United States shall be deemed to be labeled in conformance with the laws of the state of Iowa.

Sec. 73. Section 189.13, Code 2011, is amended to read as follows:

189.13 False labels — defacement.

A person shall not use any label required by this subtitle~~, excluding chapters 203, 203C, 203D, 207, and 208,~~ which bears any representations of any kind which are deceptive as to the true character of the article or the place of its production, or which has been carelessly printed or marked, nor shall any person erase or deface any label required by this subtitle~~, excluding chapters 203, 203C, 203D, 207, and 208~~.

Sec. 74. Section 189.14, subsection 1, Code 2011, is amended to read as follows:

1. A person shall not knowingly introduce into this state, solicit orders for, deliver, transport, or have in possession with intent to sell, any article which is labeled in any other manner than that prescribed by this subtitle~~, excluding chapters 203, 203C, 203D, 207, and 208,~~ for the label of the article when offered or exposed for sale, or sold in package

S.F. _____ H.F. _____

or wrapped form in this state.

Sec. 75. Section 189.15, Code 2011, is amended to read as follows:

189.15 Adulterated articles.

A person shall not knowingly manufacture, introduce into the state, solicit orders for, sell, deliver, transport, have in possession with the intent to sell, or offer or expose for sale, any article which is adulterated according to the provisions of this subtitle~~, excluding chapters 203, 203C, 203D, 207, and 208~~.

Sec. 76. Section 189.19, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The following provisions apply to all licenses issued or authorized under this subtitle~~, excluding chapters 203, 203C, 203D, 207, and 208~~:

Sec. 77. Section 189.19, subsection 2, Code 2011, is amended to read as follows:

2. *Refusal and revocation.* For good and sufficient grounds the department may refuse to grant a license to any applicant; and ~~it~~ the department may revoke a license for a violation of any provision of this subtitle~~, excluding chapters 203, 203C, 203D, 207, and 208,~~ or for the refusal or failure of any licensee to obey the lawful directions of the department.

Sec. 78. Section 189.20, Code 2011, is amended to read as follows:

189.20 Injunction.

Any person engaging in any business for which a license is required by this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ without obtaining such license, may be restrained by injunction, and shall pay all costs made necessary by such procedure.

Sec. 79. Section 189.21, Code 2011, is amended to read as follows:

189.21 Penalty.

Unless otherwise provided, any person violating any

S.F. _____ H.F. _____

provision of this subtitle~~, excluding chapters 203, 203C, 203D, 207, and 208,~~ or any rule adopted by the department pursuant to such a provision, is guilty of a simple misdemeanor.

Sec. 80. Section 189.23, Code 2011, is amended to read as follows:

189.23 Common carrier.

The penalties provided in this subtitle~~, excluding chapters 203, 203C, 203D, 207, and 208,~~ shall not be imposed upon any common carrier for introducing into the state, or having in its possession, any article which is adulterated or improperly labeled according to the provisions of this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ when the same was received by the carrier for transportation in the ordinary course of its business and without actual knowledge of its true character.

Sec. 81. Section 189.24, Code 2011, is amended to read as follows:

189.24 Report of violations.

When it appears that any of the provisions of this subtitle~~, excluding chapters 203, 203C, 203D, 207, and 208,~~ have been violated, the department ~~shall at once~~ may certify the facts to the proper county attorney~~,~~. The certification shall be accompanied with a copy of the results of any analysis, examination, or inspection the department may have made, duly authenticated by the proper person under oath, and with any additional evidence which may be in possession of the department.

Sec. 82. Section 189.28, Code 2011, is amended to read as follows:

189.28 Goods for sale in other states.

Any person may keep articles specifically set apart in the person's stock for sale in other states which do not comply with the provisions of this subtitle~~, excluding chapters 203, 203C, 203D, 207, and 208,~~ as to standards, purity, or labeling.

Sec. 83. Section 189.29, Code 2011, is amended to read as

S.F. _____ H.F. _____

1 follows:
2 **189.29 Reports by dealers.**
3 Every person who deals in or manufactures any of the articles
4 dealt with in this subtitle~~, excluding chapters 203, 203C,~~
5 ~~203D, 207, and 208,~~ shall make upon blanks furnished by the
6 department such reports and furnish such statistics as may be
7 required by the department and certify to the correctness of
8 the same.
9 Sec. 84. CODE EDITOR DIRECTIVE. The Iowa Code editor shall
10 eliminate footnotes in Code chapter 189 which refer to the
11 movement of chapters 203, 203C, 203D, 207, and 208 to title V,
12 subtitle 4.
13 DIVISION XII
14 AGRICULTURAL MARKETING — GRAIN DEALER REGULATION
15 Sec. 85. Section 203.1, subsection 9, Code 2011, is amended
16 by striking the subsection and inserting in lieu thereof the
17 following:
18 9. *"Grain"* means any grain for which the United States
19 department of agriculture has established standards pursuant to
20 the United States Grain Standards Act, 7 U.S.C. ch. 3.
21 Sec. 86. Section 203.1, Code 2011, is amended by adding the
22 following new subsection:
23 NEW SUBSECTION. 13A. *"United States Warehouse Act"* means
24 the United States Warehouse Act, 7 U.S.C. ch. 10.
25 Sec. 87. Section 203.2A, Code 2011, is amended to read as
26 follows:
27 **203.2A ~~Notice requirement for grain~~ Grain purchasers who are**
28 **not licensed grain dealers — special notice requirements.**
29 1. ~~A~~ This section applies to a person ~~shall not purchase~~
30 who is not required to be issued a license as a grain dealer
31 pursuant to section 203.3. The person shall not purchase grain
32 from a producer for purposes of resale, milling, feeding, or
33 processing~~, unless one of the following applies:~~.
34 ~~1.~~ 2. ~~The person is a grain dealer licensed pursuant~~
35 ~~to section 203.3.~~ Subsection 1 does not apply to any of the

S.F. _____ H.F. _____

following:

~~2.~~ *a.* ~~The~~ A person ~~has purchased~~ who purchases less than fifty thousand bushels of grain from all producers in the twelve months prior to purchasing grain from the producer.

~~3. *a.*~~ *b.* ~~The~~ A person ~~provides~~ who provides notice to the producer as provided in subsection 3.

3. *a.* The notice ~~shall~~ must be in the following form:

~~ATTENTION TO PRODUCERS:~~
~~THE PERSON PURCHASING THIS GRAIN IS NOT A LICENSED GRAIN DEALER AND THIS IS NOT A COVERED TRANSACTION ELIGIBLE FOR INDEMNIFICATION FROM THE GRAIN DEPOSITORS AND SELLERS INDEMNITY FUND AS PROVIDED IN IOWA CODE SECTION 203D.3~~

Attention to Producers:
The person purchasing this grain is not a licensed grain dealer and this is not a covered transaction eligible for indemnification from the grain dealers and sellers indemnity fund as provided in Iowa Code section 203D.3

b. The notice ~~shall~~ must be provided to the producer prior to or at the time of the purchase. The notice may appear on a separate statement or as part of a document received by the producer, including a contract or receipt, as required by the department.

c. ~~The form of the notice shall be prescribed by the department.~~ The notice ~~shall~~ must appear in a printed boldface font in at least ten point type.

Sec. 88. Section 203.5, subsection 7, Code 2011, is amended to read as follows:

7. ~~If~~ The department may deny a license to an applicant, if the applicant has had a license issued under this chapter or chapter 203C revoked ~~for cause~~ within the past three years, ~~or~~ the applicant has been convicted of a felony involving ~~violations~~ a violation of this chapter or chapter 203C, or ~~is~~ the applicant is owned or controlled by a person who has had a license so revoked or who has been so convicted~~, the department may deny a license to the applicant~~.

S.F. _____ H.F. _____

1 Sec. 89. Section 203.9, Code 2011, is amended by adding the
2 following new subsection:
3 NEW SUBSECTION. 4. The department may suspend or revoke
4 the license of a grain dealer for failing to consent to a
5 departmental inspection or cooperate with the department during
6 an inspection as provided in this chapter.
7 Sec. 90. Section 203.10, Code 2011, is amended to read as
8 follows:
9 **203.10 ~~Suspension or revocation of~~ Action affecting a**
10 **license.**
11 1. The cessation of a grain dealer's license occurs from any
12 of the following:
13 *a.* The revocation of the license by the department as
14 provided in subsection 2.
15 *b.* The cancellation of the license as provided in section
16 203.5.
17 *c.* The expiration of the license according to the terms
18 of the license as provided in this chapter, including a rule
19 adopted in accordance with this chapter, pursuant to chapter
20 17A.
21 2. The department may issue an order to suspend or revoke
22 the license of a grain dealer who violates a provision of this
23 chapter, including a rule adopted ~~under~~ in accordance with
24 this chapter, ~~as provided in~~ pursuant to chapter 17A. ~~If a~~
25 ~~grain dealer fails to consent to a departmental inspection~~
26 ~~or cooperate with the department during an inspection as~~
27 ~~provided in section 203.9, the department may issue an order~~
28 ~~to immediately suspend or revoke the grain dealer's license~~
29 ~~pursuant to section 17A.18.~~
30 Sec. 91. Section 203.12, Code 2011, is amended to read as
31 follows:
32 **203.12 Claims — cessation of a license and notice of license**
33 **revocation.**
34 1. Upon ~~revocation, termination, or~~ the cessation of a
35 grain dealer license by revocation, cancellation, ~~of a grain~~

S.F. _____ H.F. _____

1 ~~dealer license~~ or expiration, any claim for the purchase price
2 of grain against the grain dealer shall be made in writing
3 and filed with the grain dealer and with the issuer of a
4 deficiency bond or of an irrevocable letter of credit and with
5 the department within one hundred twenty days after ~~revocation,~~
6 ~~termination, or cancellation~~ the date of the cessation.
7 ~~Failure~~ A failure to make this timely claim relieves the issuer
8 and the grain depositors and sellers indemnity fund provided in
9 chapter 203D of all obligations to the claimant.
10 2. Upon the revocation of a grain dealer license, the
11 department shall cause notice of the revocation to be published
12 once each week for two consecutive weeks in a newspaper of
13 general circulation within the state of Iowa and in a newspaper
14 of general circulation within the county of the grain dealer's
15 principal place of business when that dealer's principal place
16 of business is located in the state of Iowa. The notice
17 shall state the name and address of the grain dealer and the
18 effective date of revocation. The notice shall also state that
19 any claims against the grain dealer shall be made in writing
20 and sent by ordinary mail or delivered personally within one
21 hundred twenty days after revocation to the grain dealer, to
22 the issuer of a deficiency bond or of an irrevocable letter of
23 credit, and to the department, and the notice shall state that
24 the failure to make a timely claim does not relieve the grain
25 dealer from liability to the claimant.
26 Sec. 92. Section 203.12A, subsection 5, Code 2011, is
27 amended to read as follows:
28 5. The Iowa grain indemnity fund board, ~~shall~~ upon written
29 demand of the grain dealer, shall file a termination statement
30 with the secretary of state, if ~~the license of the grain dealer~~
31 ~~is not revoked, terminated, or canceled~~ after one hundred
32 eighty days from the date that the lien is perfected the grain
33 dealer's license has not ceased by revocation, cancellation, or
34 expiration. Upon filing the termination statement, the lien
35 becomes unperfected. The board shall also deliver a copy of

S.F. _____ H.F. _____

the termination statement to the grain dealer.

Sec. 93. Section 203.12B, subsection 7, paragraph c, Code 2011, is amended to read as follows:

c. Not have had a grain dealer's license issued pursuant to section 203.3 suspended or revoked as provided in section 203.10.

Sec. 94. Section 203.15, subsection 3, Code 2011, is amended to read as follows:

3. Title to all grain sold by a credit-sale contract is in the purchasing grain dealer as of the time the contract is executed, unless the contract provides otherwise. The contract must be signed and dated by both parties and executed in duplicate. One copy shall be retained by the grain dealer and one copy shall be delivered to the seller. Upon ~~revocation, termination, or cancellation~~ the cessation of the grain dealer's license by revocation, cancellation, or expiration, the payment date for all credit-sale contracts shall be advanced to a date not later than thirty days after the effective date of the ~~revocation, termination, or cancellation~~ cessation, and the purchase price for all unpriced grain shall be determined as of the effective date of ~~revocation, termination, or cancellation~~ the cessation in accordance with all other provisions of the contract. However, if the business of the grain dealer is sold to another licensed grain dealer, credit-sale contracts may be assigned to the purchaser of the business.

Sec. 95. Section 203.15, subsection 4, paragraph b, Code 2011, is amended to read as follows:

b. A grain dealer who is also a warehouse operator licensed by the department under chapter 203C or the United States department of agriculture under the United States Warehouse Act, ~~7 U.S.C. § 241 et seq.,~~ and who does not have a sufficient quantity or quality of grain to satisfy the warehouse operator's obligations based on an examination by the department or the United States department of agriculture

S.F. _____ H.F. _____

1 shall not purchase grain on credit-sale contract to correct the
2 shortage of grain.
3 Sec. 96. Section 203.15, subsection 4, paragraph c,
4 subparagraph (2), subparagraph division (c), Code 2011, is
5 amended to read as follows:
6 (c) If an adequate replacement bond is not received by the
7 department within sixty days of the issuance of the notice
8 of cancellation, the department shall ~~automatically~~ suspend
9 the grain dealer's license. The department shall cause an
10 inspection of the licensed grain dealer immediately at the
11 end of the sixty-day period. If a replacement bond is not
12 filed within another thirty days following the suspension, the
13 department shall revoke the grain ~~dealer~~ dealer's license ~~shall~~
14 ~~be automatically revoked~~.
15 Sec. 97. Section 203.15, subsection 5, unnumbered paragraph
16 1, Code 2011, is amended to read as follows:
17 The department may ~~adopt rules to~~ suspend the right of a
18 grain dealer to purchase grain by credit-sale contract based on
19 any of the following conditions:
20 Sec. 98. Section 203.15, subsection 5, paragraphs a and b,
21 Code 2011, are amended to read as follows:
22 *a.* The grain dealer who is also a warehouse operator
23 licensed by the department under chapter 203C or the United
24 States department of agriculture under the United States
25 Warehouse Act~~, 7 U.S.C. § 241 et seq.,~~ does not have a
26 sufficient quantity or quality of grain to satisfy the
27 warehouse operator's obligations based on an examination by the
28 department or the United States department of agriculture.
29 *b.* The grain dealer who is also a warehouse operator
30 licensed by the department under chapter 203C or the United
31 States department of agriculture under the United States
32 Warehouse Act~~, 7 U.S.C. § 241 et seq.,~~ issues back to the
33 grain dealer a warehouse receipt for purposes of providing
34 collateral, if the grain which is the subject of the warehouse
35 receipt was purchased on credit and is unpaid for by the grain

S.F. _____ H.F. _____

dealer.

DIVISION XIII

AGRICULTURAL MARKETING — WAREHOUSE OPERATOR REGULATION

Sec. 99. Section 203C.1, subsection 11, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

11. *"Grain"* means the same as defined in section 203.1.

Sec. 100. Section 203C.1, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 25A. *"United States Warehouse Act"* means the same as defined in section 203.1.

Sec. 101. Section 203C.1, subsection 26, Code 2011, is amended to read as follows:

26. *"Unlicensed warehouse operator"* means a warehouse operator who retains grain in the warehouse not to exceed thirty days and is not licensed under the provisions of this chapter or ~~Tit. VII, U.S.C.~~ the United States Warehouse Act.

Sec. 102. Section 203C.6, subsection 7, Code 2011, is amended to read as follows:

7. ~~If~~ The department may deny a license to an applicant, if the applicant has had a license issued under chapter 203 or this chapter revoked ~~for cause~~ within the past three years, ~~or~~ the applicant has been convicted of a felony involving violations of chapter 203 or this chapter, or the applicant is owned or controlled by a person who has had a license so revoked or who has been so convicted~~, the department may deny a license to the applicant~~.

Sec. 103. Section 203C.10, Code 2011, is amended to read as follows:

203C.10 ~~Suspension or revocation of~~ Action affecting a license.

1. The cessation of a warehouse operator's license occurs from any of the following:

a. The revocation of the license by the department as provided in subsection 2.

S.F. _____ H.F. _____

1 *b.* The cancellation of the license as provided in section
2 203C.37.
3 *c.* The expiration of the license according to the terms
4 of the license as provided in this chapter, including a rule
5 adopted in accordance with this chapter, pursuant to chapter
6 17A.
7 2. The department may issue an order to suspend or revoke
8 the license of a warehouse operator who violates a provision
9 of this chapter, including a rule adopted ~~under~~ in accordance
10 with this chapter, ~~as provided in~~ pursuant to chapter 17A.
11 ~~If a warehouse operator fails to consent to a departmental~~
12 ~~inspection during an inspection as provided in section 203C.2,~~
13 ~~the department may issue an order to immediately suspend or~~
14 ~~revoke the grain dealer's license pursuant to section 17A.18.~~
15 Sec. 104. Section 203C.11, subsection 1, Code 2011, is
16 amended by striking the subsection and inserting in lieu
17 thereof the following:
18 1. The department shall proceed under section 203C.15 if it
19 has cause to believe that a licensed warehouse operator does
20 not provide for and carry an insurance policy as required in
21 that section.
22 Sec. 105. Section 203C.12A, subsection 5, Code 2011, is
23 amended to read as follows:
24 5. The Iowa grain indemnity fund board shall upon written
25 demand of the warehouse operator file a termination statement
26 with the secretary of state, if ~~the license of the warehouse~~
27 ~~operator is not revoked, terminated, or canceled~~ after one
28 hundred eighty days from the date that the lien is perfected
29 the warehouse operator's license has not ceased by revocation,
30 cancellation, or expiration. Upon filing the termination
31 statement, the lien becomes unperfected. The board shall also
32 deliver a copy of the termination statement to the warehouse
33 operator.
34 Sec. 106. Section 203C.13, subsection 3, Code 2011, is
35 amended to read as follows:

S.F. _____ H.F. _____

1 3. A bond, deficiency bond, or irrevocable letter of credit
2 on agricultural products other than bulk grain shall not be
3 canceled by the issuer on less than one hundred twenty days'
4 notice by certified mail to the department and the principal.
5 When the department receives notice from an issuer that it has
6 canceled the bond, deficiency bond, or irrevocable letter of
7 credit on agricultural products other than bulk grain of a
8 warehouse operator, the department shall ~~automatically~~ suspend
9 the warehouse operator's authorization to store or accept for
10 storage agricultural products other than bulk grain if a new
11 bond, deficiency bond, or irrevocable letter of credit is not
12 received by the department within sixty days of the issuance of
13 the notice of cancellation. The department shall conduct an
14 inspection of the licensee's warehouse immediately at the end
15 of the sixty-day period. If a new bond, deficiency bond, or
16 irrevocable letter of credit is not provided within ninety days
17 of the issuance of the notice of cancellation, the department
18 shall revoke the warehouse operator's authorization to store
19 or accept for storage agricultural products other than bulk
20 grain. The department shall conduct a further inspection of
21 the licensee's warehouse after the ninety-day period. When
22 an authorization to store or accept for storage agricultural
23 products other than bulk grain is revoked, the department
24 shall give notice of the revocation to all known persons who
25 have agricultural products other than bulk grain in storage,
26 and shall notify them that the agricultural products other
27 than bulk grain must be removed from the warehouse not later
28 than one hundred twenty days after the issuance of the notice
29 of cancellation. The revocation notice shall be sent by
30 ordinary mail to the last known address of each person having
31 agricultural products other than bulk grain in storage. The
32 department shall cause a final inspection of the licensee's
33 warehouse after the end of the one hundred twenty-day period.
34 Sec. 107. Section 203C.14, Code 2011, is amended to read as
35 follows:

S.F. _____ H.F. _____

203C.14 Suit — claims — notice of revocation.

1. A person injured by the breach of an obligation of a warehouse operator, for the performance of which a bond on agricultural products other than bulk grain, a deficiency bond, or an irrevocable letter of credit has been given under any of the provisions of this chapter, may sue on the bond on agricultural products other than bulk grain, deficiency bond, or irrevocable letter of credit in the person's own name in a court of competent jurisdiction to recover any damages the person has sustained by reason of the breach.

2. Upon ~~revocation, termination, or cancellation of a warehouse license, a~~ the cessation of a warehouse operator's license due to revocation, cancellation, or expiration, a claim against the warehouse operator arising under this chapter shall be made in writing with the warehouse operator, with the issuer of a bond on agricultural products other than bulk grain, a deficiency bond, or an irrevocable letter of credit, and, if the claim relates to bulk grain, with the department. The claim must be made within one hundred twenty days after ~~revocation, termination, or cancellation~~ the cessation of the license. ~~Failure~~ The failure to make a timely claim relieves the issuer and, if the claim relates to bulk grain, the grain depositors and sellers indemnity fund provided in chapter 203D of all obligations to the claimant.

3. Upon revocation of a warehouse license, the department shall cause notice of the revocation to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location and in a newspaper of general circulation within the state. The notice shall state the name and address of the warehouse operator and the effective date of revocation. The notice shall also state that any claims against the warehouse operator shall be made in writing and sent by ordinary mail to the warehouse operator, to the issuer of a bond on agricultural products other than bulk grain,

S.F. _____ H.F. _____

1 deficiency bond, or an irrevocable letter of credit, and to the
2 department within one hundred twenty days after revocation,
3 and the notice shall state that the failure to make a timely
4 claim does not relieve the warehouse operator from liability to
5 the claimant. This paragraph does not apply if a receiver is
6 appointed as provided in this chapter pursuant to a petition
7 which is filed by the department prior to the expiration of
8 one hundred twenty days after revocation, termination, or
9 cancellation of the license.
10 Sec. 108. Section 203C.15, subsection 1, unnumbered
11 paragraph 1, Code 2011, is amended to read as follows:
12 ~~All~~ A warehouse operator shall maintain insurance coverage
13 as provided in this section. In order to maintain insurance
14 coverage, all agricultural products in storage in a licensed
15 warehouse and all agricultural products which have been
16 deposited temporarily in a licensed warehouse pending storage
17 or for purposes other than storage, shall be kept fully insured
18 by the warehouse operator as provided in this section for the
19 current value of the agricultural products against loss by
20 fire, inherent explosion, ~~or~~ windstorm, or any other similar
21 catastrophe designated by rules which may be adopted by the
22 department.
23 Sec. 109. Section 203C.15, subsection 1, paragraphs a and b,
24 Code 2011, are amended by striking the paragraphs.
25 Sec. 110. Section 203C.15, Code 2011, is amended by adding
26 the following new subsections:
27 NEW SUBSECTION. 1A. The insurance coverage required
28 in subsection 1 shall be carried by one or more insurance
29 companies. Such an insurance company must be all of the
30 following:
31 *a.* Organized or operating under the laws of this state or
32 authorized by the laws of this state to do business in this
33 state.
34 *b.* An insurer of agricultural products in this state as
35 provided in subsection 1.

S.F. _____ H.F. _____

1 NEW SUBSECTION. 1B. Insurance coverage may be terminated by
2 its expiration without renewal, or canceled by the insurance
3 company on its own volition or as a result of an action or
4 inaction by the insured licensed warehouse operator.
5 NEW SUBSECTION. 1C. A licensed warehouse operator shall
6 be responsible for providing the department with all of the
7 following:
8 *a.* Evidence of insurance coverage as required in subsection
9 1A that is an insurance policy or other document approved by
10 the department which evidences property and casualty insurance.
11 *b.* Proof of insurance which verifies that evidence of
12 insurance coverage submitted by a licensed warehouse operator
13 complies with subsection 1.
14 NEW SUBSECTION. 1D. A warehouse operator must submit
15 evidence of insurance coverage with the department as required
16 by the department. The department must approve the evidence of
17 insurance coverage before the department files it. A warehouse
18 operator shall not be issued a license or retain a license
19 unless evidence of insurance coverage is on file with the
20 department.
21 NEW SUBSECTION. 1E. The department may demand proof
22 of insurance coverage by the licensed warehouse operator,
23 regardless of whether the department has previously approved
24 proof of insurance or approved or filed evidence of insurance
25 coverage. The demand must be in writing and must explain the
26 department's enforcement action resulting from the warehouse
27 operator's noncompliance.
28 *a.* The licensed warehouse operator may comply to the demand
29 by doing any of the following:
30 (1) Assuring the department that existing evidence of
31 insurance coverage filed with the department complies with the
32 requirements of this section.
33 (2) Obtaining additional or new insurance coverage. The
34 licensed warehouse operator must submit and the department must
35 approve and file the supplemental or new evidence of insurance

S.F. _____ H.F. _____

1 coverage necessary to comply with the requirements of this
2 section.
3 *b.* If the licensed warehouse operator fails to comply with
4 the requirements of the demand letter as set out in paragraph
5 *"a"*, the department shall take enforcement action as follows:
6 (1) Thirty days after delivering the demand letter to the
7 licensed warehouse operator, the department shall suspend the
8 warehouse license.
9 (2) Forty days after delivering the demand letter to the
10 licensed warehouse operator, the department shall revoke the
11 warehouse license.
12 *c.* The department may inspect a licensed warehouse at any
13 time.
14 *d.* The department shall terminate an enforcement action as
15 provided in paragraph *"b"*, if the licensed warehouse operator
16 submits any proof of insurance or supplemental or new evidence
17 of insurance which the department approves. However, this
18 paragraph *"d"* applies only if the licensed warehouse operator
19 submits the proof of insurance or evidence of insurance prior
20 to the effective date of the revocation.
21 NEW SUBSECTION. 1F. An insurance company shall not cancel
22 insurance coverage unless any of the following applies:
23 *a.* The insurance company provides the department and the
24 licensed warehouse operator with at least ninety days' notice
25 of cancellation by mail.
26 *b.* The insurance coverage is renewed or replaced by the
27 licensed warehouse operator, and the department has approved
28 and filed the evidence of insurance coverage at the time
29 that the department would have received the mailed notice of
30 cancellation.
31 NEW SUBSECTION. 1G. The department shall take enforcement
32 action against a licensed warehouse whose insurance coverage
33 has been terminated by cancellation or expiration.
34 *a.* The department shall suspend the warehouse license. The
35 suspension shall take effect on the date that the insurance

S.F. _____ H.F. _____

coverage terminates. However, the department shall terminate the suspension if the licensed warehouse operator submits proof of insurance or any renewed or new evidence of insurance coverage to the department. In addition, all of the following requirements apply:

(1) The department must receive the proof of insurance or evidence of insurance coverage within ten days after the effective date of the suspension.

(2) The department must approve the proof of insurance or evidence of insurance coverage.

b. The department shall revoke the warehouse license. The revocation shall take effect eleven days after the effective date of the suspension, unless the suspension is terminated as provided in paragraph *"a"*.

Sec. 111. Section 203C.16, subsection 1, Code 2011, is amended to read as follows:

1. The acceptance and storage of bulk grain by a person bonded and licensed under the ~~provisions of a federal law, to the extent that the person is authorized under federal law to accept and store bulk grain~~ United States Warehouse Act. ~~However, the person shall comply with all other provisions of this chapter which do not conflict with such federal law.~~

Sec. 112. Section 203C.17, subsection 8, paragraphs a and c, Code 2011, are amended to read as follows:

a. ~~Every~~ At least once each year, a licensed warehouse operator shall~~, on or before July 1 of each year,~~ send a statement ~~for~~ to each holder of a warehouse receipt covering grain ~~held~~ stored at the licensed warehouse operator's licensed warehouse for more than one year ~~at that warehouse to~~. The statement shall be delivered in person or mailed to the holder's last known address. The statement shall show the amount of all grain ~~held~~ stored pursuant to a warehouse receipt for such warehouse receipt holder and the amount of any storage charges held by the licensed warehouse operator against that grain. ~~However, a licensed warehouse operator need not prepare~~

S.F. _____ H.F. _____

1 ~~this annual statement for a holder of a warehouse receipt,~~
2 ~~if the licensed warehouse operator prepares such statements~~
3 ~~monthly, quarterly or for any other period more frequent than~~
4 ~~annually.~~
5 *c.* ~~Violation~~ A violation of this section shall not
6 constitute grounds for the suspension~~,~~ or revocation~~, or~~
7 ~~modification~~ of ~~the~~ a warehouse operator's license ~~of anyone~~
8 ~~licensed under this chapter~~.
9 Sec. 113. Section 203C.18, subsection 1, paragraph c, Code
10 2011, is amended to read as follows:
11 *c.* A statement that the receipt is issued subject to ~~the~~
12 ~~Iowa warehouse Act and the rules and regulations prescribed~~
13 ~~pursuant to~~ this chapter.
14 Sec. 114. Section 203C.18, subsection 3, Code 2011, is
15 amended to read as follows:
16 3. ~~Forms~~ A form for a warehouse ~~receipts~~ receipt shall only
17 be printed by a person approved by the department. A form
18 for a warehouse receipt shall be printed in accordance with
19 specifications set forth by the department. A ~~form~~ warehouse
20 operator shall surrender to the department all forms for ~~a~~
21 warehouse ~~receipt~~ receipts that ~~is~~ are unused at the time that
22 ~~a~~ the warehouse operator's license ~~is canceled, suspended,~~
23 ~~revoked, or terminated shall be surrendered to the department~~
24 ceases due to revocation, cancellation, or expiration. The
25 warehouse operator shall surrender the warehouse receipts in a
26 manner required by the department.
27 Sec. 115. Section 203C.30, Code 2011, is amended to read as
28 follows:
29 **203C.30 Inspecting and grading.**
30 Grain~~, flaxseed,~~ or any other fungible agricultural product
31 stored in a warehouse licensed under this chapter for which no
32 separate compartment is provided, and its identity preserved,
33 shall be inspected and graded.
34 Sec. 116. Section 203C.39, Code 2011, is amended to read as
35 follows:

S.F. _____ H.F. _____

203C.39 Grain stored in another warehouse.

A licensed warehouse operator may store grain in ~~any other~~ an alternative warehouse located in Iowa ~~licensed in accordance with section 203C.6 or the United States Warehouse Act, 7 U.S.C. ch. 10, subject to the following conditions:~~ or another state as provided in this section.

1. *a.* The alternative warehouse located in Iowa must be another licensed warehouse or a warehouse licensed pursuant to the United States Warehouse Act.

b. The alternative warehouse located in another state must be licensed pursuant to the applicable laws of the state in which the alternative warehouse is located or the United States Warehouse Act. A warehouse operator shall not store grain in an alternative warehouse located in another state, unless approved in writing by the department in a manner required by the department.

2. In storing grain in an alternative warehouse under subsection 1, all of the following requirements apply:

a. The warehouse operator must obtain from such warehouse operator a nonnegotiable warehouse receipt and such receipt must show clearly the following notation:

~~"Held~~ Held in trust for depositors ~~of"~~ of (name of original receiving warehouse).

~~2.~~ *b.* When the licensed warehouse operator begins to use the ~~additional facilities described in this section~~ alternative warehouse, the licensed warehouse operator must have sufficient net worth under section 203C.6 or provide a deficiency bond or an irrevocable letter of credit to cover the increase in the licensed warehouse operator's gross capacity.

3. A licensed warehouse operator may transfer grain for storage to another licensed warehouse operator while the warehouse operator receiving such grain has grain stored elsewhere under the provisions of this section.

Sec. 117. REPEAL. Section 203C.27, Code 2011, is repealed.

DIVISION XIV

S.F. _____ H.F. _____

AGRICULTURAL MARKETING — GRAIN DEPOSITORS AND SELLERS INDEMNITY FUND

Sec. 118. Section 203D.1, subsection 7, Code Supplement 2011, is amended by striking the subsection and inserting in lieu thereof the following:

7. *"Grain"* means the same as defined in section 203.1.

Sec. 119. Section 203D.6, subsection 2, paragraph a, subparagraph (1), Code 2011, is amended to read as follows:

(1) The ~~revocation, termination, or cancellation~~ cessation of the license of the grain dealer as described in section 203.10 or warehouse operator as described in section 203C.10.

DIVISION XV

PESTICIDE REGULATION — CERTIFICATION

Sec. 120. Section 206.2, subsection 25, Code 2011, is amended to read as follows:

25. *a.* *"Public applicator"* means an individual who applies pesticides as an employee of a state agency, county, municipal corporation, or other governmental agency.

b. ~~This term~~ *"Public applicator"* does not include ~~employees~~ an employee who ~~work~~ works only under the direct supervision of a public applicator.

Sec. 121. Section 206.5, subsection 2, paragraph a, Code 2011, is amended to read as follows:

a. A commercial applicator shall ~~choose between a one-year certification for which the applicator shall pay a thirty dollar fee or a three-year certification for which the applicator shall~~ pay a seventy-five dollar fee for a three-year certification. ~~A public applicator shall choose between a one-year certification for which the applicator shall pay a ten dollar fee or a three-year certification for which the applicator shall pay a fifteen dollar fee.~~ A public applicator or a private applicator shall pay a fifteen dollar fee for a three-year certification.

Sec. 122. Section 206.5, subsection 7, paragraph b, unnumbered paragraph 1, Code 2011, is amended to read as

S.F. _____ H.F. _____

1 follows:
2 The department shall adopt rules providing for the
3 program requirements which ~~shall at least~~ may include the
4 safe handling, application, and storage of pesticides, the
5 correct calibration of equipment used for the application of
6 pesticides, and the effects of pesticides upon the groundwater.
7 Sec. 123. Section 206.5, subsection 7, paragraph c, Code
8 2011, is amended by striking the paragraph.
9 Sec. 124. Section 206.6, subsection 5, paragraph c, Code
10 2011, is amended to read as follows:
11 *c.* The secretary shall issue a commercial applicator
12 license limited to the classifications for which the applicant
13 is qualified, which shall expire ~~at the end of the calendar~~
14 ~~year of issue~~ as provided in section 206.5, unless it has
15 been revoked or suspended by the secretary for cause. The
16 secretary may limit the license of the applicant to the use of
17 certain pesticides, or to certain areas, or to certain types of
18 equipment if the applicant is only so qualified. If a license
19 is not issued as applied for, the secretary shall inform the
20 applicant in writing of the reasons.
21 Sec. 125. APPLICABILITY — CURRENT CERTIFICATIONS.
22 Notwithstanding section 206.5, as amended in this division of
23 this Act, a certification issued to a commercial applicator
24 or a public applicator prior to the effective date of this
25 division of this Act shall expire according to section 206.5,
26 Code 2011, as that section existed immediately prior to the
27 effective date of this division of this Act.
28 DIVISION XVI
29 PESTICIDE REGULATION — LICENSURE
30 Sec. 126. Section 206.6, subsection 5, paragraph a,
31 subparagraph (3), Code 2011, is amended to read as follows:
32 (3) An applicant applying for a license to engage in
33 aerial application of pesticides must ~~meet all of~~ demonstrate
34 compliance with the requirements of the federal aviation
35 administration, the United States department of transportation,

S.F. _____ H.F. _____

1 and any other applicable federal or state laws or regulations
2 to operate the equipment described in the application.
3 Sec. 127. Section 206.8, subsection 2, unnumbered paragraph
4 1, Code 2011, is amended to read as follows:
5 ~~A~~ The annual license fee for a pesticide dealer ~~shall pay~~ is
6 due and payable by June 30 of each year to the department ~~an~~.
7 The annual license fee is based on the gross retail sales of
8 all pesticides sold for use in this state by the dealer in the
9 previous year. The license fee shall be set as follows:
10 Sec. 128. Section 206.10, Code 2011, is amended to read as
11 follows:
12 **206.10 License renewals — delinquent fee.**
13 1. If the application for renewal of a license provided for
14 in this chapter~~, other than a pesticide dealer license,~~ is not
15 filed prior to the first of January in any year, a delinquent
16 fee of twenty-five percent shall be assessed and added to the
17 original fee and shall be paid by the applicant before the
18 renewal license is issued. A delinquent fee does not apply
19 if the applicant furnishes an affidavit certifying that the
20 applicant has not applied pesticides after the expiration
21 of the applicant's license. All licenses issued under this
22 chapter expire December 31 each year.
23 2. ~~However, a~~ Subsection 1 does not apply to any of the
24 following:
25 *a.* A license issued to a pesticide dealer that expires as
26 provided in section 206.8.
27 *b.* A certificate issued to a certified applicator that
28 expires as provided in section 206.5.
29 Sec. 129. Section 206.13, Code 2011, is amended to read as
30 follows:
31 **206.13 Evidence of financial responsibility required by**
32 **commercial applicator.**
33 1. The department shall not issue a commercial applicator's
34 license as required in section 206.6 until the applicant
35 has furnished evidence of financial responsibility with the

S.F. _____ H.F. _____

1 department. The evidence of financial responsibility shall
2 consist of a surety bond, a liability insurance policy,
3 or an irrevocable letter of credit issued by a financial
4 institution. The department may accept a certification
5 of the evidence of financial responsibility. The evidence
6 of financial responsibility shall pay the amount that the
7 beneficiary is legally obligated to pay as damages caused
8 by the pesticide operations of the applicant. However, the
9 evidence of financial responsibility does not apply to damages
10 or an injury which is expected or intended from the standpoint
11 of the beneficiary. A liability insurance policy shall be
12 subject to the insurer's policy provisions filed with and
13 approved by the commissioner of insurance. The evidence of
14 financial responsibility need not apply to damages or injury to
15 agricultural crops, plants, or land being worked upon by the
16 applicant.
17 2. The amount of the evidence of financial responsibility
18 as provided for in this section shall be not less than two
19 hundred fifty thousand dollars for property damage and
20 public liability insurance, each separately. The evidence
21 of financial responsibility shall be maintained at not less
22 than that amount at all times during the licensed period. The
23 department shall be notified ten days prior to any reduction in
24 the surety bond or liability insurance made at the request of
25 the applicant or cancellation of the surety bond by the surety
26 or the liability insurance by the insurer. The department
27 shall be notified ninety days prior to any reduction of the
28 amount of the irrevocable letter of credit at the request of
29 the applicant or the cancellation of the irrevocable letter of
30 credit by the financial institution. The total and aggregate
31 liability of the surety, insurer, or financial institution for
32 all claims shall be limited to the face of the surety bond,
33 liability insurance policy, or irrevocable letter of credit.
34 DIVISION XVII
35 PESTICIDE REGULATION — REGISTRATION

S.F. _____ H.F. _____

1 Sec. 130. Section 139A.21, subsection 7, Code 2011, is
2 amended by striking the subsection.
3 Sec. 131. Section 206.2, subsection 28, Code 2011, is
4 amended to read as follows:
5 28. *"State restricted use pesticide"* means a pesticide which
6 is restricted for sale, use, or distribution under section
7 ~~455B.491~~ 206.20.
8 Sec. 132. Section 206.11, subsection 1, paragraph e,
9 unnumbered paragraph 1, Code 2011, is amended to read as
10 follows:
11 Any pesticide which contains any substance or substances in
12 quantities highly toxic to humans; determined as provided in
13 section ~~206.6~~ 206.12, unless the label shall bear, in addition
14 to any other matter required by this chapter:
15 Sec. 133. Section 206.12, subsection 1, Code 2011, is
16 amended by adding the following new paragraph:
17 NEW PARAGRAPH. *c.* The secretary shall provide for a
18 three-month grace period for registration.
19 Sec. 134. Section 206.12, subsection 2, paragraph c, Code
20 2011, is amended by striking the paragraph.
21 Sec. 135. Section 206.12, subsection 3, Code 2011, is
22 amended by striking the subsection.
23 Sec. 136. Section 206.21, subsection 2, Code 2011, is
24 amended to read as follows:
25 2. *a.* ~~For the purpose of carrying out the provisions and~~
26 ~~the requirements of this chapter and the rules made and notices~~
27 ~~given pursuant thereto, the~~ The secretary ~~or~~, including the
28 secretary's authorized agents, inspectors, or employees, may
29 enter into or upon any place during reasonable business hours
30 in order to ~~take~~ do any of the following:
31 (1) Take periodic random samples for chemical examinations
32 of pesticides and devices ~~and to open~~.
33 (2) Open any bundle, package or other container containing
34 or believed to contain a pesticide in order to determine
35 whether the pesticide or device complies with the requirements

S.F. _____ H.F. _____

of this chapter.

(3) Monitor the use of or review the pesticide application.

b. Methods of analysis shall be those currently used by the association of official agricultural chemists.

DIVISION XVIII

COAL MINING

Sec. 137. Section 207.2, subsection 10, Code 2011, is amended to read as follows:

10. *"Prime farmland"* ~~has~~ means the same ~~meaning~~ as prescribed by the United States ~~secretary~~ department of agriculture ~~and published in the federal register on January 31, 1978~~ pursuant to 7 C.F.R. § 567.5(a).

DIVISION XIX

WEIGHTS AND MEASURES — GENERAL

Sec. 138. Section 215.1, Code 2011, is amended to read as follows:

215.1 ~~Duty to inspect~~ Inspections.

The department shall regularly inspect all commercial weighing and measuring devices, and when a complaint is made to the department that any false or incorrect weights or measures are being made, the department shall inspect the commercial weighing and measuring devices which caused the complaint. The department may inspect prepackaged goods to determine the accuracy of their recorded weights.

Sec. 139. Section 215.4, Code 2011, is amended to read as follows:

215.4 Tag for inaccurate or incorrect device — reinspection — fee.

A commercial weighing and measuring device found to be inaccurate or incorrect upon inspection by the department shall be rejected or tagged "condemned until repaired" and the "licensed for commercial use" inspection sticker shall be removed. If notice is received by the department that the device has been repaired and upon reinspection the device is found to be accurate or correct, the license fee shall not be

S.F. _____ H.F. _____

1 charged for the reinspection. However, a second license fee
2 shall be charged if upon reinspection the device is found to be
3 inaccurate. The device shall be tagged "condemned" and removed
4 from service if a third reinspection fails.
5 Sec. 140. Section 215.7, Code 2011, is amended to read as
6 follows:
7 **215.7 Transactions by false weights or measures.**
8 ~~Any~~ A person shall be deemed to have violated the provisions
9 of this chapter and shall be punished as provided in chapter
10 189, if any of the following apply:
11 1. ~~If such~~ The person ~~sell~~ sells, ~~trade~~ trades, ~~deliver~~
12 delivers, ~~charge~~ charges for or ~~claim~~ claims to have delivered
13 to a purchaser an amount of any commodity which is less in
14 weight or measure than that which is asked for, agreed upon,
15 claimed to have been delivered, or noted on the delivery
16 ticket.
17 2. ~~If such~~ The person ~~make~~ makes a settlement for or ~~enter~~
18 enters credit, based upon any false weight or measurement, for
19 any commodity purchased.
20 3. ~~If such~~ The person ~~make~~ makes a settlement for or ~~enter~~
21 enters a credit, based upon any false weight or measurement,
22 for any labor where the price of producing or mining is
23 determined by weight or measure.
24 4. ~~If such~~ The person ~~record~~ records a false weight or
25 measurement upon the weight ticket or book.
26 Sec. 141. Section 215.9, Code 2011, is amended to read as
27 follows:
28 **215.9 Power of ~~cities~~ political subdivision limited.**
29 ~~Commodities~~ A commodity weighed upon any scale bearing ~~the~~
30 ~~inspection card,~~ a sticker issued by the department, shall not
31 be required to be reweighed as required by ~~any~~ ordinance of any
32 political subdivision including but not limited to a city, nor
33 shall ~~their~~ a commodity's sale, at the weights so ascertained,
34 and because thereof, be, by such ordinance, prohibited or
35 restricted.

S.F. _____ H.F. _____

1 Sec. 142. Section 215.14, subsection 3, Code 2011, is
2 amended to read as follows:
3 3. ~~After~~ Before approval by the department, the
4 specifications for a commercial weighing and measuring
5 device shall be furnished to the purchaser of the device
6 by the manufacturer. The approval shall be based upon the
7 recommendation of the United States national institute of
8 standards and technology.
9 Sec. 143. Section 215.26, subsection 1, Code 2011, is
10 amended to read as follows:
11 1. *"Commercial weighing and measuring device"* means a weight
12 or measure or weighing or measuring device used to establish
13 size, quantity, area or other quantitative measurement of a
14 commodity sold by weight or measurement, or where the price to
15 be paid for producing the commodity is based upon the weight or
16 measurement of the commodity. The term includes an accessory
17 attached to or used in connection with a commercial weighing or
18 measuring device when the accessory is so designed or installed
19 that its operation may affect the accuracy of the device.
20 *"Commercial weighing and measuring device"* includes a public
21 scale or a commercial scanner.
22 Sec. 144. Section 215.26, Code 2011, is amended by adding
23 the following new subsection:
24 NEW SUBSECTION. 1A. *"Department"* means the department of
25 agriculture and land stewardship.
26 DIVISION XX
27 WEIGHTS AND MEASURES — STATE METROLOGIST
28 Sec. 145. Section 213.2, Code 2011, is amended to read as
29 follows:
30 **213.2 Physical standards.**
31 Weights and measures, which conform to the standards of the
32 United States national institute of standards and technology
33 existing as of January 1, 1979, that are traceable to the
34 United States standards supplied by the federal government
35 or approved as being in compliance with its standards by

S.F. _____ H.F. _____

1 the national bureau of standards shall be the state primary
2 standard of weights and measures. Such weights and measures
3 shall be verified upon initial receipt of same and as often
4 as deemed necessary by the secretary of agriculture. The
5 secretary may provide for the alteration in the state
6 primary standard of weights and measures in order to maintain
7 traceability with the standard of the United States national
8 ~~bureau~~ institute of standards and technology. All such
9 alterations shall be made pursuant to rules promulgated by the
10 secretary in accordance with chapter 17A.
11 DIVISION XXI
12 WEIGHTS AND MEASURES — FUEL
13 Sec. 146. Section 214.1, subsection 3, Code 2011, is amended
14 to read as follows:
15 3. *"Motor fuel blender pump"* or *"blender pump"* means a motor
16 fuel ~~pump~~ meter that dispenses a type of motor fuel that is
17 blended from two or more different types of motor fuels and
18 which may dispense more than one type of blended motor fuel.
19 Sec. 147. Section 214.1, subsection 4, Code 2011, is amended
20 to read as follows:
21 4. *"Motor fuel pump"* means a ~~pump,~~ meter~~,~~ or similar
22 commercial weighing and measuring device used to measure and
23 dispense motor fuel originating from a motor fuel storage tank,
24 on a retail basis.
25 Sec. 148. Section 214.11, Code 2011, is amended to read as
26 follows:
27 **214.11 Inspections — recalibrations — penalty.**
28 1. The department ~~of agriculture and land stewardship~~
29 shall provide for annual inspections of all motor fuel pumps,
30 including but not limited motor fuel blender pumps, licensed
31 under this chapter. Inspections shall be for the purpose of
32 determining the accuracy of the pumps' measuring mechanisms,
33 and for such purpose the department's inspectors may enter upon
34 the premises of any wholesale dealer or retail dealer, as they
35 are defined in section 214A.1, of motor fuel or fuel oil within

S.F. _____ H.F. _____

1 this state. Upon completion of an inspection, the inspector
2 shall affix the department's seal to the measuring mechanism
3 of the motor fuel pump. The seal shall be appropriately
4 marked, dated, and recorded by the inspector. If the owner
5 of an inspected and sealed motor fuel pump is registered
6 with the department as a servicer in accordance with section
7 215.23, or employs a person so registered as a servicer, the
8 owner or other servicer may open the motor fuel pump, break
9 the department's seal, recalibrate the measuring mechanism
10 if necessary, and reseal the motor fuel pump as long as the
11 department is notified of the recalibration within forty-eight
12 hours, on a form provided by the department.
13 2. A person violating a provision of this section is, upon
14 conviction, guilty of a simple misdemeanor.
15 EXPLANATION
16 INTRODUCTION. This bill amends a number of provisions
17 relating to the powers and duties of the department of
18 agriculture and land stewardship.
19 GENERAL. The bill amends provisions relating to the general
20 powers and duties of the department (Code chapter 159). It
21 recognizes that the department promotes biofuels; revises the
22 administration of its weather and statistical units; and allows
23 the department to make statutes and rules available to the
24 public via the internet in lieu of printed publications. It
25 also eliminates a requirement that a departmental employee who
26 handles state funds provide a bond.
27 SOIL AND WATER CONSERVATION. The bill amends provisions
28 relating to soil conservation (Code chapter 161A). It
29 eliminates an outdated reporting requirement relating to
30 comprehensive management plans. It provides that an owner
31 of land may be required to maintain a permanent soil and
32 conservation practice for less than 20 years. It requires
33 the department rather than the soil conservation division to
34 submit annual fiscal reports to the department of management.
35 It eliminates references to a conservation folder that must be

S.F. _____ H.F. _____

1 part of a farm unit conservation plan developed by a landowner
2 and a soil and water conservation district identifying soil and
3 water conservation practices. It extends the period for the
4 summer construction of soil and water conservation practices,
5 and eliminates restrictions upon how much cost-share moneys may
6 be expended to support such construction. It also eliminates
7 a provision which prohibits the allocation of cost-share
8 moneys to support summer construction projects when moneys
9 are not available to fund applications to establish permanent
10 cost-share practices.
11 ANIMAL HEALTH REGULATION. The bill amends a number of
12 provisions relating to animal health.
13 Generally, the bill prohibits a person from falsifying a
14 certificate of vaccination or a certificate of veterinary
15 inspection. The civil penalty for a violation is up to $5,000
16 per each animal certificate falsified (Code chapter 163).
17 The bill updates references to the United States department
18 of agriculture and the department of agriculture and land
19 stewardship to comply with the general assembly's modern
20 drafting style (Code chapters 163 and 165).
21 In regard to swine, the bill eliminates a requirement that
22 the department oversee the feeding of garbage to animals, and
23 eliminates a reference to old dates after which garbage cannot
24 be fed to swine (Code chapter 163). It eliminates requirements
25 for testing brucellosis in swine that are sold for breeding
26 purposes and for exhibition (Code chapter 163A). It also
27 changes the name of "hog cholera" to "classical swine fever"
28 (Code chapters 159, 163, 166, and 166B).
29 In regard to dairy cattle, the bill changes the term
30 "paratuberculosis" to "Johne's disease", and eliminates a
31 requirement that infected dairy cattle be marked with a letter
32 "C" (Code chapter 165A).
33 In regard to sheep, the bill changes references to dipping
34 sheep to treating sheep and eliminates a requirement that
35 treated sheep be marked with the letter "K"(Code chapter 166A).

S.F. _____ H.F. _____

1 In regard to farm deer, the bill adds moose to the species of
2 farm deer that are kept in captivity and regulated to prevent
3 outbreaks of chronic wasting disease (Code chapter 170).
4 The term "farm deer" is used throughout the Code including
5 provisions relating to agricultural landholding restrictions
6 (Code chapter 10), the marking and branding of livestock (Code
7 chapter 169A), trespassing or stray livestock (Code chapter
8 169C), meat and poultry inspection (Code chapter 189A), sales
9 taxes and exemptions (Code chapter 423), wildlife conservation
10 (Code chapter 481A), hunting preserves (Code chapter 484B),
11 preserve whitetail (Code chapter 484C), damage to property
12 (Code chapter 716), and injury to livestock (Code chapter 717).
13 ANIMAL INDUSTRY. The bill provides that the department must
14 publish branding lists on the internet in lieu of in a book
15 (Code chapter 169A). It also amends licensing and bonding
16 requirements for persons associated with slaughtering animals
17 (livestock) by specifically including goats, turkeys, chickens,
18 and horses (Code chapter 172A).
19 AGRICULTURAL MARKETING. The bill amends a number of
20 provisions which regulate the marketing of agricultural-related
21 products and activities (Code chapter 189).
22 In Code 1993, the Iowa Code editor reorganized a number of
23 Code chapters throughout the Code, including by transferring
24 Code chapters relating to grain regulation (now codified
25 in Code chapters 203, 203C, and 203D), and coal mining
26 regulation (now codified in Code chapters 207 and 208) to
27 title V, subtitle 4. As a result, the Code editor placed
28 Code chapter references in a number of Code sections to
29 exempt those Code chapters from the general provisions of Code
30 chapter 189 until the general assembly expressly acknowledged
31 their applicability, including the applicability of certain
32 penalties. The bill eliminates those references.
33 The bill also amends terms such as "article" and "package" as
34 applied throughout the subtitle. It allows the department to
35 publish certain bulletins on its internet site rather than in a

S.F. _____ H.F. _____

1 printed format. It removes a specification regarding the size
2 of type that must appear on certain packaging.
3 The bill provides that regardless of what state law
4 requires, pesticides labeled in conformance with federal
5 standards comply with state law (see Code chapter 206).
6 AGRICULTURAL MARKETING — GRAIN REGULATION. The bill amends
7 a number of provisions regulating grain dealer and warehouse
8 operators required to be licensed by the department (Code
9 chapters 203 and 203C). The bill also amends corresponding
10 Code sections affecting the grain depositors and sellers
11 indemnity fund (Code chapter 203D).
12 The bill amends the definition of "grain" by referring
13 to the United States Grain Standards Act. The bill rewrites
14 provisions to enhance readability and provides consistency
15 in terminology. A number of provisions referring to
16 administrative actions are amended to provide for "cessation"
17 which includes revocation, cancellation, or expiration
18 of a license. The bill also removes terminology such as
19 an "automatic" suspension or revocation of a license.
20 Emergency adjudicatory proceedings are covered under the Iowa
21 administrative procedures Acts (Code section 17A.18A).
22 AGRICULTURAL MARKETING — WAREHOUSE OPERATOR REGULATION.
23 The bill defines the United States Warehouse Act and eliminates
24 legal citations. The bill numbers paragraphs in order to
25 be consistent with the general assembly's style. The bill
26 extensively amends Code section 203C.15 which requires a
27 warehouse operator to maintain insurance coverage. It allows
28 the department to define catastrophes for purposes of coverage
29 in addition to the statutory requirements (for example, the
30 provision refers to fire or wind but not flood). Under current
31 law a warehouse operator must have on file with the department
32 evidence of insurance coverage (e.g., an insurance policy).
33 The bill expressly authorizes the department to demand proof
34 of insurance verifying that the evidence of insurance coverage
35 is correct. The bill still requires an insurance company

S.F. _____ H.F. _____

1 to notify the department of a cancellation and allows the
2 department to suspend or revoke a license for a failure to
3 maintain insurance. It sets out the procedure for taking
4 action based on the termination of coverage, either because
5 the warehouse operator fails to provide proof of coverage or
6 the insurance company has canceled the coverage. The bill
7 eliminates a reference to the "Iowa warehouse Act" which does
8 not exist. The bill amends a provision which allows a licensed
9 warehouse to store grain in another warehouse, which the
10 bill refers to as an alternative warehouse. The alternative
11 warehouse must be approved by the department. The bill
12 rewrites the provision to enhance its readability.
13 PESTICIDE REGULATION. The bill amends provisions which
14 regulate the certification of pesticide applicators, the
15 licensure of persons engaged in the business of application and
16 pesticide dealers, and the registration of pesticides by its
17 manufacturers (Code chapter 206).
18 For regulations relating to certification, the bill
19 eliminates an option for commercial and public applicators to
20 pay the department a certification fee each year rather than
21 each three years. The amount of the fee is not changed. It
22 provides that the department is no longer required to adopt
23 rules for the educational program requirements that specify
24 the handling, application, and storage of pesticides; the
25 calibration of application equipment; and the effects of
26 pesticides upon the groundwater. It eliminates a transitional
27 provision that adjusted fees for certifications issued prior to
28 July 1, 1989.
29 For regulations relating to licensure, the bill requires
30 an applicant engaging in aerial application to demonstrate
31 compliance with federal law. It requires a pesticide dealer
32 to pay a license fee when due. It provides that the general
33 renewal fee and delinquency penalty do not apply to an
34 applicator required to be issued a certificate. It increases
35 the amount of evidence of financial responsibility required

S.F. _____ H.F. _____

1 to be submitted by a commercial applicator from $50,000 to
2 $250,000. For regulations relating to registration, the bill
3 allows the department to provide a three-month grace period.
4 The bill changes the definition of a state restricted use
5 pesticide to mean a pesticide which is restricted according
6 to classifications established by department of agriculture
7 and land stewardship instead of the department of natural
8 resources' environmental protection commission.
9 The bill eliminates provisions requiring a manufacturer
10 to submit an ingredient statement and an inert ingredient
11 statement to the department. It eliminates a provision which
12 requires the department to submit a copy of the ingredient
13 statement and inert ingredient statement to the department
14 of natural resources or the center for health effects of
15 environmental contamination. It eliminates a provision which
16 requires DALS to adopt rules specifying the requirements for
17 the operation of an emergency information system operated by
18 persons required to register a pesticide or device.
19 COAL MINING REGULATION. The bill updates a reference to
20 federal law (Code chapter 207).
21 WEIGHTS AND MEASURES. The bill amends a number of provisions
22 relating to the department's authority to regulate weights and
23 measures, including commercial weighing and measuring devices.
24 It amends provisions relating to the general authority to the
25 department (Code chapter 215), provisions requiring special
26 regulation of devices measuring weather (Code chapter 213), and
27 devices measuring fuel including motor fuel pumps (Code chapter
28 214).
29 Generally, the bill authorizes the department to inspect
30 prepackaged goods to determine the accuracy of a device.
31 It authorizes the department to condemn a device that it
32 determines to be incorrect. It revises statutory language for
33 readability. It authorizes the department to use a sticker
34 in lieu of a card when verifying inspection and prohibits
35 other political subdivisions and not just cities from adopting

S.F. _____ H.F. _____

1 ordinances for reweighing. It requires that specifications for
2 a device be furnished to a purchaser before rather than after
3 departmental approval. It provides that a commercial scanner
4 is considered a device subject to departmental inspection
5 requirements.
6 For devices that measure weather activity, the bill
7 updates the name of the federal agency responsible for setting
8 standards.
9 For devices that measure and dispense fuel, the bill amends
10 several provisions by referring to meters rather than pumps and
11 expressly providing for the regulation of motor fuel blender
12 pumps.

Senate Study Bill 3141 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
TRANSPORTATION BILL BY
CHAIRPERSON RIELLY)

A BILL FOR

1 An Act relating to funding for Iowa roads, including by
2 increasing the excise tax on motor fuel and special fuel
3 used in motor vehicles, providing for the use of certain
4 revenues, providing for related studies, evaluations, and
5 reports, and including effective date provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 6033XC (3) 84
dea/nh

S.F. _____

DIVISION I
MOTOR FUEL TAX

Section 1. Section 312.2, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 21. *a.* The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the TIME-21 fund created in section 312A.2 the revenue accruing to the road use tax fund from the excise tax on motor fuel and special fuel for motor vehicles in the amount equal to the revenues collected as follows:

(1) For the period beginning January 1, 2013, and ending December 31, 2013, the following amounts:

(a) The amount of excise tax collected under section 452A.3, subsection 1A, paragraph *"b"*, from five cents per gallon.

(b) The amount of excise tax on special fuel for diesel engines of motor vehicles collected under section 452A.3, subsection 3, paragraph *"a"*, subparagraph (2), from five cents per gallon.

(2) Beginning January 1, 2014, the following amounts:

(a) The amount of excise tax collected under section 452A.3, subsection 1A, paragraph *"c"*, from ten cents per gallon.

(b) The amount of excise tax on special fuel for diesel engines of motor vehicles collected under section 452A.3, subsection 3, paragraph *"a"*, subparagraph (3), from ten cents per gallon.

b. This subsection is repealed June 30, 2028.

Sec. 2. Section 452A.3, subsection 1A, Code 2011, is amended to read as follows:

1A. Except as otherwise provided in this section and in this division, ~~after June 30, 2012,~~ the following excise tax rates shall apply:

a. For the period beginning July 1, 2012, and ending December 31, 2012, an excise tax of twenty cents is imposed on each gallon of motor fuel used for any purpose for the

S.F. _____

1 privilege of operating motor vehicles in this state.
2 *b.* For the period beginning January 1, 2013, and ending
3 December 31, 2013, an excise tax of twenty-five cents is
4 imposed on each gallon of motor fuel used for any purpose for
5 the privilege of operating motor vehicles in this state.
6 *c.* Beginning January 1, 2014, an excise tax of thirty cents
7 is imposed on each gallon of motor fuel used for any purpose
8 for the privilege of operating motor vehicles in this state.
9 Sec. 3. Section 452A.3, subsection 3, Code 2011, is amended
10 to read as follows:
11 3. *a.* For the privilege of operating motor vehicles or
12 aircraft in this state, there is imposed an excise tax on the
13 use of special fuel in a motor vehicle or aircraft. ~~The~~
14 (1) Prior to January 1, 2013, the tax rate on special fuel
15 for diesel engines of motor vehicles is twenty-two and one-half
16 cents per gallon.
17 (2) For the period beginning January 1, 2013, and ending
18 December 31, 2013, the tax rate on special fuel for diesel
19 engines of motor vehicles is twenty-seven and one-half cents
20 per gallon.
21 (3) Beginning January 1, 2014, the tax rate on special fuel
22 for diesel engines of motor vehicles is thirty-two and one-half
23 cents per gallon.
24 (4) The rate of tax on special fuel for aircraft is three
25 cents per gallon.
26 (5) On all other special fuel, unless otherwise specified in
27 this section, the per gallon rate is the same as the motor fuel
28 tax.
29 *b.* Indelible dye meeting United States environmental
30 protection agency and internal revenue service regulations must
31 be added to fuel before or upon withdrawal at a terminal or
32 refinery rack for that fuel to be exempt from tax and the dyed
33 fuel may be used only for an exempt purpose.
34 DIVISION II
35 ROAD FUNDING NEEDS —— EQUITABLE SOLUTIONS

S.F. _____

1 Sec. 4. Section 307.31, Code 2011, is amended to read as
2 follows:
3 **307.31 Periodic review of revenues — evaluation of**
4 **alternative funding sources.**
5 1. The department shall periodically review the current
6 revenue levels of the road use tax fund and the sufficiency of
7 those revenues for the projected construction and maintenance
8 needs of city, county, and state governments in the future.
9 The department shall submit a written report to the general
10 assembly regarding its findings by December 31 every ~~five~~
11 two years, beginning in ~~2011~~ 2013. The report may include
12 recommendations concerning funding levels needed to support the
13 future mobility and accessibility for users of Iowa's public
14 road system.
15 2. The department shall evaluate alternative funding
16 sources for road maintenance and construction and report to
17 the general assembly at least every ~~five~~ two years on the
18 advantages and disadvantages and the viability of alternative
19 funding mechanisms. The department's evaluation of alternative
20 funding sources may be included in the report submitted to the
21 general assembly under subsection 1.
22 Sec. 5. NEW SECTION. **307.32 Operation, maintenance, and**
23 **improvement of state roads — annual review.**
24 The department shall convene a meeting, at least annually,
25 of representatives of Iowa cities and counties and the
26 department to review practices relating to the operation,
27 maintenance, and improvement of the state's public road system
28 and to identify ways to jointly increase the efficiency of
29 those practices.
30 Sec. 6. ALTERNATIVELY FUELED, HYBRID, AND HIGH FUEL
31 EFFICIENCY VEHICLES. The department of transportation shall
32 evaluate mechanisms that could be used as an alternative
33 to the motor fuel tax in relation to alternatively fueled,
34 hybrid, and high fuel efficiency vehicles, including commercial
35 vehicles, to assure that owners and operators of those vehicles

S.F. _____

1 are required to share in the cost of maintaining, operating,
2 and improving Iowa roads. The department shall recommend an
3 alternative funding mechanism in its next report to the general
4 assembly regarding alternative funding sources for roads as
5 required under section 307.31.
6 Sec. 7. EQUITABLE FEE STUDY. The department of
7 transportation shall conduct a study to determine whether
8 the various types of vehicles and equipment using the public
9 roadways are paying equitable fees used for the construction
10 and maintenance of Iowa roads. The department shall report
11 its findings and any recommendations to the general assembly
12 by June 30, 2012.
13 Sec. 8. EFFECTIVE UPON ENACTMENT. The following provision
14 of this Act, being deemed of immediate importance, takes effect
15 upon enactment:
16 1. The section of this Act relating to an equitable fee
17 study to be conducted by the department of transportation.
18 EXPLANATION
19 This bill contains various provisions relating to the
20 funding of Iowa roads.
21 DIVISION I —— MOTOR FUEL TAX. The bill increases the excise
22 tax on motor fuel and special fuel used in motor vehicles by
23 five cents beginning January 1, 2013, and by an additional
24 five cents beginning January 1, 2014. The additional revenues
25 shall be credited to the TIME-21 fund, subject to the statutory
26 limitation on annual deposits to that fund. After the repeal
27 of the TIME-21 fund on June 30, 2028, the revenues will accrue
28 to the road use tax fund.
29 DIVISION II —— ROAD FUNDING NEEDS —— EQUITABLE SOLUTIONS.
30 Under current law, the department of transportation is required
31 to periodically review current road use tax fund revenues
32 and the sufficiency of those revenues to meet projected
33 construction and maintenance needs of cities, counties, and the
34 state and submit a report of its findings and recommendations
35 to the general assembly every five years. The bill requires

S.F. _____

1 more frequent reports, every two years. In addition, the
2 department is currently required to report to the general
3 assembly at least every five years regarding the viability of
4 alternative funding mechanisms for roads. The bill requires
5 the report on alternative funding mechanisms be made at least
6 every two years.
7 The bill requires the department to convene a meeting of
8 representatives of Iowa cities, counties, and the department at
9 least annually to review practices relating to the operation,
10 maintenance, and improvement of the state's public road system
11 and identify ways to jointly increase efficiency.
12 The bill requires the department to evaluate and recommend
13 mechanisms to be used as an alternative to the motor fuel tax
14 for alternatively fueled, hybrid, and high fuel efficiency
15 vehicles including commercial vehicles. The department's
16 recommendations are to be included in its next periodic report
17 to the general assembly regarding alternative funding sources.
18 That report is due by December 31, 2013.
19 The department is also required to conduct a study to
20 determine whether the various types of vehicles and equipment
21 that use the public roadways are paying equitable fees in
22 support of Iowa roads. The department shall report its
23 findings and any recommendations to the general assembly by
24 June 30, 2012. This provision of the bill is effective upon
25 enactment.