Iowa General Assembly
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February 21, 2012

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Senate Amendment to House Amendment to
Senate File 2071

H-8026

1 Amend the House amendment, S-5015, to Senate File
2 2071, as passed by the Senate, as follows:
3 1. Page 1, after line 3 by inserting:
4 <UTILITY EXPENDITURES — APPROPRIATION REDUCTIONS
5 Sec. ___. STATE AGENCY UTILITY EXPENDITURES.
6 1. For the purposes of this section, "department"
7 or "agency" does not include a state department or
8 agency receiving a supplemental appropriation for
9 the fiscal year beginning July 1, 2011, pursuant to
10 an enactment by the Eighty-fourth General Assembly,
11 2012 session, the state board of regents and the
12 institutions under the control of the state board, or
13 the judicial branch.
14 2. a. For the time period beginning on the
15 effective date of this section through June 30, 2012,
16 each state department and agency shall be subject to a
17 limitation on expenditures for utilities made by the
18 department or agency on or after the effective date of
19 this section.
20 b. The overall dollar amount of the limitation
21 shall be equal to $1,000,000 and shall be applied to
22 the unexpended or unencumbered amount that a department
23 or agency has budgeted or otherwise designated for
24 purposes of utilities from the appropriations made to
25 the department or agency from the general fund of the
26 state for the fiscal year beginning July 1, 2011, and
27 ending June 30, 2012, as of the effective date of this
28 section.
29 3. The appropriations to which the expenditure
30 limitation required by this section are attributed
31 shall be reduced in proportion to which a department or
32 agency budget for utilities bears to the overall amount
33 budgeted by the affected departments and agencies for
34 utilities. Within 30 days of the enactment date of
35 this section, the department of management shall apply
36 such appropriation reductions and shall submit a report
37 to the general assembly and legislative services agency
38 itemizing the expenditure and appropriation reductions
39 applied.>
40 2. Page 1, by striking lines 15 through 33 and
41 inserting:
42 <___. Page 2, line 7, by striking <9,490,461> and
43 inserting <9,403,464>
44 ___. Page 2, line 12, by striking <24,857,130> and
45 inserting <24,669,743>
46 ___. Page 2, line 22, by striking <16,049,305> and
47 inserting <15,832,339>
48 ___. Page 2, line 27, by striking <29,456,158> and
49 inserting <29,259,196>
50 ___. Page 3, line 35, by striking <10,598,654> and

1 inserting <10,467,801>
2 ___. Page 4, line 8, by striking <5,442,351> and
3 inserting <5,416,853>
4 ___. Page 4, line 13, by striking <19,052,804> and
5 inserting <18,897,467>>
6 3. Page 2, after line 1 by inserting:
7 <___. Page 8, after line 3 by inserting:
8 <DIVISION ___
9 MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL
10 DISABILITIES SERVICES PROPERTY TAX RELIEF AND SERVICE
11 MANAGEMENT PLANS
12 Sec. ___. PROPERTY TAX RELIEF — FY
13 2012-2013. There is appropriated from the Iowa
14 economic emergency fund to the department of human
15 services for the fiscal year beginning July 1, 2011,
16 and ending June 30, 2012, notwithstanding section
17 8.55, subsection 1, the following amount, or so much
18 thereof as is necessary, to be used for the purposes
19 designated:
20 To be credited to the property tax relief fund
21 to be used to restore the amount of the standing
22 appropriation made from the general fund of the state
23 in section 426B.1, subsection 1, for the fiscal year
24 beginning July 1, 2012, in the amount of the reduction
25 applied pursuant to 2011 Iowa Acts, chapter 129,
26 section 154:
27 ..... $ 7,200,089
28 Sec. ___. COUNTY MENTAL HEALTH, MENTAL RETARDATION,
29 AND DEVELOPMENTAL DISABILITIES SERVICES MANAGEMENT PLAN
30 — STRATEGIC PLAN. Notwithstanding section 331.439,
31 subsection 1, paragraph "b", subparagraph (3), counties
32 are not required to submit a three-year strategic plan
33 by April 1, 2012, to the department of human services.
34 A county's strategic plan in effect as of the effective
35 date of this section shall remain in effect, subject
36 to modification as necessary to conform with statutory
37 changes affecting the plan.>>
38 4. By renumbering as necessary.

House File 2328

H-8027

1 Amend House File 2328 as follows:
2 1. Page 1, line 14, by striking <is> and inserting
3 <~~is~~ are>
4 2. Page 40, line 5, by striking <corporation,> and
5 inserting <corporation~~,~~>
6 3. Page 120, line 21, by striking <249.12, and
7 321.6> and inserting <and 249.12>

COMMITTEE ON JUDICIARY
ANDERSON of Page, Chairperson

House File 594

H-8028

1 Amend House File 594 as follows:
2 1. Page 1, line 5, by striking <flag> and inserting
3 <flag,>
4 2. Page 1, after line 7 by inserting:
5 <Sec. ___. NEW SECTION. **414.27 Display of American**
6 **flag or campaign signs.**
7 A regulation or restriction pertaining to the use
8 of residential property that prohibits the display of
9 the American flag, or the display of a political sign
10 within six weeks of the day of an election, is void as
11 against the public policy of this state and shall not
12 be given legal or equitable effect.>
13 3. By renumbering as necessary.

_____
WATTS of Dallas

House File 2333 - Introduced

HOUSE FILE 2333
BY J. TAYLOR

A BILL FOR

1 An Act relating to appropriations to the indigent defense fund.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5089YH (3) 84
jm/nh

H.F. 2333

1 Section 1. Section 815.11, Code 2011, is amended by striking
2 the section and inserting in lieu thereof the following:
3 **815.11 Appropriations for indigent defense —— indigent**
4 **defense fund.**
5 1. There is appropriated each year from the general fund
6 of the state to the office of the state public defender in the
7 department of inspections and appeals an amount necessary to
8 pay the costs incurred for the legal representation of indigent
9 persons by court-appointed attorneys.
10 2. Moneys appropriated pursuant to subsection 1 shall be
11 deposited in an account to be known as the indigent defense
12 fund under the control of the department of inspections and
13 appeals.
14 3. *a.* Costs incurred for legal representation by a
15 court-appointed attorney on behalf of an indigent under chapter
16 229A, 665, 822, or 908, or section 232.141, subsection 3,
17 paragraph *"d"*, or section 598.23A, 600A.6B, 814.9, 814.10,
18 814.11, 815.4, 815.7, or 815.10 shall be paid from the fund.
19 *b.* Costs incurred representing an indigent defendant in
20 a contempt action, or representing an indigent juvenile in a
21 juvenile court proceeding, are also payable from the fund.
22 *c.* Costs incurred in any administrative proceeding or in
23 any other proceeding under this chapter or chapter 598, 600,
24 600A, 633, 633A, 814, or 915 or other provisions of the Code or
25 administrative rules are not payable from the fund.
26 EXPLANATION
27 This bill relates to appropriations to the indigent defense
28 fund.
29 The bill establishes a standing unlimited appropriation to
30 the indigent defense fund. Under the bill, there shall be an
31 appropriation each year from the general fund of the state to
32 the office of the state public defender for an amount necessary
33 to pay the costs incurred for the legal representation of
34 indigent persons.
35 Current law provides the costs incurred for the legal

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1 representation of an indigent person by a court-appointed
2 attorney be paid from moneys appropriated by the general
3 assembly.

House File 2334 - Introduced

HOUSE FILE 2334
BY COMMITTEE ON NATURAL
RESOURCES

(SUCCESSOR TO HSB 617)

A BILL FOR

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

TLSB 5226HV (4) 84
av/nh

H.F. 2334

Section 1. Section 461C.8, subsection 3, Code 2011, is amended to read as follows:

3. A hunter who participates in urban deer control pursuant to this section shall be otherwise qualified to hunt deer in this state, ~~have~~ purchase a hunting license ~~and pay~~ that includes the wildlife habitat fee, and obtain a special deer hunting license valid only for the dates, locations, and type of deer specified on the license. Special deer hunting licenses issued pursuant to this section shall be available only to residents and shall cost the same as deer hunting licenses issued during general deer seasons. The commission may establish procedures for issuing more than one license per person as necessary to achieve the purposes of urban deer control, and the cost of each additional license shall be ten dollars.

Sec. 2. Section 481A.72, Code 2011, is amended to read as follows:

481A.72 Hooks and lines.

1. A person shall not at any time take from the waters of the state any fish, except as otherwise provided in this chapter, except with hook, line, and bait, nor shall a person use more than ~~two~~ three lines nor more than two hooks on each line in still fishing or trolling, and in fly fishing not more than two flies may be used on one line, and in trolling and bait casting not more than two trolling spoons or artificial bait may be used on one line.

2. A person shall not leave fish line or lines and hooks in the water unattended by being out of visual sight of the lines and hooks.

3. One hook means a single, double, or treble pointed hook, and all hooks attached as a part of an artificial bait or lure shall be counted as one hook.

Sec. 3. Section 481A.93, subsection 2, paragraph b, subparagraph (2), Code 2011, is amended to read as follows:

(2) The totally blind person is accompanied and aided by a

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person who is at least eighteen years of age and whose vision is not seriously impaired. The accompanying person must ~~have~~ purchase a hunting license ~~and pay~~ that includes the wildlife habitat fee as provided in section 483A.1 if applicable. If the accompanying person is not required to have a hunting license the person is not required to pay the wildlife habitat fee. During the hunt, the accompanying adult must be within arm's reach of the totally blind person, and must be able to identify the target and the location of the laser sight beam on the target. A person other than the totally blind person shall not shoot the laser sight-equipped gun or bow.

Sec. 4. Section 481C.2A, subsection 1, paragraph d, Code Supplement 2011, is amended to read as follows:

d. A producer who enters into a depredation agreement with the department of natural resources shall be issued a set of authorization numbers. Each authorization number authorizes a resident hunter to obtain a depredation license that is valid only for taking antlerless deer on the land designated in the producer's depredation plan. A producer may transfer an authorization number issued to that producer to a resident hunter who has permission to hunt on the land for which the authorization number is valid. An authorization number shall be valid to obtain a depredation license in any season. The provisions of this paragraph shall be implemented by August 15, 2008. A transferee who receives an authorization number pursuant to this paragraph "*d*" shall be otherwise qualified to hunt deer in this state, ~~have~~ purchase a hunting license~~, pay~~ that includes the wildlife habitat fee, and pay the one dollar fee for the purpose of the deer herd population management program.

Sec. 5. Section 483A.1, Code 2011, is amended to read as follows:

483A.1 Licenses — fees.

Except as otherwise provided in this chapter, a person shall not fish, trap, hunt, pursue, catch, kill, take in any

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manner, use, have possession of, sell, or transport all or a part of any wild animal, bird, game, or fish, the protection and regulation of which is desirable for the conservation of resources of the state, without first obtaining a license for that purpose and the payment of a fee as follows:

1. Residents:

a. Fishing license, annual .....$ 17.00

b. Fishing license, three-year .....$ 51.00

c. Fishing license, seven-day .....$ 11.50

d. Fishing license, one-day .....$ 7.50

e. Third line fishing permit, annual .....$ 10.00

~~*b.*~~ *f.* Fishing license, lifetime, sixty-five years or older .....$ 50.50

~~*c.*~~ *g.* Hunting license, annual, not including the wildlife habitat fee .....$ 17.00

0h. Hunting license, annual, including the wildlife habitat fee .....$ 28.00

h. Hunting license, three-year, including the wildlife habitat fees .....$ 84.00

~~*d.*~~ *i.* Hunting license, lifetime, sixty-five years or older .....$ 50.50

j. Combination hunting and fishing license, annual, including the wildlife habitat fee .....$ 45.00

~~*e.*~~ *k.* Deer hunting license .....$ 25.50

~~*f.*~~ *l.* Wild turkey hunting license .....$ 22.50

~~*g.*~~ *m.* Fur harvester license, annual, not including the wildlife habitat fee, sixteen years or older .....$ 20.50

0n. Fur harvester license, annual, including the wildlife habitat fee, sixteen years or older .....$ 31.50

~~*h.*~~ *n.* Fur harvester license, annual, not including the wildlife habitat fee, under sixteen years of age .....$ 5.50

~~*i.*~~ *o.* Fur dealer license $225.50

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~~j.~~ p. Aquaculture unit license .....$ 25.50
~~k.~~ q. Retail bait dealer license .....$ 30.50
~~l. Fishing license, seven-day .....$ 11.50~~
~~m.~~ r. Trout fishing fee .....$ 10.50
~~n.~~ s. Game breeder license .....$ 15.50
~~o.~~ t. Taxidermy license .....$ 15.50
~~p.~~ u. Falconry license .....$ 20.50
~~q.~~ v. Wildlife habitat fee .....$ 11.00
~~r.~~ w. Migratory game bird fee .....$ 8.00
~~s. Fishing license, one-day .....$ 7.50~~
~~t.~~ x. Wholesale bait dealer license $125.00
~~u.~~ y. Boundary waters sport trotline license, annual .....$ 20.50

2. Nonresidents:
a. Fishing license, annual .....$ 39.00
b. Fishing license, seven-day .....$ 30.00
c. Fishing license, three-day .....$ 15.50
d. Fishing license, one-day .....$ 8.50
e. Third line fishing permit, annual .....$ 10.00
~~e.~~ f. Hunting license, annual, including the wildlife habitat fee, eighteen years of age or older .....$~~110.00~~ 121.00
~~d.~~ g. Hunting license, annual, including the wildlife habitat fee, under eighteen years of age .....$ ~~30.00~~ 41.00
~~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

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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, including the wildlife habitat fee .....~~$200.00~~ 211.00

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

Op. Fur dealer license, one day, one location.....$250.00

~~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, whichever 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

~~u.~~ y. Migratory game bird fee .....$ 8.00

~~v. Fishing license, three-day .....$ 15.50~~

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

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1 ~~x. Fishing license, one-day .....$ 8.50~~
2 ~~y.~~ z. Boundary waters sport trotline
3 license, annual .....$ 40.50
4 Sec. 6. Section 483A.3, Code 2011, is amended to read as
5 follows:
6 **483A.3 Wildlife habitat fee.**
7 1. a. A resident or nonresident person required to have
8 a hunting or fur harvester license shall not hunt or trap
9 unless the person ~~has paid~~ purchases a hunting or fur harvester
10 license that includes the wildlife habitat fee. ~~This section~~
11 ~~shall not apply to residents~~
12 b. Residents who have permanent disabilities or who are
13 younger than sixteen or older than sixty-five years of age
14 may purchase a hunting or fur harvester license that does not
15 include the wildlife habitat fee. ~~Wildlife~~
16 c. Eleven dollars of the fee paid for each resident or
17 nonresident hunting or fur harvester license that includes the
18 wildlife habitat fee shall be designated as a wildlife habitat
19 fee.
20 d. All wildlife habitat fees shall be administered in
21 the same manner as hunting and fur harvester licenses except
22 all revenue derived from wildlife habitat fees shall be used
23 within the state of Iowa for habitat development and shall be
24 deposited in the state fish and game protection fund, except
25 as provided in subsection 2. The revenue may be used for
26 the matching of federal funds. The revenues and any matched
27 federal funds shall be used for acquisition of land, leasing of
28 land, or obtaining of easements from willing sellers for use as
29 wildlife habitats. Notwithstanding the exemption provided by
30 section 427.1, any land acquired with the revenues and matched
31 federal funds shall be subject to the full consolidated levy
32 of property taxes which shall be paid from those revenues.
33 In addition the revenue may be used for the development and
34 enhancement of wildlife lands and habitat areas.
35 e. Not less than fifty percent of all revenue from wildlife

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1 habitat fees shall be used by the commission to enter into
2 agreements with county conservation boards or other public
3 agencies in order to carry out the purposes of this section.
4 The state share of funding of those agreements provided
5 by the revenue from wildlife habitat fees shall not exceed
6 seventy-five percent.
7 2. Up to sixty percent of the revenues from wildlife
8 habitat fees which are not required under subsection 1 to be
9 used by the commission to enter into agreements with county
10 conservation boards or other public agencies may be credited to
11 the wildlife habitat bond fund as provided in section 483A.53.
12 3. Notwithstanding subsections 1 and 2, any increase in
13 wildlife habitat fee revenues received on or after July 1,
14 2007, pursuant to this section as a result of wildlife habitat
15 fee increases pursuant to 2007 Iowa Acts, ch. 194, shall be
16 used by the commission only for the purpose of the game bird
17 habitat development program as provided in section 483A.3B.
18 The commission shall not reduce on an annual basis for these
19 purposes the amount of other funds being expended as of July
20 1, 2007.
21 4. A three-year hunting license purchased pursuant to
22 section 483A.1, subsection 1, paragraph "h", includes the
23 payment of a wildlife habitat fee for each of the three years
24 for which the license is valid and those fees shall be used as
25 provided in this section.
26 Sec. 7. Section 483A.3A, Code 2011, is amended to read as
27 follows:
28 **483A.3A Fish habitat development funding.**
29 Three dollars from each resident and nonresident annual and
30 seven-day fishing license and nine dollars from each resident
31 three-year fishing license sold shall be deposited in the
32 state fish and game protection fund and shall be used within
33 this state for fish habitat development. Not less than fifty
34 percent of this amount shall be used by the commission to enter
35 into agreements with county conservation boards to carry out

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1 the purposes of this section.
2 Sec. 8. Section 483A.7, subsection 1, Code 2011, is amended
3 to read as follows:
4 1. A resident hunting wild turkey who is required to have
5 a license must ~~have~~ purchase a resident hunting license that
6 includes the wildlife habitat fee in addition to the wild
7 turkey hunting license ~~and must pay the wildlife habitat~~
8 ~~fee~~. Upon application and payment of the required fees for
9 archery-only licenses, a resident archer shall be issued two
10 wild turkey licenses for the spring season.
11 Sec. 9. Section 483A.7, subsection 3, Code 2011, is amended
12 to read as follows:
13 3. *a.* A nonresident wild turkey hunter is required to
14 ~~have~~ purchase a nonresident hunting license that includes the
15 wildlife habitat fee and a nonresident wild turkey hunting
16 license ~~and pay the wildlife habitat fee~~. The commission
17 shall annually limit to two thousand three hundred licenses
18 the number of nonresidents allowed to have wild turkey hunting
19 licenses. Of the two thousand three hundred licenses, one
20 hundred fifty licenses shall be valid for hunting with muzzle
21 loading shotguns only. The commission shall allocate the
22 nonresident wild turkey hunting licenses issued among the
23 zones based on the populations of wild turkey. A nonresident
24 applying for a wild turkey hunting license must exhibit proof
25 of having successfully completed a hunter safety and ethics
26 education program as provided in section 483A.27 or its
27 equivalent as determined by the department before the license
28 is issued.
29 *b.* The commission shall assign one preference point to a
30 nonresident whose application for a nonresident wild turkey
31 hunting license is denied due to limitations on the number
32 of nonresident wild turkey hunting licenses available for
33 issuance that year. An additional preference point shall be
34 assigned to that person each subsequent year the person's
35 license application is denied for that reason. A nonresident

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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. 10. Section 483A.8, subsection 1, Code Supplement 2011, is amended to read as follows:

1. A resident hunting deer who is required to have a hunting license must ~~have~~ purchase a resident hunting license that includes the wildlife habitat fee, in addition to the deer hunting license ~~and must pay the wildlife habitat fee~~. In addition, a resident who purchases a deer hunting license shall pay a one dollar fee that shall be used and is appropriated for the purpose of deer herd population management, including assisting with the cost of processing deer donated to the help us stop hunger program administered by the commission.

Sec. 11. Section 483A.8, subsection 3, paragraphs a, b, and e, Code Supplement 2011, are amended to read as follows:

a. A nonresident hunting deer is required to ~~have~~ purchase a nonresident hunting license that includes the wildlife habitat fee and a nonresident deer hunting license ~~and must pay the wildlife habitat fee~~. In addition, a nonresident who purchases a deer hunting license shall pay a one dollar fee that shall be used and is appropriated for the purpose of deer herd population management, including assisting with the cost of processing deer donated to the help us stop hunger program administered by the commission.

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

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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. 12. Section 483A.8, subsection 6, Code Supplement 2011, is amended to read as follows:

6. The commission shall provide by rule for the annual issuance to a nonresident of a nonresident antlerless deer hunting license that is valid for use only during the period beginning on December 24 and ending at sunset on January 2 of the following year and costs seventy-five dollars. A nonresident hunting deer with a license issued under this subsection shall be otherwise qualified to hunt deer in this state and shall ~~have~~ purchase a nonresident hunting license~~,~~ ~~pay~~ that includes the wildlife habitat fee, and pay the one dollar fee for the purpose of deer herd population management as provided in subsection 3. Pursuant to this subsection, the commission shall make available for issuance only the remaining nonresident antlerless deer hunting licenses allocated under subsection 3 that have not yet been issued for the current year's nonresident antlerless deer hunting seasons.

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1 Sec. 13. Section 483A.8B, Code 2011, is amended to read as
2 follows:
3 **483A.8B Senior crossbow deer hunting licenses.**
4 1. A person who is a resident and who is seventy years
5 of age or older may be issued one special senior statewide
6 antlerless deer only crossbow deer hunting license to hunt deer
7 during bow season as established by rule by the commission. A
8 person who obtains a license to hunt deer under this section
9 is not required to pay the wildlife habitat fee but shall be
10 otherwise qualified to hunt deer in this state and shall ~~have~~
11 purchase a resident hunting license that does not include the
12 wildlife habitat fee.
13 2. A person may obtain a license under this section in
14 addition to a statewide antlered or any sex deer hunting bow
15 season license. Season dates, shooting hours, limits, license
16 quotas, and other regulations for this license shall be the
17 same as set forth by the commission by rule for bow season deer
18 hunts.
19 Sec. 14. Section 483A.8C, subsection 2, Code 2011, is
20 amended to read as follows:
21 2. A person who obtains a deer hunting license under this
22 section is not required to pay the wildlife habitat fee but
23 shall purchase a deer hunting license and hunting license
24 that does not include the wildlife habitat fee, be otherwise
25 qualified to hunt, and pay a one dollar fee that shall be used
26 and is appropriated for the purpose of deer herd population
27 management, including assisting with the cost of processing
28 deer donated to the help us stop hunger program administered
29 by the commission.
30 Sec. 15. Section 483A.9A, Code 2011, is amended by adding
31 the following new subsection:
32 NEW SUBSECTION. 3. The commission shall offer to residents
33 a combination package of an annual fishing license and an
34 annual hunting license, as provided in section 483A.1,
35 subsection 1, the cost of which includes the wildlife habitat

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fee.

Sec. 16. 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. 17. Section 483A.24, subsections 3 and 4, Code Supplement 2011, are amended to read as follows:

3. The director shall provide up to seventy-five nonresident deer hunting licenses for allocation as requested by a majority of a committee consisting of the majority leader of the senate, speaker of the house of representatives, and director of the economic development authority, or their designees. The licenses provided pursuant to this subsection shall be in addition to the number of nonresident licenses authorized pursuant to section 483A.8. The purpose of the special nonresident licenses is to allow state officials and local development groups to promote the state and its natural resources to nonresident guests and dignitaries. Photographs, videotapes, or any other form of media resulting from the hunting visitation shall not be used for political campaign purposes. The nonresident licenses shall be issued without application upon ~~payment of~~ purchase of a nonresident hunting license that includes the wildlife habitat fee and the purchase of a nonresident deer hunting license ~~fee and the wildlife habitat fee~~. The licenses are valid in all zones open to deer hunting. The hunter safety and ethics education certificate requirement pursuant to section 483A.27 is waived for a nonresident issued a license pursuant to this subsection.

4. The director shall provide up to twenty-five nonresident

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wild turkey hunting licenses for allocation as requested by a majority of a committee consisting of the majority leader of the senate, speaker of the house of representatives, and director of the economic development authority, or their designees. The licenses provided pursuant to this subsection shall be in addition to the number of nonresident licenses authorized pursuant to section 483A.7. The purpose of the special nonresident licenses is to allow state officials and local development groups to promote the state and its natural resources to nonresident guests and dignitaries. Photographs, videotapes, or any other form of media resulting from the hunting visitation shall not be used for political campaign purposes. The nonresident licenses shall be issued without application upon ~~payment of~~ purchase of a nonresident hunting license that includes the wildlife habitat fee and the purchase of a nonresident wild turkey hunting license ~~fee and the wildlife habitat fee~~. The licenses are valid in all zones open to wild turkey hunting. The hunter safety and ethics education certificate requirement pursuant to section 483A.27 is waived for a nonresident issued a license pursuant to this subsection.

Sec. 18. Section 483A.24, subsection 10, paragraph d, Code Supplement 2011, is amended to read as follows:

d. A nonresident who receives a special license pursuant to this subsection shall purchase a hunting license that includes the wildlife habitat fee and the applicable nonresident turkey or deer hunting license~~, and pay the wildlife habitat fee~~, but is not required to complete the hunter safety and ethics education course if the person is accompanied and aided by a person who is at least eighteen years of age. The accompanying person must be qualified to hunt and have a hunting license that includes the wildlife habitat fee. During the hunt, the accompanying adult must be within arm's reach of the nonresident licensee.

Sec. 19. Section 483A.24B, subsection 6, Code 2011, is amended to read as follows:

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6. A person who receives a license pursuant to this section shall be otherwise qualified to hunt deer in this state and shall ~~have~~ purchase a hunting license ~~and pay~~ that includes the wildlife habitat fee.

Sec. 20. 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.

Sec. 21. Section 484B.10, subsections 2 and 3, Code 2011, are amended to read as follows:

2. Waterfowl shall not be shot over any area where pen-reared mallards may serve as live decoys for wild waterfowl. All persons hunting game birds or ungulates upon a licensed hunting preserve shall secure a hunting license ~~to do so~~ that includes the wildlife habitat fee in accordance with the game laws of Iowa, with the exception that an unlicensed person may secure an annual hunting preserve license restricted to hunting preserves only for a license fee of five dollars. All persons who hunt on hunting preserves shall pay the wildlife habitat fee.

3. A nonresident youth under sixteen years of age may hunt game birds on a licensed hunting preserve upon securing an annual hunting preserve license restricted to hunting preserves only for a license fee of five dollars and payment of the wildlife habitat fee. A nonresident youth is not required to complete the hunter safety and ethics education course to obtain a hunting preserve license pursuant to this subsection if the youth is accompanied by a person who is at least eighteen years of age, is qualified to hunt, and possesses a valid hunting license that includes the wildlife habitat fee. During the hunt, the accompanying adult must be within arm's reach of the nonresident youth.

Sec. 22. EFFECTIVE DATE. This Act takes effect January 1,

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2013.

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 license is available for residents at a cost of $51. Code section 483A.3A is amended to specify that $9 from each three-year fishing license must be used for fish habitat development.

A new three-year hunting license, including the wildlife habitat fees, is available for $84. Code section 483A.3 is amended to specify that of the $84 for this license, $33 is allocated to wildlife habitat fees.

A new annual combination hunting and fishing license, including the wildlife habitat fee, is available for $45. Code section 483A.9A specifies that the package includes an annual fishing license, an annual hunting license, and payment of the wildlife habitat fee.

Changes are made to Code section 483A.1(1) to include payment of the wildlife habitat fee in resident hunting and fur harvester license fees. However, such licenses are available without inclusion of the wildlife habitat fee for purchase by residents who are permanently disabled, or are younger than 16 or older than 65 years of age and are not required to pay the wildlife habitat fee. Code section 483A.1(2) is also amended to include payment of the wildlife habitat fee in nonresident hunting and fur harvester license fees. Also, a new one day,

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one location, nonresident fur dealer license is available for $250.

Code section 483A.3 is amended to specify that $11 of the fee paid for each resident or nonresident hunting or fur harvester license that includes the wildlife habitat fee is designated as a wildlife habitat fee and shall be administered as a wildlife habitat fee.

Code section 483A.17 is amended to specify that a three-year fishing license or a three-year hunting license is not subject to the requirement that a license cannot be issued prior to December 15 for the subsequent year.

Conforming changes regarding inclusion of the wildlife habitat fee in hunting and fur harvester license fees are made in other Code sections.

Technical changes are also made to Code section 483A.1 to group similar types of licenses together and to insert a word that was inadvertently deleted. Conforming changes were made in Code sections 483A.7 and 483A.8.

House File 2335 - Introduced

HOUSE FILE 2335
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO LSB 5119HB)
(SUCCESSOR TO LSB 5119HA)

A BILL FOR

1 An Act relating to appropriations to the justice system, and
2 providing effective dates.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5119HV (1) 84
jm/jp

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1 Section 1. 2011 Iowa Acts, chapter 134, section 30, is
2 amended to read as follows:
3 SEC. 30. DEPARTMENT OF JUSTICE.
4 1. There is appropriated from the general fund of the state
5 to the department of justice for the fiscal year beginning July
6 1, 2012, and ending June 30, 2013, the following amounts, or
7 so much thereof as is necessary, to be used for the purposes
8 designated:
9 a. For the general office of attorney general for salaries,
10 support, maintenance, and miscellaneous purposes, including
11 the prosecuting attorneys training program, matching funds
12 for federal violence against women grant programs, victim
13 assistance grants, office of drug control policy prosecuting
14 attorney program, and odometer fraud enforcement, and for not
15 more than the following full-time equivalent positions:
16 ..... $ ~~3,896,465~~
17 7,013,637
18 ..... FTEs 212.00
19 It is the intent of the general assembly that as a condition
20 of receiving the appropriation provided in this lettered
21 paragraph, the department of justice shall maintain a record
22 of the estimated time incurred representing each agency or
23 department.
24 b. For victim assistance grants:
25 ..... $ ~~1,438,200~~
26 2,590,502
27 The funds appropriated in this lettered paragraph shall be
28 used to provide grants to care providers providing services to
29 crime victims of domestic abuse or to crime victims of rape and
30 sexual assault.
31 The balance of the victim compensation fund established in
32 section 915.94 may be used to provide salary and support of not
33 more than 24 FTEs and to provide maintenance for the victim
34 compensation functions of the department of justice.
35 The department of justice shall transfer at least $150,000

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1 from the victim compensation fund established in section 915.94
2 to the victim assistance grant program.
3 c. For legal services for persons in poverty grants as
4 provided in section 13.34:
5 ..... $ ~~907,416~~
6 1,633,348
7 2. a. The department of justice, in submitting budget
8 estimates for the fiscal year commencing July 1, 2013, pursuant
9 to section 8.23, shall include a report of funding from sources
10 other than amounts appropriated directly from the general fund
11 of the state to the department of justice or to the office of
12 consumer advocate. These funding sources shall include but
13 are not limited to reimbursements from other state agencies,
14 commissions, boards, or similar entities, and reimbursements
15 from special funds or internal accounts within the department
16 of justice. The department of justice shall also report actual
17 reimbursements for the fiscal year commencing July 1, 2011,
18 and actual and expected reimbursements for the fiscal year
19 commencing July 1, 2012.
20 b. The department of justice shall include the report
21 required under paragraph "a", as well as information regarding
22 any revisions occurring as a result of reimbursements actually
23 received or expected at a later date, in a report to the
24 co-chairpersons and ranking members of the joint appropriations
25 subcommittee on the justice system and the legislative services
26 agency. The department of justice shall submit the report on
27 or before January 15, 2013.
28 Sec. 2. 2011 Iowa Acts, chapter 134, section 31, is amended
29 to read as follows:
30 SEC. 31. OFFICE OF CONSUMER ADVOCATE. There is appropriated
31 from the department of commerce revolving fund created in
32 section 546.12 to the office of consumer advocate of the
33 department of justice for the fiscal year beginning July 1,
34 2012, and ending June 30, 2013, the following amount, or so
35 much thereof as is necessary, to be used for the purposes

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designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~1,568,082~~
3,136,163

..... FTEs 22.00

Sec. 3. 2011 Iowa Acts, chapter 134, section 32, is amended to read as follows:

SEC. 32. DEPARTMENT OF CORRECTIONS —— FACILITIES.

1. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, to be used for the operation of adult correctional institutions, reimbursement of counties for certain confinement costs, and federal prison reimbursement, to be allocated as follows:

a. For the operation of the Fort Madison correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... $ ~~20,515,641~~
40,859,943

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... $ ~~15,992,987~~
31,985,974

c. For the operation of the Oakdale correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... $ ~~27,797,213~~
55,717,933

d. For the operation of the Newton correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

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1 ..... $ ~~12,979,379~~
2 25,958,757
3 e. For the operation of the Mt. Pleasant correctional
4 facility, including salaries, support, maintenance, and
5 miscellaneous purposes:
6 ..... $ ~~12,958,908~~
7 25,917,815
8 f. For the operation of the Rockwell City correctional
9 facility, including salaries, support, maintenance, and
10 miscellaneous purposes:
11 ..... $ ~~4,658,233~~
12 9,316,466
13 g. For the operation of the Clarinda correctional facility,
14 including salaries, support, maintenance, and miscellaneous
15 purposes:
16 ..... $ ~~12,241,178~~
17 24,477,653
18 Moneys received by the department of corrections as
19 reimbursement for services provided to the Clarinda youth
20 corporation are appropriated to the department and shall be
21 used for the purpose of operating the Clarinda correctional
22 facility.
23 h. For the operation of the Mitchellville correctional
24 facility, including salaries, support, maintenance, and
25 miscellaneous purposes:
26 ..... $ ~~7,807,687~~
27 15,615,374
28 i. For the operation of the Fort Dodge correctional
29 facility, including salaries, support, maintenance, and
30 miscellaneous purposes:
31 ..... $ ~~14,531,118~~
32 29,062,235
33 j. For reimbursement of counties for temporary confinement
34 of work release and parole violators, as provided in sections
35 901.7, 904.908, and 906.17, and for offenders confined pursuant

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to section 904.513:
..... $ ~~387,546~~
775,092

k. For federal prison reimbursement, reimbursements for out-of-state placements, and miscellaneous contracts:
..... $ ~~119,706~~
239,411

~~l. For three correctional officer full-time equivalent positions that are to be assigned to a correctional institution by the director of the department of corrections:~~
~~..... $ 78,581~~

2. The department of corrections shall use moneys appropriated in subsection 1 to continue to contract for the services of a Muslim imam and a Native American spiritual leader.

Sec. 4. 2011 Iowa Acts, chapter 134, section 33, is amended to read as follows:

SEC. 33. DEPARTMENT OF CORRECTIONS — ADMINISTRATION. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For general administration, including salaries, support, maintenance, employment of an education director to administer a centralized education program for the correctional system, and miscellaneous purposes:
..... $ ~~2,417,771~~
4,835,542

b. It is the intent of the general assembly that each lease negotiated by the department of corrections with a private corporation for the purpose of providing private industry employment of inmates in a correctional institution shall prohibit the private corporation from utilizing inmate labor for partisan political purposes for any person seeking

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1 election to public office in this state and that a violation
2 of this requirement shall result in a termination of the lease
3 agreement.
4 c. It is the intent of the general assembly that as a
5 condition of receiving the appropriation provided in this
6 subsection the department of corrections shall not enter into
7 a lease or contractual agreement pursuant to section 904.809
8 with a private corporation for the use of building space for
9 the purpose of providing inmate employment without providing
10 that the terms of the lease or contract establish safeguards to
11 restrict, to the greatest extent feasible, access by inmates
12 working for the private corporation to personal identifying
13 information of citizens.
14 2. For educational programs for inmates at state penal
15 institutions:
16 ..... $ ~~1,154,055~~
17 2,308,109
18 b. It is the intent of the general assembly that moneys
19 appropriated in this subsection shall be used solely for the
20 purpose indicated and that the moneys shall not be transferred
21 for any other purpose. In addition, it is the intent of the
22 general assembly that the department shall consult with the
23 community colleges in the areas in which the institutions are
24 located to utilize moneys appropriated in this subsection
25 to fund the high school completion, high school equivalency
26 diploma, adult literacy, and adult basic education programs in
27 a manner so as to maintain these programs at the institutions.
28 c. To maximize the funding for educational programs,
29 the department shall establish guidelines and procedures to
30 prioritize the availability of educational and vocational
31 training for inmates based upon the goal of facilitating an
32 inmate's successful release from the correctional institution.
33 d. The director of the department of corrections may
34 transfer moneys from Iowa prison industries and the canteen
35 operating funds established pursuant to section 904.310, for

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1 use in educational programs for inmates.
2 e. Notwithstanding section 8.33, moneys appropriated in
3 this subsection that remain unobligated or unexpended at the
4 close of the fiscal year shall not revert but shall remain
5 available to be used only for the purposes designated in this
6 subsection until the close of the succeeding fiscal year.
7 3. For the development of the Iowa corrections offender
8 network (ICON) data system:
9 ..... $ ~~212,182~~
10 424,364
11 4. For offender mental health and substance abuse
12 treatment:
13 ..... $ ~~11,160~~
14 22,319
15 5. For viral hepatitis prevention and treatment:
16 ..... $ ~~83,941~~
17 167,881
18 6. It is the intent of the general assembly that for
19 the fiscal year addressed by this section the department of
20 corrections shall continue to operate the correctional farms
21 under the control of the department at the same or greater
22 level of participation and involvement as existed as of January
23 1, 2011; shall not enter into any rental agreement or contract
24 concerning any farmland under the control of the department
25 that is not subject to a rental agreement or contract as of
26 January 1, 2011, without prior legislative approval; and
27 shall further attempt to provide job opportunities at the
28 farms for inmates. The department shall attempt to provide
29 job opportunities at the farms for inmates by encouraging
30 labor-intensive farming or gardening where appropriate; using
31 inmates to grow produce and meat for institutional consumption;
32 researching the possibility of instituting food canning
33 and cook-and-chill operations; and exploring opportunities
34 for organic farming and gardening, livestock ventures,
35 horticulture, and specialized crops.

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~~7. The department of corrections shall solicit requests for information to improve efficiencies at the pharmacy under the control of the department.~~

Sec. 5. 2011 Iowa Acts, chapter 134, section 34, is amended to read as follows:

SEC. 34. JUDICIAL DISTRICT DEPARTMENTS OF CORRECTIONAL SERVICES.

1. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2012, and ending June 30, 2013, for salaries, support, maintenance, and miscellaneous purposes, the following amounts, or so much thereof as is necessary, to be allocated as follows:

a. For the first judicial district department of correctional services:
..... $ ~~6,102,474~~
12,204,948

b. For the second judicial district department of correctional services:
..... $ ~~5,168,474~~
10,336,948

c. For the third judicial district department of correctional services:
..... $ ~~2,799,883~~
5,599,765

d. For the fourth judicial district department of correctional services:
..... $ ~~2,695,678~~
5,391,355

e. For the fifth judicial district department of correctional services, including funding for electronic monitoring devices for use on a statewide basis:
..... $ ~~9,371,065~~
18,742,129

f. For the sixth judicial district department of correctional services:

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1 ..... $ ~~6,556,282~~
2 13,112,563
3 g. For the seventh judicial district department of
4 correctional services:
5 ..... $ ~~3,246,407~~
6 6,492,814
7 h. For the eighth judicial district department of
8 correctional services:
9 ..... $ ~~3,439,858~~
10 6,879,715
11 2. Each judicial district department of correctional
12 services, within the funding available, shall continue programs
13 and plans established within that district to provide for
14 intensive supervision, sex offender treatment, diversion of
15 low-risk offenders to the least restrictive sanction available,
16 job development, and expanded use of intermediate criminal
17 sanctions.
18 3. Each judicial district department of correctional
19 services shall provide alternatives to prison consistent with
20 chapter 901B. The alternatives to prison shall ensure public
21 safety while providing maximum rehabilitation to the offender.
22 A judicial district department of correctional services may
23 also establish a day program.
24 4. The governor's office of drug control policy or any
25 succeeding entity of the governor's office of drug control
26 policy shall consider federal grants made to the department
27 of corrections for the benefit of each of the eight judicial
28 district departments of correctional services as local
29 government grants, as defined pursuant to federal regulations.
30 5. The department of corrections shall continue to contract
31 with a judicial district department of correctional services to
32 provide for the rental of electronic monitoring equipment which
33 shall be available statewide.
34 Sec. 6. 2011 Iowa Acts, chapter 134, section 39, is amended
35 to read as follows:

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1 SEC. 39. IOWA LAW ENFORCEMENT ACADEMY.
2 1. There is appropriated from the general fund of the
3 state to the Iowa law enforcement academy for the fiscal year
4 beginning July 1, 2012, and ending June 30, 2013, the following
5 amount, or so much thereof as is necessary, to be used for the
6 purposes designated:
7 For salaries, support, maintenance, miscellaneous purposes,
8 including jailer training and technical assistance, and for not
9 more than the following full-time equivalent positions:
10 ..... $ ~~434,349~~
11 868,698
12 ..... FTEs ~~24.55~~
13 25.50
14 It is the intent of the general assembly that the Iowa law
15 enforcement academy may provide training of state and local
16 law enforcement personnel concerning the recognition of and
17 response to persons with Alzheimer's disease.
18 The Iowa law enforcement academy may temporarily exceed and
19 draw more than the amount appropriated in this subsection and
20 incur a negative cash balance as long as there are receivables
21 equal to or greater than the negative balance and the amount
22 appropriated in this subsection is not exceeded at the close
23 of the fiscal year.
24 2. The Iowa law enforcement academy may select at least
25 five automobiles of the department of public safety, division
26 of state patrol, prior to turning over the automobiles to
27 the department of administrative services to be disposed
28 of by public auction, and the Iowa law enforcement academy
29 may exchange any automobile owned by the academy for each
30 automobile selected if the selected automobile is used in
31 training law enforcement officers at the academy. However, any
32 automobile exchanged by the academy shall be substituted for
33 the selected vehicle of the department of public safety and
34 sold by public auction with the receipts being deposited in the
35 depreciation fund to the credit of the department of public

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safety, division of state patrol.

Sec. 7. 2011 Iowa Acts, chapter 134, section 40, is amended to read as follows:

SEC. 40. STATE PUBLIC DEFENDER. There is appropriated from the general fund of the state to the office of the state public defender of the department of inspections and appeals for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, to be allocated as follows for the purposes designated:

1. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~12,541,591~~
25,862,182
..... FTEs 219.00

2. For ~~the fees of court-appointed attorneys for indigent~~ payments on behalf of eligible adults and juveniles from the indigent defense fund, in accordance with section ~~232.141 and chapter 815~~ 815.11:

..... $ ~~15,340,464~~
29,901,929

Sec. 8. 2011 Iowa Acts, chapter 134, section 41, is amended to read as follows:

SEC. 41. BOARD OF PAROLE. There is appropriated from the general fund of the state to the board of parole for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~526,918~~
1,053,835
..... FTEs ~~12.50~~
13.00

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1 Sec. 9. 2011 Iowa Acts, chapter 134, section 42, is amended
2 to read as follows:
3 SEC. 42. DEPARTMENT OF PUBLIC DEFENSE. There is
4 appropriated from the general fund of the state to the
5 department of public defense for the fiscal year beginning July
6 1, 2012, and ending June 30, 2013, the following amounts, or
7 so much thereof as is necessary, to be used for the purposes
8 designated:
9 1. MILITARY DIVISION
10 For salaries, support, maintenance, miscellaneous purposes,
11 and for not more than the following full-time equivalent
12 positions:
13 ..... $ ~~2,763,521~~
14 5,527,042
15 ..... FTEs ~~313.00~~
16 309.21
17 The military division may temporarily exceed and draw more
18 than the amount appropriated in this subsection and incur a
19 negative cash balance as long as there are receivables of
20 federal funds equal to or greater than the negative balance and
21 the amount appropriated in this subsection is not exceeded at
22 the close of the fiscal year.
23 2. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION
24 For salaries, support, maintenance, miscellaneous purposes,
25 and for not more than the following full-time equivalent
26 positions:
27 ..... $ ~~918,439~~
28 1,836,877
29 ..... FTEs ~~40.00~~
30 35.34
31 a. The homeland security and emergency management
32 division may temporarily exceed and draw more than the amount
33 appropriated in this subsection and incur a negative cash
34 balance as long as there are receivables of federal funds
35 equal to or greater than the negative balance and the amount

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appropriated in this subsection is not exceeded at the close of the fiscal year.

b. It is the intent of the general assembly that the homeland security and emergency management division work in conjunction with the department of public safety, to the extent possible, when gathering and analyzing information related to potential domestic or foreign security threats, and when monitoring such threats.

Sec. 10. 2011 Iowa Acts, chapter 134, section 43, is amended to read as follows:

SEC. 43. DEPARTMENT OF PUBLIC SAFETY. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the department's administrative functions, including the criminal justice information system, and for not more than the following full-time equivalent positions:

..... $ ~~2,003,538~~
4,007,075
..... FTEs 36.00

2. For the division of criminal investigation, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of the state's normal contribution rate, as defined in section 97A.8, multiplied by the salaries for which the funds are appropriated, to meet federal fund matching requirements, and for not more than the following full-time equivalent positions:

..... $ ~~6,266,966~~
12,533,931
..... FTEs ~~159.10~~
155.10

The department shall employ one additional special agent and one additional criminalist for the purpose of investigating

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1 cold cases. Prior to employing the additional special agent
2 and criminalist authorized in this paragraph, the department
3 shall provide a written statement to prospective employees that
4 states to the effect that the positions are being funded by a
5 temporary federal grant and there are no assurances that funds
6 from other sources will be available after the federal funding
7 expires. If the federal funding for the additional positions
8 expires during the fiscal year, the number of full-time
9 equivalent positions authorized in this subsection is reduced
10 by 2.00 FTEs.
11 3. For the criminalistics laboratory fund created in
12 section 691.9:
13 ..... $ ~~151,173~~
14 302,345
15 4. a. For the division of narcotics enforcement, including
16 the state's contribution to the peace officers' retirement,
17 accident, and disability system provided in chapter 97A in the
18 amount of the state's normal contribution rate, as defined in
19 section 97A.8, multiplied by the salaries for which the funds
20 are appropriated, to meet federal fund matching requirements,
21 and for not more than the following full-time equivalent
22 positions:
23 ..... $ ~~3,214,942~~
24 6,429,884
25 ..... FTEs ~~74.00~~
26 69.00
27 b. For the division of narcotics enforcement for undercover
28 purchases:
29 ..... $ ~~54,521~~
30 109,042
31 5. For the division of state fire marshal, for fire
32 protection services as provided through the state fire service
33 and emergency response council as created in the department,
34 and for the state's contribution to the peace officers'
35 retirement, accident, and disability system provided in chapter

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97A in the amount of the state's normal contribution rate, as defined in section 97A.8, multiplied by the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

..... $ ~~2,149,354~~
4,298,707

..... FTEs ~~55.00~~
54.00

6. For the division of state patrol, for salaries, support, maintenance, workers' compensation costs, and miscellaneous purposes, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of the state's normal contribution rate, as defined in section 97A.8, multiplied by the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

..... $ ~~25,951,617~~
51,903,233

..... FTEs ~~513.00~~
498.05

It is the intent of the general assembly that members of the state patrol be assigned to patrol the highways and roads in lieu of assignments for inspecting school buses for the school districts.

7. For deposit in the sick leave benefits fund established under section 80.42 for all departmental employees eligible to receive benefits for accrued sick leave under the collective bargaining agreement:

..... $ ~~139,759~~
279,517

8. For costs associated with the training and equipment needs of volunteer fire fighters:

..... $ ~~362,760~~
725,520

a. Notwithstanding section 8.33, moneys appropriated in

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1 this subsection that remain unencumbered or unobligated at the
2 close of the fiscal year shall not revert but shall remain
3 available for expenditure only for the purpose designated in
4 this subsection until the close of the succeeding fiscal year.
5 b. Notwithstanding section 8.39, within the moneys
6 appropriated in this section, the department of public safety
7 may reallocate moneys as necessary to best fulfill the needs
8 provided for in the appropriation. However, the department
9 shall not reallocate an appropriation made to the department
10 in this section unless notice of the reallocation is given
11 to the legislative services agency and the department of
12 management prior to the effective date of the reallocation.
13 The notice shall include information regarding the rationale
14 for reallocating the appropriation. The department shall
15 not reallocate an appropriation made in this section for the
16 purpose of eliminating any program.
17 Sec. 11. 2011 Iowa Acts, chapter 134, section 44, is amended
18 to read as follows:
19 SEC. 44. GAMING ENFORCEMENT.
20 1. There is appropriated from the gaming enforcement
21 revolving fund created in section 80.43 to the department of
22 public safety for the fiscal year beginning July 1, 2012, and
23 ending June 30, 2013, the following amount, or so much thereof
24 as is necessary, to be used for the purposes designated:
25 For any direct and indirect support costs for agents
26 and officers of the division of criminal investigation's
27 excursion gambling boat, gambling structure, and racetrack
28 enclosure enforcement activities, including salaries, support,
29 maintenance, miscellaneous purposes, and for not more than the
30 following full-time equivalent positions:
31 ..... $ ~~4,918,153~~
32 10,335,709
33 ..... FTEs ~~120.00~~
34 115.00
35 2. For each additional license to conduct gambling games on

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an excursion gambling boat, gambling structure, or racetrack enclosure issued during the fiscal year beginning July 1, 2012, there is appropriated from the gaming enforcement fund to the department of public safety for the fiscal year beginning July 1, 2012, and ending June 30, 2013, an additional amount of not more than $521,000 to be used for not more than 6.00 additional full-time equivalent positions.

3. The department of public safety, with the approval of the department of management, may employ no more than two special agents and four gaming enforcement officers for each additional riverboat or gambling structure regulated after July 1, 2012, and one special agent for each racing facility which becomes operational during the fiscal year which begins July 1, 2012. One additional gaming enforcement officer, up to a total of four per riverboat or gambling structure, may be employed for each riverboat or gambling structure that has extended operations to 24 hours and has not previously operated with a 24-hour schedule. Positions authorized in this subsection are in addition to the full-time equivalent positions otherwise authorized in this section.

Sec. 12. 2011 Iowa Acts, chapter 134, section 45, is amended to read as follows:

SEC. 45. CIVIL RIGHTS COMMISSION. There is appropriated from the general fund of the state to the Iowa state civil rights commission for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~648,535~~
1,167,362
..... FTEs 28.00

The Iowa state civil rights commission may enter into

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a contract with a nonprofit organization to provide legal assistance to resolve civil rights complaints.

Sec. 13. Section 80.43, subsection 1, Code 2011, is amended to read as follows:

1. A gaming enforcement revolving fund is created in the state treasury under the control of the department. The fund shall consist of fees collected and deposited into the fund paid by licensees pursuant to section 99D.14, subsection 2, paragraph *"b"*, and fees paid by licensees pursuant to section 99F.10, subsection 4, paragraph *"b"*. All costs for agents and officers plus any direct ~~and indirect~~ support costs for such agents and officers of the division of criminal investigation's racetrack, excursion boat, or gambling structure enforcement activities shall be paid from the fund as provided in appropriations made for this purpose by the general assembly.

Sec. 14. Section 99D.14, subsection 2, paragraph b, Code Supplement 2011, is amended to read as follows:

b. Notwithstanding sections 8.60 and 99D.17, the portion of the fee paid pursuant to paragraph *"a"* relating to the costs of special agents plus any direct and indirect support costs for the agents, for the division of criminal investigation's racetrack activities, ~~shall not be deposited in the general fund of the state but instead~~ shall be deposited into the gaming enforcement revolving fund established in section 80.43. <u>However, the department of public safety shall transfer, on an annual basis, the portion of the regulatory fee attributable to the indirect support costs of the special agents to the general fund of the state.</u>

Sec. 15. Section 99F.10, subsection 4, paragraph b, Code Supplement 2011, is amended to read as follows:

b. Notwithstanding sections 8.60 and 99F.4, the portion of the fee paid pursuant to paragraph *"a"* relating to the costs of special agents and officers plus any direct and indirect support costs for the agents and officers, for the division of criminal investigation's excursion gambling boat or gambling

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structure activities, ~~shall not be deposited in the general fund of the state but instead~~ shall be deposited into the gaming enforcement revolving fund established in section 80.43. However, the department of public safety shall transfer, on an annual basis, the portion of the regulatory fee attributable to the indirect support costs of the special agents and gaming enforcement officers to the general fund of the state.

Sec. 16. EFFECTIVE UPON ENACTMENT. The following provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. The section of this Act amending section 80.43, subsection 1.

2. The section of this Act amending section 99D.14, subsection 2, paragraph "b".

3. The section of this Act amending section 99F.10, subsection 4.

EXPLANATION

This bill relates to appropriations to the justice system in 2011 Iowa Acts chapter 134 (SF 510).

The bill relates to appropriations from the general fund of the state for fiscal year 2012-2013 to the departments of justice, corrections, public defense, and public safety, and the Iowa law enforcement academy, office of the state public defender, board of parole, and Iowa state civil rights commission.

The bill relates to appropriations from the department of commerce revolving fund to the office of consumer advocate of the department of justice.

The bill relates to appropriations from the gaming enforcement revolving fund to the department of public safety. The division also authorizes FTEs related to gaming enforcement in the fund.

The amendment to Code section 80.43(1) strikes a provision requiring indirect support costs for special agents and gaming enforcement officers be paid from the gaming enforcement fund

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established in Code section 80.43.

The amendments to Code sections 99D.14 and 99F.10 specify that the regulatory fee paid by the gaming industry for the indirect support costs for special agents and gaming enforcement officers shall first be deposited into the gaming enforcement revolving fund established in Code section 80.43 and then transferred by the department of public safety, on an annual basis, from the gaming enforcement revolving fund to the general fund of the state. Current law specifies that the portion of the regulatory fee paid by the gaming industry relating to the indirect support costs of special agents and gaming enforcement officers be deposited into the gaming enforcement revolving fund but does not require the transfer to the general fund of the state.

The amendments to Code sections 80.43(1), 99D.14(2)(b), and 99F.10(4) take effect upon enactment.

Under current law and the bill, the remaining portion of the regulatory fee related to the costs of special agents and officers plus any direct support costs are deposited into the gaming enforcement revolving fund.

House File 2336 - Introduced

HOUSE FILE 2336
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO LSB 5115HB)

A BILL FOR

1 An Act relating to appropriations involving state government
2 entities involved with agriculture, natural resources, and
3 environmental protection.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5115HV (1) 84
da/jp

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DIVISION I
DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP
GENERAL APPROPRIATIONS FOR FY 2012-2013

Section 1. 2011 Iowa Acts, chapter 128, section 46, is amended to read as follows:

SEC. 46. GENERAL FUND — DEPARTMENT.

1. There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the department, including its divisions, for administration, regulation, and programs; for salaries, support, maintenance, and miscellaneous purposes; and for not more than the following full-time equivalent positions:

..... $ ~~8,248,654~~
18,132,808
..... FTEs ~~366.00~~
371.00

2. The department shall submit a report each quarter of the fiscal year to the legislative services agency, the department of management, the members of the joint appropriations subcommittee on agriculture and natural resources, and the chairpersons and ranking members of the senate and house committees on appropriations. The report shall describe in detail the expenditure of moneys appropriated in this section to support the department's administration, regulation, and programs.

3. Of the amount appropriated in this section, ~~$119,000~~ $238,000 is transferred to Iowa state university of science and technology, to be used for the university's midwest grape and wine industry institute.

DESIGNATED APPROPRIATIONS — ANIMAL HUSBANDRY

Sec. 2. 2011 Iowa Acts, chapter 128, section 47, is amended to read as follows:

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1 SEC. 47. UNCLAIMED PARI-MUTUEL WAGERING WINNINGS —
2 HORSE AND DOG RACING. There is appropriated from the moneys
3 available under section 99D.13 to the department of agriculture
4 and land stewardship for the fiscal year beginning July 1,
5 2012, and ending June 30, 2013, the following amount, or so
6 much thereof as is necessary, to be used for the purposes
7 designated:
8 For purposes of supporting the department's administration
9 and enforcement of horse and dog racing law pursuant to section
10 99D.22, including for salaries, support, maintenance, and
11 miscellaneous purposes:
12 ..... $ ~~152,758~~
13 305,516
14 DESIGNATED APPROPRIATIONS — MOTOR FUEL
15 Sec. 3. 2011 Iowa Acts, chapter 128, section 48, is amended
16 to read as follows:
17 SEC. 48. RENEWABLE FUEL INFRASTRUCTURE FUND — MOTOR
18 FUEL INSPECTION. There is appropriated from the renewable
19 fuel infrastructure fund created in section 15G.205 to the
20 department of agriculture and land stewardship for the fiscal
21 year beginning July 1, 2012, and ending June 30, 2013, the
22 following amount, or so much thereof as is necessary, to be
23 used for the purposes designated:
24 For purposes of the inspection of motor fuel, including
25 salaries, support, maintenance, and miscellaneous purposes:
26 ..... $ ~~250,000~~
27 500,000
28 The department shall establish and administer programs
29 for the auditing of motor fuel including biofuel processing
30 and production plants, for screening and testing motor fuel,
31 including renewable fuel, and for the inspection of motor fuel
32 sold by dealers including retail dealers who sell and dispense
33 motor fuel from motor fuel pumps.
34 SPECIAL APPROPRIATIONS
35 Sec. 4. 2011 Iowa Acts, chapter 128, is amended by adding

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1 the following new section:
2 NEW SECTION. SEC. 48A. GENERAL FUND — DAIRY
3 REGULATION. There is appropriated from the general fund of the
4 state to the department of agriculture and land stewardship for
5 the fiscal year beginning July 1, 2012, and ending June 30,
6 2013, the following amount, or so much thereof as is necessary,
7 to be used for the purposes designated:
8 1. For purposes of performing functions pursuant to section
9 192.109, including conducting a survey of grade "A" milk and
10 certifying the results to the secretary of agriculture:
11 ..... $ 189,196
12 2. Notwithstanding section 8.33, moneys appropriated for
13 the fiscal year beginning July 1, 2012, in this section that
14 remain unencumbered or unobligated at the close of the fiscal
15 year shall not revert but shall remain available to be used
16 for the purposes designated until the close of the succeeding
17 fiscal year.
18 Sec. 5. 2011 Iowa Acts, chapter 128, is amended by adding
19 the following new section:
20 NEW SECTION. SEC. 48B. GENERAL FUND — LOCAL FOOD AND FARM
21 PROGRAM COORDINATOR. There is appropriated from the general
22 fund of the state to the department of agriculture and land
23 stewardship for the fiscal year beginning July 1, 2012, and
24 ending June 30, 2013, the following amount, or so much thereof
25 as is necessary, to be used for the purposes designated:
26 1. For purposes of supporting the local food and farm
27 program pursuant to chapter 267A:
28 ..... $ 75,000
29 2. The department shall enter into a cost-sharing agreement
30 with Iowa state university to support the local food and farm
31 program coordinator position as part of the university's
32 cooperative extension service in agriculture and home economics
33 pursuant to chapter 267A.
34 3. Notwithstanding section 8.33, moneys appropriated for
35 the fiscal year beginning July 1, 2012, in this section that

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1 remain unencumbered or unobligated at the close of the fiscal
2 year shall not revert but shall remain available to be used
3 for the purposes designated until the close of the succeeding
4 fiscal year.
5 Sec. 6. 2011 Iowa Acts, chapter 128, is amended by adding
6 the following new section:
7 NEW SECTION. SEC. 48C. GENERAL FUND — AGRICULTURAL
8 EDUCATION. There is appropriated from the general fund of the
9 state to the department of agriculture and land stewardship for
10 the fiscal year beginning July 1, 2012, and ending June 30,
11 2013, the following amount, or so much thereof as is necessary,
12 to be used for the purposes designated:
13 1. For purposes of allocating moneys to an Iowa association
14 affiliated with a national organization which promotes
15 agricultural education providing for future farmers:
16 ..... $ 25,000
17 2. Notwithstanding section 8.33, moneys appropriated for
18 the fiscal year beginning July 1, 2012, in this section that
19 remain unencumbered or unobligated at the close of the fiscal
20 year shall not revert but shall remain available to be used
21 for the purposes designated until the close of the succeeding
22 fiscal year.
23 Sec. 7. 2011 Iowa Acts, chapter 131, section 81, is amended
24 to read as follows:
25 SEC. 81. APPROPRIATION — FARMERS WITH DISABILITIES. There
26 is appropriated from the general fund of the state to the
27 department of agriculture and land stewardship for the
28 following fiscal years, the following amounts, or so much
29 thereof as is necessary, for a program for farmers with
30 disabilities:
31 FY 2011–2012..... $ 97,000
32 FY 2012–2013..... $ ~~48,500~~
33 130,000
34 The moneys appropriated in this section shall be used
35 for the public purpose of providing a grant to a national

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1 nonprofit organization with over 80 years of experience in
2 assisting children and adults with disabilities and special
3 needs. The moneys shall be used to support a nationally
4 recognized program that began in 1986 and has been replicated
5 in at least 30 other states, but which is not available through
6 any other entity in this state, and that provides assistance
7 to farmers with disabilities in all 99 counties to allow the
8 farmers to remain in their own homes and be gainfully engaged
9 in farming through provision of agricultural worksite and home
10 modification consultations, peer support services, services
11 to families, information and referral, and equipment loan
12 services. Notwithstanding section 8.33, moneys appropriated
13 in this section that remain unencumbered or unobligated at the
14 close of the fiscal year shall not revert but shall remain
15 available for expenditure for the purposes designated until the
16 close of the succeeding fiscal year.
17 DIVISION II
18 DEPARTMENT OF NATURAL RESOURCES
19 GENERAL APPROPRIATIONS FOR FY 2012-2013
20 Sec. 8. 2011 Iowa Acts, chapter 128, section 49, is amended
21 to read as follows:
22 SEC. 49. GENERAL FUND —— DEPARTMENT.
23 1. There is appropriated from the general fund of the state
24 to the department of natural resources for the fiscal year
25 beginning July 1, 2012, and ending June 30, 2013, the following
26 amount, or so much thereof as is necessary, to be used for the
27 purposes designated:
28 For purposes of supporting the department, including its
29 divisions, for administration, regulation, and programs; for
30 salaries, support, maintenance, and miscellaneous purposes; and
31 for not more than the following full-time equivalent positions:
32 ..... $ ~~6,133,344~~
33 11,832,252
34 ..... FTEs 1,145.95
35 2. Of the number of full-time equivalent positions

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1 authorized to the department pursuant to subsection 1, 50.00
2 full-time equivalent positions shall be allocated by the
3 department for seasonal employees for purposes of providing
4 maintenance, upkeep, and sanitary services at state parks.
5 This subsection shall not impact park ranger positions within
6 the department.
7 3. The department shall submit a report each quarter of the
8 fiscal year to the legislative services agency, the department
9 of management, the members of the joint appropriations
10 subcommittee on agriculture and natural resources, and the
11 chairpersons and ranking members of the senate and house
12 committees on appropriations. The report shall describe in
13 detail the expenditure of moneys appropriated under this
14 section to support the department's administration, regulation,
15 and programs.
16 Sec. 9. 2011 Iowa Acts, chapter 128, section 50, is amended
17 to read as follows:
18 SEC. 50. STATE FISH AND GAME PROTECTION FUND — DIVISION OF
19 FISH AND WILDLIFE.
20 1. There is appropriated from the state fish and game
21 protection fund to the department of natural resources for the
22 fiscal year beginning July 1, 2012, and ending June 30, 2013,
23 the following amount, or so much thereof as is necessary, to be
24 used for the purposes designated:
25 For purposes of supporting the division of fish and
26 wildlife, including for administration, regulation, and
27 programs; and for salaries, support, maintenance, equipment,
28 and miscellaneous purposes:
29 ..... $ ~~19,396,577~~
30 39,951,171
31 2. Notwithstanding section 455A.10, the department may use
32 the unappropriated balance remaining in the state fish and game
33 protection fund to provide for the funding of health and life
34 insurance premium payments from unused sick leave balances of
35 conservation peace officers employed in a protection occupation

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1 who retire, pursuant to section 97B.49B.
2 3. Notwithstanding section 455A.10, the department of
3 natural resources may use the unappropriated balance remaining
4 in the state fish and game protection fund for the fiscal
5 year beginning July 1, 2012, and ending June 30, 2013, as is
6 necessary to fund salary adjustments for departmental employees
7 which the general assembly has made an operating budget
8 appropriation for in subsection 1.
9 Sec. 10. 2011 Iowa Acts, chapter 128, section 51, is amended
10 to read as follows:
11 SEC. 51. GROUNDWATER PROTECTION FUND — WATER
12 QUALITY. There is appropriated from the groundwater protection
13 fund created in section 455E.11 to the department of natural
14 resources for the fiscal year beginning July 1, 2012,
15 and ending June 30, 2013, from those moneys which are not
16 allocated pursuant to that section, the following amount, or
17 so much thereof as is necessary, to be used for the purposes
18 designated:
19 For purposes of supporting the department's protection
20 of the state's groundwater, including for administration,
21 regulation, and programs, and for salaries, support,
22 maintenance, equipment, and miscellaneous purposes:
23 ..... $ ~~1,727,916~~
24 3,455,832
25 DESIGNATED APPROPRIATIONS — MISCELLANEOUS
26 Sec. 11. 2011 Iowa Acts, chapter 128, section 52, is amended
27 to read as follows:
28 SEC. 52. SPECIAL SNOWMOBILE FUND — SNOWMOBILE
29 PROGRAM. There is appropriated from the special snowmobile
30 fund created under section 321G.7 to the department of natural
31 resources for the fiscal year beginning July 1, 2012, and
32 ending June 30, 2013, the following amount, or so much thereof
33 as is necessary, to be used for the purpose designated:
34 For purposes of administering and enforcing the state
35 snowmobile programs:

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1 ..... $ ~~50,000~~
2 100,000
3 Sec. 12. 2011 Iowa Acts, chapter 128, section 53, is amended
4 to read as follows:
5 SEC. 53. UNASSIGNED REVENUE FUND — UNDERGROUND STORAGE
6 TANK SECTION EXPENSES. There is appropriated from the
7 unassigned revenue fund administered by the Iowa comprehensive
8 underground storage tank fund board to the department of
9 natural resources for the fiscal year beginning July 1, 2012,
10 and ending June 30, 2013, the following amount, or so much
11 thereof as is necessary, to be used for the purpose designated:
12 For purposes of paying for administration expenses of the
13 department's underground storage tank section:
14 ..... $ ~~100,000~~
15 200,000
16 SPECIAL APPROPRIATIONS
17 Sec. 13. 2011 Iowa Acts, chapter 128, is amended by adding
18 the following new section:
19 NEW SECTION. SEC. 54A. GENERAL FUND — FLOODPLAIN
20 MANAGEMENT AND DAM SAFETY.
21 1. There is appropriated from the general fund of the state
22 to the department of natural resources for the fiscal year
23 beginning July 1, 2012, and ending June 30, 2013, the following
24 amount, or so much thereof as is necessary, to be used for the
25 purpose designated:
26 For purposes of supporting floodplain management and dam
27 safety:
28 ..... $ 1,800,000
29 2. Of the amount appropriated in subsection 1, up to
30 $400,000 may be used by the department to acquire or install
31 stream gages for purposes of tracking and predicting flood
32 events and for compiling necessary data to improve flood
33 frequency analysis.
34 3. Notwithstanding section 8.33, moneys appropriated in
35 subsection 1 that remain unencumbered or unobligated at the

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close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the fiscal year beginning July 1, 2013.

Sec. 14. 2011 Iowa Acts, chapter 128, is amended by adding the following new section:

NEW SECTION. SEC. 54B. GENERAL FUND — FORESTRY HEALTH MANAGEMENT.

1. There is appropriated from the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of providing for forestry health management programs:

..... $ 100,000

2. Notwithstanding section 8.33, moneys appropriated for the fiscal year beginning July 1, 2012, in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available to be used for the purposes designated until the close of the succeeding fiscal year beginning July 1, 2013.

Sec. 15. 2011 Iowa Acts, chapter 128, is amended by adding the following new section:

NEW SECTION. SEC. 54C. GENERAL FUND — GEOLOGICAL AND WATER SURVEY.

1. There is appropriated from the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of continuing the operations of the department's geological and water survey including but not limited to providing analysis, data collection, investigative programs, and information for water supply development and protection:

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1 ..... $ 200,000
2 2. Notwithstanding section 8.33, moneys appropriated for
3 the fiscal year beginning July 1, 2012, in this section that
4 remain unencumbered or unobligated at the close of the fiscal
5 year shall not revert but shall remain available to be used
6 for the purposes designated until the close of the succeeding
7 fiscal year.
8 DIVISION III
9 IOWA STATE UNIVERSITY
10 APPROPRIATION FOR FY 2012-2013
11 Sec. 16. 2011 Iowa Acts, chapter 128, section 55, is amended
12 to read as follows:
13 SEC. 55. GENERAL FUND — VETERINARY DIAGNOSTIC LABORATORY.
14 1. There is appropriated from the general fund of the state
15 to Iowa state university of science and technology for the
16 fiscal year beginning July 1, 2012, and ending June 30, 2013,
17 the following amount, or so much thereof as is necessary, to be
18 used for the purposes designated:
19 For purposes of supporting the college of veterinary
20 medicine for the operation of the veterinary diagnostic
21 laboratory and for not more than the following full-time
22 equivalent positions:
23 ..... $ ~~1,618,818~~
24 3,237,636
25 ..... FTEs 50.00
26 2. a. Iowa state university of science and technology
27 shall not reduce the amount that it allocates to support the
28 college of veterinary medicine from any other source due to the
29 appropriation made in this section.
30 b. Paragraph "a" does not apply to a reduction made to
31 support the college of veterinary medicine, if the same
32 percentage of reduction imposed on the college of veterinary
33 medicine is also imposed on all of Iowa state university's
34 budget units.
35 3. If by June 30, 2013, Iowa state university of science and

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technology fails to allocate the moneys appropriated in this section to the college of veterinary medicine in accordance with this section, the moneys appropriated in this section for that fiscal year shall revert to the general fund of the state.

DIVISION IV

ENVIRONMENT FIRST FUND

GENERAL APPROPRIATIONS FOR FY 2012-2013

Sec. 17. 2011 Iowa Acts, chapter 128, section 57, is amended to read as follows:

SEC. 57. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP. There is appropriated from the environment first fund created in section 8.57A to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CONSERVATION RESERVE ENHANCEMENT PROGRAM (CREP)

a. For the conservation reserve enhancement program to restore and construct wetlands for the purposes of intercepting tile line runoff, reducing nutrient loss, improving water quality, and enhancing agricultural production practices:

..... $ ~~500,000~~
1,000,000

~~b. Not more than 10 percent of the moneys appropriated in paragraph "a" may be used for costs of administration and implementation of soil and water conservation practices.~~

c. Notwithstanding any other provision in law, the department may provide state resources from this appropriation, in combination with other appropriate environment first fund appropriations, for cost sharing to match United States department of agriculture, natural resources conservation service, wetlands reserve enhancement program (WREP) funding available to Iowa.

2. WATERSHED PROTECTION

a. For continuation of a program that provides

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multiobjective resource protections for flood control, water quality, erosion control, and natural resource conservation:
..... $ ~~450,000~~
900,000

~~b. Not more than 10 percent of the moneys appropriated in paragraph "a" may be used for costs of administration and implementation of soil and water conservation practices.~~

3. FARM MANAGEMENT DEMONSTRATION PROGRAM

a. For continuation of a statewide voluntary farm management demonstration program to demonstrate the effectiveness and adaptability of emerging practices in agronomy that protect water resources and provide other environmental benefits:
..... $ ~~312,500~~
625,000

~~b. Not more than 10 percent of the moneys appropriated in paragraph "a" may be used for costs of administration and implementation of soil and water conservation practices.~~

c. Of the amount appropriated in paragraph "a", ~~$185,000~~ $400,000 shall be allocated to an organization representing soybean growers to provide for an agriculture and environment performance program in order to carry out the purposes of this subsection as specified in paragraph "a".

4. SOIL AND WATER CONSERVATION — ADMINISTRATION

For use by the department for costs of administration and implementation of soil and water conservation practices:
..... $ ~~1,000,000~~
2,000,000

5. CONSERVATION RESERVE PROGRAM (CRP)

a. To encourage and assist farmers in enrolling in and the implementation of the federal conservation reserve program and to work with them to enhance their revegetation efforts to improve water quality and habitat:
..... $ ~~500,000~~
1,000,000

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1 ~~b. Not more than 10 percent of the moneys appropriated~~
2 ~~in paragraph "a" may be used for costs of administration and~~
3 ~~implementation of soil and water conservation practices.~~
4 6. SOIL AND WATER CONSERVATION
5 a. For use by the department in providing for soil and
6 water conservation administration, the conservation of soil and
7 water resources, or the support of soil and water conservation
8 district commissioners:
9 ..... $ ~~3,150,000~~
10 7,000,000
11 b. Not more than 5 percent of the moneys appropriated in
12 paragraph "a" may be allocated for cost sharing to address
13 complaints filed under section 161A.47.
14 c. Of the moneys appropriated in paragraph "a", 5 percent
15 shall be allocated for financial incentives to establish
16 practices to protect watersheds above publicly owned lakes of
17 the state from soil erosion and sediment as provided in section
18 161A.73.
19 d. Not more than 30 percent of a soil and water conservation
20 district's allocation of moneys as financial incentives may be
21 provided for the purpose of establishing management practices
22 to control soil erosion on land that is row cropped, including
23 but not limited to no-till planting, ridge-till planting,
24 contouring, and contour strip-cropping as provided in section
25 161A.73.
26 e. The state soil conservation committee established by
27 section 161A.4 may allocate moneys appropriated in paragraph
28 "a" to conduct research and demonstration projects to promote
29 conservation tillage and nonpoint source pollution control
30 practices.
31 f. The allocation of moneys as financial incentives as
32 provided in section 161A.73 may be used in combination with
33 moneys allocated by the department of natural resources.
34 g. Not more than 15 percent of the moneys appropriated
35 in paragraph "a" may be used for costs of administration and

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implementation of soil and water conservation practices.

h. In lieu of moneys appropriated in section 466A.5, not more than $50,000 of the moneys appropriated in paragraph "a" shall be used by the soil conservation division of the department of agriculture and land stewardship to provide administrative support to the watershed improvement review board established in section 466A.3.

~~7. LOCAL FOOD AND FARM PROGRAM COORDINATOR~~

~~a. For purposes of supporting a local food and farm program coordinator as established pursuant to new Code chapter 267A as enacted in this Act, for salaries, support, maintenance, and miscellaneous purposes:~~

~~..... $ 37,500~~

~~b. The department shall enter into a cost-sharing agreement with Iowa state university to support the local food and farm program coordinator position as part of the university's cooperative extension service in agriculture and home economics pursuant to new Code chapter 267A as enacted in this Act.~~

~~8. AGRICULTURAL EDUCATION~~

~~For purposes of allocating moneys to an Iowa association affiliated with a national organization which promotes agricultural education providing for future farmers:~~

~~..... $ 12,500~~

9. LOESS HILLS DEVELOPMENT AND CONSERVATION FUND

a. For deposit in the loess hills development and conservation fund created in section 161D.2:

..... $ ~~237,500~~
675,000

b. (1) Of the amount appropriated in paragraph "a", ~~$178,125~~ $450,000 shall be allocated to the fund's hungry canyons account.

(2) Not more than 10 percent of the moneys allocated to the hungry canyons account as provided in subparagraph (1) may be used for administrative costs.

c. (1) Of the amount appropriated in paragraph "a", ~~$59,375~~

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1 $225,000 shall be allocated to the fund's loess hills alliance
2 account.
3 (2) Not more than 10 percent of the moneys allocated to the
4 loess hills alliance account as provided in subparagraph (1)
5 may be used for administrative costs.
6 Sec. 18. 2011 Iowa Acts, chapter 128, section 57, is amended
7 by adding the following new subsection:
8 NEW SUBSECTION. 10. AGRICULTURAL DRAINAGE WELL WATER
9 QUALITY ASSISTANCE FUND.
10 For deposit in the agricultural drainage well water quality
11 assistance fund created in section 460.303 to be used for
12 purposes of supporting the agricultural drainage well water
13 quality assistance program as provided in section 460.304:
14 ..... $ 1,250,000
15 Sec. 19. 2011 Iowa Acts, chapter 128, section 57, is amended
16 by adding the following new subsection:
17 NEW SUBSECTION. 11. SOUTHERN IOWA DEVELOPMENT AND
18 CONSERVATION FUND.
19 a. For deposit in the southern Iowa development and
20 conservation fund created in section 161D.12:
21 ..... $ 250,000
22 b. Not more than 10 percent of the moneys appropriated in
23 paragraph "a" may be used for administrative costs.
24 Sec. 20. 2011 Iowa Acts, chapter 128, section 58, is amended
25 to read as follows:
26 SEC. 58. DEPARTMENT OF NATURAL RESOURCES. There is
27 appropriated from the environment first fund created in section
28 8.57A to the department of natural resources for the fiscal
29 year beginning July 1, 2012, and ending June 30, 2013, the
30 following amounts, or so much thereof as is necessary, to be
31 used for the purposes designated:
32 1. KEEPERS OF THE LAND
33 For statewide coordination of volunteer efforts under the
34 water quality and keepers of the land programs:
35 ..... $ ~~50,000~~

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1 100,000
2 2. STATE PARKS MAINTENANCE AND OPERATIONS
3 For regular maintenance of state parks and staff time
4 associated with these activities:
5 ..... $ ~~1,605,000~~
6 3,210,000
7 ~~3. FORESTRY HEALTH MANAGEMENT~~
8 ~~To provide for forestry health management programs:~~
9 ~~..... $ 50,000~~
10 4. GEOGRAPHIC INFORMATION SYSTEM (GIS)
11 To provide local watershed managers with geographic
12 information system data for their use in developing,
13 monitoring, and displaying results of their watershed work:
14 ..... $ ~~97,500~~
15 195,000
16 5. WATER QUALITY MONITORING
17 For continuing the establishment and operation of water
18 quality monitoring stations:
19 ..... $ ~~1,477,500~~
20 2,955,000
21 6. PUBLIC WATER SUPPLY SYSTEM ACCOUNT
22 For deposit in the public water supply system account of the
23 water quality protection fund created in section 455B.183A:
24 ..... $ ~~250,000~~
25 500,000
26 7. REGULATION OF ANIMAL FEEDING OPERATIONS
27 For the regulation of animal feeding operations, including
28 as provided for in chapters 459 through 459B:
29 ..... $ ~~210,000~~
30 420,000
31 8. AMBIENT AIR QUALITY
32 For the abatement, control, and prevention of ambient
33 air pollution in this state, including measures as necessary
34 to assure attainment and maintenance of ambient air quality
35 standards from particulate matter:

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1 ..... $ ~~212,500~~
2 425,000
3 9. WATER QUANTITY REGULATION
4 For regulating water quantity from surface and subsurface
5 sources by providing for the allocation and use of water
6 resources, the protection and management of water resources,
7 and the preclusion of conflicts among users of water resources,
8 including as provided in chapter 455B, division III, part 4:
9 ..... $ ~~247,500~~
10 495,000
11 ~~10. GEOLOGICAL AND WATER SURVEY~~
12 ~~For continuing the operations of the department's geological~~
13 ~~and water survey including but not limited to providing~~
14 ~~analysis, data collection, investigative programs, and~~
15 ~~information for water supply development and protection:~~
16 ~~..... $ 100,000~~
17 DIVISION V
18 REAP
19 Sec. 21. 2011 Iowa Acts, chapter 128, is amended by adding
20 the following new section:
21 NEW SECTION. SEC. 58A. REAP — OPEN SPACES ACCOUNT. For
22 the fiscal year beginning July 1, 2012, to June 30, 2013, and
23 notwithstanding section 455A.19, after the first $4,200,000 is
24 allocated from the Iowa resources enhancement and protection
25 fund to the open spaces account as provided in section 455A.19,
26 subsection 1, paragraph "a", for expenditure as provided in
27 that paragraph, any additional moneys allocated to that account
28 may instead be expended by the director of the department of
29 natural resources to support the maintenance and upkeep of
30 state parks.
31 Sec. 22. 2011 Iowa Acts, chapter 128, is amended by adding
32 the following new section:
33 NEW SECTION. SEC. 58B. REAP — SOIL AND WATER ENHANCEMENT
34 ACCOUNT. For the fiscal year beginning July 1, 2012, to June
35 30, 2013, and notwithstanding section 455A.19, after the first

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1 $3,000,000 is allocated from the Iowa resources enhancement
2 and protection fund to the soil and water enhancement account
3 as provided in section 455A.19, subsection 1, paragraph "c",
4 for expenditure as provided in that paragraph, any additional
5 moneys allocated to the account may instead be expended by
6 the secretary of agriculture for purposes of supporting urban
7 conservation efforts.
8 EXPLANATION
9 GENERAL. This bill relates to appropriations made for
10 agriculture and natural resources for the 2012-2013 fiscal year
11 in 2011 Iowa Acts, chapter 128 (SF 509) to support related
12 entities, including the department of agriculture and land
13 stewardship, the department of natural resources, and Iowa
14 state university.
15 The bill relates to moneys appropriated to the department of
16 agriculture and land stewardship and the department of natural
17 resources. The appropriations support those departments for
18 administration, regulation, and programs. The bill requires
19 the departments to submit quarterly reports to the general
20 assembly and department of management regarding the expenditure
21 of appropriated moneys. The bill also provides moneys to
22 support specific programs or projects administered by those
23 departments. The bill relates to moneys appropriated from a
24 number of sources, including the general fund of the state, the
25 state fish and game protection fund, the groundwater protection
26 fund, and the environment first fund. The bill is organized
27 into divisions.
28 DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP. For the
29 department of agriculture and land stewardship, moneys are
30 appropriated in order to support its divisions.
31 The bill relates to moneys appropriated from the general
32 fund of the state to support designated programs, including
33 horse and dog racing and motor fuel inspection. The bill
34 also appropriates moneys from the general fund to support
35 dairy regulation, a local food and farm program coordinator,

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1 agricultural education, and assistance to farmers with
2 disabilities.
3 DEPARTMENT OF NATURAL RESOURCES. For the department of
4 natural resources, moneys are appropriated from the general
5 fund in order to support its divisions.
6 The bill relates to moneys appropriated from other funds.
7 The bill relates to moneys appropriated to the department of
8 natural resources from the state fish and game protection fund
9 to support programs related to fish and wildlife. The bill
10 relates to moneys appropriated from the groundwater protection
11 fund to support groundwater quality. The bill relates to
12 moneys appropriated from the snowmobile fund to the department
13 for snowmobile programs.
14 The bill includes miscellaneous provisions. The bill
15 relates to an appropriation made from the unassigned revenue
16 fund administered by the Iowa comprehensive underground storage
17 tank fund board to the department of natural resources for
18 administration and expenses of the department's underground
19 storage tank section.
20 The bill provides special appropriations from the general
21 fund of the state to support flood plain management and dam
22 safety, forestry health management, and the geological and
23 water survey in lieu of appropriations made in 2011 Iowa Acts,
24 that were to be supported by the environment first fund.
25 IOWA STATE UNIVERSITY. The bill relates to moneys
26 appropriated from the general fund of the state for the
27 operation of the Iowa state university's veterinary diagnostic
28 laboratory.
29 IOWA RESOURCES ENHANCEMENT AND PROTECTION FUND. The bill
30 relates to moneys appropriated from the environment first fund
31 to support a number of programs administered by the department
32 of agriculture and land stewardship and the department of
33 natural resources.
34 REAP. The bill provides for moneys appropriated from the
35 Iowa resources and protection fund to support various purposes,

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1 including allocations new to the open spaces account and the
2 soil and water enhancement account. The bill provides that the
3 director of the department of natural resources may use some
4 of the funds in the open spaces account to support state parks
5 and the secretary of agriculture may use some of the funds
6 in the soil and water enhancement account to support urban
7 conservation efforts.

House File 2337 - Introduced

HOUSE FILE 2337
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO LSB 5116HA)
(SUCCESSOR TO LSB 5116HB)

A BILL FOR

1 An Act relating to appropriations to the department of cultural
2 affairs, the economic development authority, certain
3 board of regents institutions, the department of workforce
4 development, the Iowa finance authority, and the public
5 employment relations board, providing for other properly
6 related matters, including effective date and retroactive
7 and other applicability provisions.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5116HV (2) 84
ad/tm

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DIVISION I
FY 2012-2013 APPROPRIATIONS

Section 1. 2011 Iowa Acts, chapter 130, section 48, is amended to read as follows:

SEC. 48. DEPARTMENT OF CULTURAL AFFAIRS. There is appropriated from the general fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions for the department:

..... $ ~~85,907~~
171,813
..... FTEs 74.50

The department of cultural affairs shall coordinate activities with the tourism office of the ~~department of~~ economic development authority to promote attendance at the state historical building and at this state's historic sites.

Full-time equivalent positions authorized under this subsection shall be funded, in full or in part, using moneys appropriated under this subsection ~~and~~, subsections 3 through 7, and subsection 10.

2. COMMUNITY CULTURAL GRANTS

For planning and programming for the community cultural grants program established under section 303.3:

..... $ ~~86,045~~
172,090

3. HISTORICAL DIVISION

For the support of the historical division:

..... $ ~~1,383,851~~
2,767,701

4. HISTORIC SITES

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1 For the administration and support of historic sites:
2 ..... $ ~~213,199~~
3 426,398
4 5. ARTS DIVISION
5 For the support of the arts division:
6 ..... $ ~~466,882~~
7 933,764
8 6. IOWA GREAT PLACES
9 For the Iowa great places program established under section
10 303.3C:
11 ..... $ ~~75,000~~
12 150,000
13 7. ARCHIVE IOWA GOVERNORS' RECORDS
14 For archiving the records of Iowa governors:
15 ..... $ ~~32,967~~
16 65,933
17 8. RECORDS CENTER RENT
18 For payment of rent for the state records center:
19 ..... $ ~~113,622~~
20 227,243
21 9. BATTLE FLAGS
22 For continuation of the project recommended by the Iowa
23 battle flag advisory committee to stabilize the condition of
24 the battle flag collection:
25 ..... $ ~~30,000~~
26 60,000
27 10. FILM OFFICE
28 For the support of the film office:
29 ..... $ 150,000
30 Sec. 2. BATTLE FLAG RESTORATION FUND.
31 1. A battle flag restoration fund is created and established
32 as a separate and distinct fund in the state treasury under
33 the control of the department of cultural affairs. The moneys
34 in the fund are appropriated to the department for purposes
35 of continuing the project recommended by the Iowa battle flag

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advisory committee to stabilize the condition of the battle flag collection. Moneys in the fund shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes of the battle flag restoration fund.

2. The battle flag restoration fund shall consist of any moneys appropriated by the general assembly and any other moneys available to and obtained or accepted by the department for placement in the fund including any proceeds from insurance settlements received by the state involving battle flags loaned to other states or entities.

3. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

Sec. 3. 2011 Iowa Acts, chapter 130, section 49, subsection 1, is amended to read as follows:

1. For the fiscal year beginning July 1, 2012, the goals for the ~~department of~~ economic development authority shall be to expand and stimulate the state economy, increase the wealth of Iowans, and increase the population of the state.

Sec. 4. 2011 Iowa Acts, chapter 130, section 49, subsection 2, unnumbered paragraph 1, is amended to read as follows:

To achieve the goals in subsection 1, the ~~department of~~ economic development authority shall do all of the following for the fiscal year beginning July 1, 2012:

Sec. 5. 2011 Iowa Acts, chapter 130, section 50, subsection 1, is amended to read as follows:

1. APPROPRIATION

There is appropriated from the general fund of the state to the ~~department of~~ economic development authority for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, to be used for the purposes designated in subsection 2, and for not more than the following full-time equivalent positions:

..... $ ~~4,891,712~~
8,858,424

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1 ..... FTEs 149.00
2 Of the moneys appropriated pursuant to this subsection, the
3 economic development authority shall not allocate more than
4 $75,000 for the purchase of licensing related to a business
5 assistance website.
6 Sec. 6. 2011 Iowa Acts, chapter 130, section 50, subsection
7 2, paragraphs b and c, are amended to read as follows:
8 b. The full-time equivalent positions authorized under this
9 section shall be funded, in whole or in part, by the moneys
10 appropriated under subsection 1 or by other moneys received by
11 the ~~department~~ authority, including certain federal moneys.
12 c. For business development operations and programs, ~~the~~
13 ~~film office,~~ international trade, export assistance, workforce
14 recruitment, and the partner state program.
15 Sec. 7. 2011 Iowa Acts, chapter 130, section 50, subsection
16 4, paragraph c, is amended to read as follows:
17 c. A business that receives financial assistance from the
18 ~~department~~ authority from moneys appropriated in this section
19 shall only employ individuals legally authorized to work in
20 this state. In addition to all other applicable penalties
21 provided by current law, all or a portion of the assistance
22 received by a business which is found to knowingly employ
23 individuals not legally authorized to work in this state is
24 subject to recapture by the department.
25 Sec. 8. 2011 Iowa Acts, chapter 130, section 50, subsection
26 5, is amended to read as follows:
27 5. USES OF APPROPRIATIONS
28 a. From the moneys appropriated in this section, the
29 ~~department~~ authority may provide financial assistance in the
30 form of a grant to a community economic development entity for
31 conducting a local workforce recruitment effort designed to
32 recruit former citizens of the state and former students at
33 colleges and universities in the state to meet the needs of
34 local employers.
35 b. From the moneys appropriated in this section, the

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1 ~~department~~ authority may provide financial assistance to
2 early stage industry companies being established by women
3 entrepreneurs.
4 c. From the moneys appropriated in this section, the
5 ~~department~~ authority may provide financial assistance in
6 the form of grants, loans, or forgivable loans for advanced
7 research and commercialization projects involving value-added
8 agriculture, advanced technology, or biotechnology.
9 d. The ~~department~~ authority shall not use any moneys
10 appropriated in this section for purposes of providing
11 financial assistance for the Iowa green streets pilot
12 project or for any other program or project that involves the
13 installation of geothermal systems for melting snow and ice
14 from streets or sidewalks.
15 Sec. 9. 2011 Iowa Acts, chapter 130, section 50, subsection
16 7, is amended to read as follows:
17 7. IOWA COMMISSION ON VOLUNTEER SERVICE
18 For allocation to the Iowa commission on volunteer service
19 for the Iowa's promise and mentoring partnership programs, for
20 transfer to the Iowa state commission grant program, and for
21 not more than the following full-time equivalent positions:
22 ..... $ ~~89,067~~
23 178,133
24 ..... FTEs 7.00
25 Of the moneys appropriated in this subsection, the
26 ~~department~~ authority shall allocate ~~$37,500~~ $75,000 for
27 purposes of the Iowa state commission grant program and ~~$51,567~~
28 $103,133 for purposes of the Iowa's promise and mentoring
29 partnership programs.
30 Notwithstanding section 8.33, moneys appropriated in this
31 subsection that remain unencumbered or unobligated at the close
32 of the fiscal year shall not revert but shall remain available
33 for expenditure for the purposes designated until the close of
34 the succeeding fiscal year.
35 Sec. 10. 2011 Iowa Acts, chapter 130, section 51, is amended

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to read as follows:

SEC. 51. VISION IOWA PROGRAM — FTE AUTHORIZATION. For purposes of administrative duties associated with the vision Iowa program for the fiscal year beginning July 1, 2012, the ~~department of~~ economic development authority is authorized an additional 2.25 FTEs above those otherwise authorized in this division of this Act.

Sec. 11. 2011 Iowa Acts, chapter 130, section 52, is amended to read as follows:

SEC. 52. INSURANCE ECONOMIC DEVELOPMENT. From the moneys collected by the division of insurance in excess of the anticipated gross revenues under section 505.7, subsection 3, during the fiscal year beginning July 1, 2012, $100,000 shall be transferred to the ~~department of~~ economic development authority for insurance economic development and international insurance economic development.

Sec. 12. 2011 Iowa Acts, chapter 130, section 53, is amended to read as follows:

SEC. 53. COMMUNITY DEVELOPMENT LOAN FUND. Notwithstanding section 15E.120, subsection 5, there is appropriated from the Iowa community development loan fund all moneys available during the fiscal year beginning July 1, 2012, and ending June 30, 2013, to the ~~department of~~ economic development authority for purposes of the community development program.

Sec. 13. 2011 Iowa Acts, chapter 130, section 54, is amended to read as follows:

SEC. 54. WORKFORCE DEVELOPMENT FUND. There is appropriated from the workforce development fund account created in section 15.342A to the workforce development fund created in section 15.343 for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, for purposes of the workforce development fund:

..... $ ~~2,000,000~~
4,000,000

Sec. 14. 2011 Iowa Acts, chapter 130, section 55, is amended

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to read as follows:

SEC. 55. WORKFORCE DEVELOPMENT ADMINISTRATION. From moneys appropriated or transferred to or receipts credited to the workforce development fund created in section 15.343, up to $400,000 for the fiscal year beginning July 1, 2012, and ending June 30, 2013, are appropriated to the ~~department of~~ economic development authority for the administration of workforce development activities including salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... FTEs 4.00

Sec. 15. 2011 Iowa Acts, chapter 130, section 57, subsections 1, 2, and 4, are amended to read as follows:

1. There is appropriated from the general fund of the state to Iowa state university of science and technology for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for small business development centers, ~~the science and technology research park, and~~ the institute for physical research and technology, and for not more than the following full-time equivalent positions:

..... $ ~~1,212,151~~ 843,832

..... FTEs ~~56.63~~ 22.73

2. Of the moneys appropriated in subsection 1, Iowa state university of science and technology shall allocate at least ~~$468,178~~ $735,728 for purposes of funding small business development centers. Iowa state university of science and technology may allocate moneys appropriated in subsection 1 to the various small business development centers in any manner necessary to achieve the purposes of this subsection.

4. It is the intent of the general assembly that the industrial incentive program focus on Iowa industrial sectors and seek contributions and in-kind donations from

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1 businesses, industrial foundations, and trade associations,
2 and that moneys for the institute for physical research and
3 technology industrial incentive program shall be allocated
4 only for projects which are matched by private sector moneys
5 for directed contract research or for nondirected research.
6 The match required of small businesses as defined in section
7 15.102, subsection ~~6~~ 10, for directed contract research or for
8 nondirected research shall be $1 for each $3 of state funds.
9 The match required for other businesses for directed contract
10 research or for nondirected research shall be $1 for each $1 of
11 state funds. The match required of industrial foundations or
12 trade associations shall be $1 for each $1 of state funds.
13 Iowa state university of science and technology shall
14 report annually to the joint appropriations subcommittee on
15 economic development and the legislative services agency the
16 total amount of private contributions, the proportion of
17 contributions from small businesses and other businesses, and
18 the proportion for directed contract research and nondirected
19 research of benefit to Iowa businesses and industrial sectors.
20 Sec. 16. 2011 Iowa Acts, chapter 130, section 59,
21 subsections 1 and 2, are amended to read as follows:
22 1. There is appropriated from the general fund of the
23 state to the university of northern Iowa for the fiscal year
24 beginning July 1, 2012, and ending June 30, 2013, the following
25 amount, or so much thereof as is necessary, to be used for ~~the~~
26 ~~metal casting institute,~~ the MyEntreNet internet application~~,~~
27 and the institute of decision making, including salaries,
28 support, maintenance, miscellaneous purposes, and for not more
29 than the following full-time equivalent positions:
30 ..... $ ~~287,358~~
31 517,263
32 ..... FTEs ~~6.75~~
33 5.55
34 2. Of the moneys appropriated pursuant to subsection 1, the
35 university of northern Iowa shall allocate at least ~~$58,820~~

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1 $117,639 for purposes of support of entrepreneurs through the
2 university's regional business center.
3 Sec. 17. 2011 Iowa Acts, chapter 130, section 61,
4 subsections 1 and 2, are amended to read as follows:
5 1. DIVISION OF LABOR SERVICES
6 a. For the division of labor services, including salaries,
7 support, maintenance, miscellaneous purposes, and for not more
8 than the following full-time equivalent positions:
9 ..... $ ~~1,747,720~~
10 3,495,440
11 ..... FTEs 64.00
12 b. From the contractor registration fees, the division of
13 labor services shall reimburse the department of inspections
14 and appeals for all costs associated with hearings under
15 chapter 91C, relating to contractor registration.
16 2. DIVISION OF WORKERS' COMPENSATION
17 a. For the division of workers' compensation, including
18 salaries, support, maintenance, miscellaneous purposes, and for
19 not more than the following full-time equivalent positions:
20 ..... $ ~~1,474,522~~
21 2,949,044
22 ..... FTEs 30.00
23 b. The division of workers' compensation shall charge a
24 $100 filing fee for workers' compensation cases. The filing
25 fee shall be paid by the petitioner of a claim. However, the
26 fee can be taxed as a cost and paid by the losing party, except
27 in cases where it would impose an undue hardship or be unjust
28 under the circumstances. The moneys generated by the filing
29 fee allowed under this subsection are appropriated to the
30 department of workforce development to be used for purposes of
31 administering the division of workers' compensation.
32 Sec. 18. 2011 Iowa Acts, chapter 130, section 61, subsection
33 4, is amended to read as follows:
34 4. OFFENDER REENTRY PROGRAM
35 a. For the development and administration of an offender

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1 reentry program to provide offenders with employment skills,
2 and for not more than the following full-time equivalent
3 positions:
4 ..... $ ~~142,232~~
5 284,464
6 ..... FTEs 3.00
7 b. The department shall partner with the department of
8 corrections to provide staff within the correctional facilities
9 to improve offenders' abilities to find and retain productive
10 employment.
11 Sec. 19. 2011 Iowa Acts, chapter 130, section 63, subsection
12 1, is amended to read as follows:
13 1. There is appropriated from the special employment
14 security contingency fund to the department of workforce
15 development for the fiscal year beginning July 1, 2012, and
16 ending June 30, 2013, the following amount, or so much thereof
17 as is necessary, to be used for field offices:
18 ..... $ ~~608,542~~
19 1,217,084
20 Sec. 20. 2011 Iowa Acts, chapter 130, section 64, is amended
21 to read as follows:
22 SEC. 64. UNEMPLOYMENT COMPENSATION RESERVE FUND —
23 FIELD OFFICES. Notwithstanding section 96.9, subsection 8,
24 paragraph "e", there is appropriated from interest earned on
25 the unemployment compensation reserve fund to the department
26 of workforce development for the fiscal year beginning July 1,
27 2012, and ending June 30, 2013, the following amount or so much
28 thereof as is necessary, for the purposes designated:
29 For the operation of field offices:
30 ..... $ ~~1,200,000~~
31 500,000
32 Sec. 21. 2011 Iowa Acts, chapter 130, section 65, is amended
33 to read as follows:
34 SEC. 65. GENERAL FUND — EMPLOYEE MISCLASSIFICATION
35 PROGRAM. There is appropriated from the general fund of the

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state to the department of workforce development for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For enhancing efforts to investigate employers that misclassify workers and for not more than the following full-time equivalent positions:

..... $ ~~225,729~~
451,458
..... FTEs 8.10

Sec. 22. 2011 Iowa Acts, chapter 130, section 67, subsection 1, is amended to read as follows:

1. There is appropriated from the general fund of the state to the Iowa finance authority for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used to provide reimbursement for rent expenses to eligible persons under the rent subsidy program:

..... $ ~~329,000~~
658,000

Sec. 23. 2011 Iowa Acts, chapter 130, section 69, subsection 1, is amended to read as follows:

1. There is appropriated from the general fund of the state to the public employment relations board for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~528,936~~
1,148,426
..... FTEs 10.00

Sec. 24. REPEAL. 2011 Iowa Acts, chapter 130, section 58, is repealed.

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1 DIVISION II
2 FILM OFFICE
3 Sec. 25. Section 2.48, subsection 3, paragraph c,
4 subparagraph (5), Code 2011, is amended by striking the
5 subparagraph.
6 Sec. 26. Section 15.119, subsection 2, paragraph b, Code
7 Supplement 2011, is amended by striking the paragraph.
8 Sec. 27. Section 303.1, subsection 4, Code 2011, is amended
9 by adding the following new paragraph:
10 NEW PARAGRAPH. *e.* Film office.
11 Sec. 28. NEW SECTION. **303.95 Film office establishment and**
12 **purpose.**
13 The department shall establish and administer a film office.
14 The purpose of the film office is to assist legitimate film,
15 television, and video producers in the production of film,
16 television, and video projects in the state and to increase the
17 fiscal impact on the state's economy of film, television, and
18 video projects produced in the state.
19 Sec. 29. Section 422.7, subsection 52, Code Supplement
20 2011, is amended by striking the subsection.
21 Sec. 30. Section 422.33, subsections 23 and 24, Code
22 Supplement 2011, are amended by striking the subsections.
23 Sec. 31. Section 422.35, subsection 23, Code Supplement
24 2011, is amended by striking the subsection.
25 Sec. 32. Section 422.60, subsections 10 and 11, Code
26 Supplement 2011, are amended by striking the subsections.
27 Sec. 33. Section 533.329, subsection 2, paragraphs f and g,
28 Code Supplement 2011, are amended by striking the paragraphs.
29 Sec. 34. REPEAL. Sections 15.391, 15.392, 15.393, 422.11T,
30 422.11U, 432.12J, and 432.12K, Code and Code Supplement 2011,
31 are repealed.
32 Sec. 35. EFFECTIVE UPON ENACTMENT. This division of this
33 Act, being deemed of immediate importance, takes effect upon
34 enactment.
35 Sec. 36. RETROACTIVE APPLICABILITY. This division of this

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1 Act applies retroactively to January 1, 2012, for tax years
2 beginning on or after that date.
3 Sec. 37. APPLICABILITY. This division of this Act does not
4 apply to contracts or agreements entered into on or before the
5 effective date of this Act.
6 EXPLANATION
7 This bill relates to appropriations and transfers from the
8 general fund of the state and other funds to the department
9 of cultural affairs, the economic development authority,
10 the university of northern Iowa, Iowa state university,
11 the department of workforce development, the Iowa finance
12 authority, and the public employment relations board for the
13 2012-2013 fiscal year. The bill is organized by divisions.
14 FY 2012-2013 APPROPRIATIONS. The bill relates to the
15 establishment of a battle flag restoration fund. Moneys
16 in the fund are appropriated to the department of cultural
17 affairs for the purposes of continuing the project recommended
18 by the Iowa battle flag advisory committee to stabilize the
19 condition of the battle flag collection. The fund shall
20 consist of any moneys appropriated by the general assembly and
21 any other moneys available to or accepted by the department of
22 cultural affairs for the fund including proceeds from insurance
23 settlements received by the state involving battle flags loaned
24 to other states or entities.
25 The bill relates to transfers of moneys collected by the
26 division of insurance in excess of the anticipated gross
27 revenues to the economic development authority for purposes
28 of insurance economic development and international insurance
29 economic development.
30 The bill relates to moneys appropriated from the Iowa
31 community development loan fund to the economic development
32 authority for purposes of the community development program.
33 The bill relates to moneys appropriated from the workforce
34 development fund account to the workforce development fund.
35 The bill provides that moneys appropriated or transferred

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to or receipts credited to the workforce development fund are appropriated to the economic development authority for administration of workforce development activities.

The bill relates to moneys appropriated from the special employment security contingency fund to the department of workforce development for field offices.

The bill relates to interest earned on the unemployment compensation reserve fund appropriated to the department of workforce development for the operation of field offices.

The bill relates to moneys appropriated to the department of workforce development for an employee misclassification program.

FILM OFFICE. The bill transfers the film office from the economic development authority to the department of cultural affairs. The bill also eliminates the film, television, and video project promotion program including the related tax credits and income exclusions. This division of the bill takes effect upon enactment, applies retroactively to January 1, 2012, for tax years beginning on or after that date, and does not apply to contracts or agreements entered into on or before the effective date of the bill.

House File 2338 - Introduced

HOUSE FILE 2338
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO LSB 5120HB)

A BILL FOR

1 An Act relating to appropriations to the judicial branch.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5120HV (1) 84
jm/jp

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1 Section 1. 2011 Iowa Acts, chapter 135, section 7, is
2 amended to read as follows:
3 SEC. 7. JUDICIAL BRANCH.
4 1. There is appropriated from the general fund of the state
5 to the judicial branch for the fiscal year beginning July 1,
6 2012, and ending June 30, 2013, the following amount, or so
7 much thereof as is necessary, to be used for the purposes
8 designated:
9 a. For salaries of supreme court justices, appellate court
10 judges, district court judges, district associate judges,
11 judicial magistrates and staff, state court administrator,
12 clerk of the supreme court, district court administrators,
13 clerks of the district court, juvenile court officers, board of
14 law examiners and board of examiners of shorthand reporters and
15 judicial qualifications commission; receipt and disbursement
16 of child support payments; reimbursement of the auditor
17 of state for expenses incurred in completing audits of the
18 offices of the clerks of the district court during the fiscal
19 year beginning July 1, 2012; and maintenance, equipment, and
20 miscellaneous purposes:
21 ..... $ ~~77,055,911~~
22 154,111,822
23 b. For deposit in the revolving fund created pursuant
24 to section 602.1302, subsection 3, for jury and witness
25 fees, mileage, costs related to summoning jurors, fees for
26 interpreters, and reimbursement of attorney fees paid by the
27 state public defender:
28 ..... $ ~~1,150,000~~
29 2,300,000
30 2. The judicial branch, except for purposes of internal
31 processing, shall use the current state budget system, the
32 state payroll system, and the Iowa finance and accounting
33 system in administration of programs and payments for services,
34 and shall not duplicate the state payroll, accounting, and
35 budgeting systems.

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1 3. The judicial branch shall submit monthly financial
2 statements to the legislative services agency and the
3 department of management containing all appropriated accounts
4 in the same manner as provided in the monthly financial status
5 reports and personal services usage reports of the department
6 of administrative services. The monthly financial statements
7 shall include a comparison of the dollars and percentage
8 spent of budgeted versus actual revenues and expenditures on
9 a cumulative basis for full-time equivalent positions and
10 dollars.
11 4. The judicial branch shall focus efforts upon the
12 collection of delinquent fines, penalties, court costs, fees,
13 surcharges, or similar amounts.
14 5. It is the intent of the general assembly that the offices
15 of the clerks of the district court operate in all 99 counties
16 and be accessible to the public as much as is reasonably
17 possible in order to address the relative needs of the citizens
18 of each county.
19 6. In addition to the requirements for transfers under
20 section 8.39, the judicial branch shall not change the
21 appropriations from the amounts appropriated to the judicial
22 branch in this division of this Act, unless notice of the
23 revisions is given prior to their effective date to the
24 legislative services agency. The notice shall include
25 information on the branch's rationale for making the changes
26 and details concerning the workload and performance measures
27 upon which the changes are based.
28 7. The judicial branch shall submit a semiannual update
29 to the legislative services agency specifying the amounts of
30 fines, surcharges, and court costs collected using the Iowa
31 court information system since the last report. The judicial
32 branch shall continue to facilitate the sharing of vital
33 sentencing and other information with other state departments
34 and governmental agencies involved in the criminal justice
35 system through the Iowa court information system.

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8. The judicial branch shall provide a report to the general assembly by January 1, 2013, concerning the amounts received and expended from the enhanced court collections fund created in section 602.1304 and the court technology and modernization fund created in section 602.8108, subsection 7, during the fiscal year beginning July 1, 2011, and ending June 30, 2012, and the plans for expenditures from each fund during the fiscal year beginning July 1, 2012, and ending June 30, 2013. A copy of the report shall be provided to the legislative services agency.

9. The judicial branch is encouraged to purchase products from Iowa state industries, as defined in section 904.802, when purchases are required and the products are available from Iowa state industries. The judicial branch shall obtain bids from Iowa state industries for purchases of office furniture during the fiscal year beginning July 1, 2012, exceeding $5,000.

EXPLANATION

This bill relates to appropriations made to the judicial branch in 2011 Iowa Acts, chapter 135 (SF 511).

The bill increases the appropriations from the general fund of the state for FY 2012-2013 to the judicial branch for salaries, maintenance, equipment, and miscellaneous purposes.

The bill increases the appropriations from the general fund of the state to the revolving fund created in Code section 602.1302 for jury and witness fees, mileage, costs related to summoning jurors, fees for interpreters, and certain attorney fee reimbursement.

House File 2339 - Introduced

HOUSE FILE 2339
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 621)

A BILL FOR

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

TLSB 5183HV (3) 84
av/nh

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Section 1. Section 135.22A, subsection 2, paragraph g, Code 2011, is amended by striking the paragraph.

Sec. 2. Section 502.412, subsection 3, Code 2011, is amended to read as follows:

3. *Disciplinary penalties — registrants.* If the administrator finds that the order is in the public interest and subsection 4, paragraphs *"a"* through *"f"*, *"h"*, *"i"*, *"j"*, *"l"*, or *"m"*, authorizes the action, an order under this chapter may censure, impose a bar, or impose a civil penalty in an amount not to exceed a maximum of ~~five~~ ten thousand dollars for a single violation or ~~five hundred thousand~~ one million dollars for more than one violation, or in an amount as agreed to by the parties, on a registrant, and, if the registrant is a broker-dealer or investment adviser, a partner, officer, director, or person having a similar status or performing similar functions, or a person directly or indirectly in control, of the broker-dealer or investment adviser.

Sec. 3. Section 502.604, subsection 4, Code Supplement 2011, is amended to read as follows:

4. *Civil penalty — restitution — corrective action.* In a final order under subsection 3, the administrator may impose a civil penalty up to an amount not to exceed a maximum of ~~five~~ ten thousand dollars for a single violation or ~~five hundred thousand~~ one million dollars for more than one violation, or in an amount as agreed to by the parties, order restitution, or take other corrective action as the administrator deems necessary and appropriate to accomplish compliance with the laws of the state relating to all securities business transacted in the state.

Sec. 4. Section 502.604, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. *Failure to obey cease and desist order.* A person who fails to obey a valid cease and desist order issued by the administrator under this section may, after notice and opportunity for a hearing, be subject to a civil

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1 penalty in an amount of not less than one thousand dollars and
2 not to exceed ten thousand dollars for violating the order.
3 Each day the failure to obey the cease and desist order occurs
4 or continues constitutes a separate violation of the order.
5 The penalties provided in this subsection are in addition to,
6 and not exclusive of, other remedies that may be available.
7 Sec. 5. Section 505.8, subsection 10, Code Supplement 2011,
8 is amended to read as follows:
9 10. The commissioner may, after a hearing conducted
10 pursuant to chapter 17A, assess fines or penalties~~,~~; assess
11 costs of an examination, investigation, or proceeding~~,~~;
12 order restitution~~,~~; or take other corrective action as the
13 commissioner deems necessary and appropriate to accomplish
14 compliance with the laws of the state relating to all insurance
15 business transacted in the state.
16 Sec. 6. NEW SECTION. **506.14 Voluntary dissolution of**
17 **domestic mutual insurance companies.**
18 1. Any plan for voluntary dissolution of a domestic
19 mutual insurance company licensed to transact the business
20 of insurance under chapter 508, 515, 518, or 518A shall be
21 presented for approval by the commissioner not less than ninety
22 days in advance of notice of the plan to policyholders.
23 2. The commissioner shall approve the plan if the
24 commissioner finds that the plan complies with all applicable
25 provisions of law and is fair and equitable to the domestic
26 mutual insurance company and its policyholders.
27 Sec. 7. Section 507.10, subsection 4, paragraph a, Code
28 2011, is amended to read as follows:
29 *a.* All orders entered pursuant to subsection 3, paragraph
30 *"a"*, shall be accompanied by findings and conclusions resulting
31 from the commissioner's consideration and review of the
32 examination report, relevant examiner work papers, and any
33 written submissions or rebuttals. Any such order is a final
34 administrative decision and may be appealed pursuant to chapter
35 17A, and shall be served upon the company by certified mail,

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1 together with a copy of the adopted examination report. ~~Within~~
2 ~~thirty days of the issuance of the adopted report, the company~~
3 ~~shall file affidavits executed by each of its directors stating~~
4 ~~under oath that they have received a copy of the adopted report~~
5 ~~and related orders.~~ The board of directors of the company
6 shall timely review the adopted report. The minutes of the
7 meeting of the board at which the adopted report is considered
8 shall reflect that each member of the board has reviewed the
9 adopted report.
10 Sec. 8. Section 507.14, subsection 4, Code 2011, is amended
11 to read as follows:
12 4. Confidential documents, materials, information,
13 administrative or judicial orders, or other actions may be
14 disclosed to a regulatory official of any state, federal
15 agency, or foreign country provided that the recipients are
16 required, under their law, to maintain their confidentiality.
17 Confidential records may be disclosed to the national
18 association of insurance commissioners, the international
19 association of insurance supervisors, and the bank for
20 international settlements, provided that the ~~association~~
21 ~~certifies~~ associations and the bank certify by written
22 statement that the confidentiality of the records will be
23 maintained.
24 Sec. 9. Section 507B.4, Code 2011, is amended by adding the
25 following new subsection:
26 NEW SUBSECTION. 20. *Refund of unearned premium.* Failure of
27 an issuer of a Medicare supplement policy to adjust coverage
28 dates to terminate coverage on the date that coincides with
29 the effective date of a policy or contract providing any
30 hospital, medical, prescription drug, or other health care
31 benefits pursuant to 42 U.S.C. ch. 7, subch. XVIII, Part C,
32 commonly known as Medicare Part C, pursuant to Tit. XVIII of
33 the federal Social Security Act, or any regulations issued
34 pursuant thereto, and to refund any unearned premium to the
35 insured based on that revised termination date, where the

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1 policyholder or contract holder provides written notice to the
2 issuer that the policyholder or contract holder desires to
3 terminate the policy or contract and provides documentation
4 substantiating that the policyholder or contract holder has
5 coverage commonly known as Medicare Part C. This subsection
6 shall not be construed to require a refund of premium for any
7 period of time in excess of five years prior to the date that
8 written notice is provided to an issuer.
9 Sec. 10. NEW SECTION. **507C.17A Rehabilitation or**
10 **liquidation of a domestic insurer covered under the federal**
11 **Dodd-Frank Wall Street Reform and Consumer Protection Act.**
12 1. The provisions of this section apply in accordance
13 with Tit. II of the federal Dodd-Frank Wall Street Reform and
14 Consumer Protection Act, Pub. L. No. 111-203, 12 U.S.C. § 5301
15 et seq., with respect to a domestic insurer that is a covered
16 financial company, as that term is defined under 12 U.S.C. §
17 5381.
18 2. The commissioner may petition the district court for an
19 order of rehabilitation or liquidation of a domestic insurer
20 pursuant to this section on any of the following grounds:
21 *a.* Upon a determination and notification given by the
22 secretary of the treasury of the United States, in consultation
23 with the president of the United States, that the insurer is
24 a covered financial company satisfying the requirements of
25 12 U.S.C. § 5383(b), and the board of directors, or a body
26 performing similar functions of a board of directors, of the
27 insurer acquiesces or consents to the appointment of a receiver
28 pursuant to 12 U.S.C. § 5382(a)(1)(A)(i) with such consent
29 to be considered as consent to an order of rehabilitation or
30 liquidation.
31 *b.* Upon an order of the United States district court for
32 the District of Columbia under 12 U.S.C. § 5382(a)(1)(A)(iv)(I)
33 granting the petition of the secretary of the treasury of
34 the United States concerning the insurer under 12 U.S.C. §
35 5382(a)(1)(A)(i).

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1 *c.* A petition by the secretary of the treasury of the United
2 States concerning the insurer is granted by operation of law
3 under 12 U.S.C. § 5382(a)(1)(A)(v).
4 3. Notwithstanding any other provision of law to the
5 contrary, after notice to the insurer, a district court
6 may grant an order of rehabilitation or liquidation within
7 twenty-four hours after the filing of such a petition pursuant
8 to this section.
9 4. If the district court does not make a determination on a
10 petition for an order of rehabilitation or liquidation filed by
11 the commissioner pursuant to this section within twenty-four
12 hours after the filing of the petition, the order shall be
13 deemed granted by operation of law upon the expiration of the
14 twenty-four-hour period.
15 *a.* At the time that an order is deemed granted under this
16 subsection, the provisions of this chapter shall be deemed
17 to be in effect, and the commissioner shall be deemed to be
18 affirmed as receiver and to have all of the applicable powers
19 provided by this chapter, regardless of whether an order has
20 been entered by the district court.
21 *b.* If an order is deemed granted by operation of law under
22 this subsection, the district court shall expeditiously enter
23 an order of rehabilitation or liquidation that does all of the
24 following:
25 (1) Is effective as of the date that the order is deemed
26 granted by operation of law.
27 (2) Conforms to the provisions for rehabilitation or
28 liquidation of an insurer contained in this chapter, as
29 applicable.
30 5. An order of rehabilitation or liquidation made pursuant
31 to this section shall not be subject to a stay or injunction
32 pending appeal.
33 6. Nothing in this section shall be construed to supersede
34 or impair any other power or authority of the commissioner or
35 the district court under this chapter.

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1 Sec. 11. Section 507E.5, subsection 2, Code 2011, is amended
2 to read as follows:
3 2. The commissioner may share documents, materials, or
4 other information, including confidential and privileged
5 documents, materials, or other information, with other
6 state, federal, and international regulatory agencies, with
7 the national association of insurance commissioners and its
8 affiliates or subsidiaries, and with local, state, federal, and
9 international law enforcement authorities, provided that the
10 recipient agrees to maintain the confidential and privileged
11 status of the document, material, or other information,
12 pursuant to Iowa law.
13 Sec. 12. Section 511.8, subsection 14, Code Supplement
14 2011, is amended to read as follows:
15 14. *Urban real estate and personal property.*
16 *a.* Personal or real property or both located within the
17 United States or the Dominion of Canada, other than real
18 property used or to be used primarily for agricultural,
19 horticultural, ranching or mining purposes, which produces
20 income or which by suitable improvement will produce income.
21 However, personal property acquired under this subsection shall
22 be acquired for the purpose of entering into a contract for
23 the sale or for a use under which the contractual payments
24 may reasonably be expected to result in the recovery of the
25 investment and an investment return within the anticipated
26 useful life of the property. Legal title to the real property
27 may be acquired subject to a contract of sale.
28 *b.* *"Real property"* as used in this subsection includes ~~a~~ all
29 of the following:
30 (1) A leasehold of real estate~~, an~~.
31 (2) An undivided interest in a leasehold of real estate~~, and~~
32 ~~an~~.
33 (3) An undivided interest in the fee title of real estate.
34 (4) A controlling membership, partnership, shareholder, or
35 trust interest in any entity created solely for the purpose

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of owning and operating any of the interests described in subparagraph (1), (2), or (3), if the entity is expressly limited to that purpose within its organizational documents.

c. Investments under this subsection are not eligible in excess of ten percent of the legal reserve.

Sec. 13. Section 511.8, subsection 19, Code Supplement 2011, is amended to read as follows:

19. *Other foreign government or corporate obligations.*

a. Bonds or other evidences of indebtedness, not to include currency, issued, assumed, or guaranteed by a foreign government other than Canada, or by a corporation incorporated under the laws of a foreign government other than Canada. Such governmental obligations must be valid, legally authorized and issued, and on the date of acquisition have predominantly investment qualities and characteristics as provided by rule. Such corporate obligations must meet the qualifications established in subsection 5 for bonds and other evidences of indebtedness issued, assumed, or guaranteed by a corporation incorporated under the laws of the United States or Canada. Foreign investments authorized by this subsection are not eligible in excess of ~~twenty~~ twenty-five percent of the legal reserve of the life insurance company or association. Investments in obligations of a foreign government, other than Canada ~~and~~, the United Kingdom, and foreign governments rated AAA by Standard and Poor's division of McGraw-Hill companies, inc., or Aaa by Moody's investors services, inc., are not eligible in excess of two percent of the legal reserve in the securities of foreign governments of any one foreign nation. Investments in obligations of the United Kingdom are not eligible in excess of four percent of the legal reserve. Investments in obligations of foreign governments rated either AAA by Standard and Poor's division of McGraw-Hill companies, inc., or Aaa by Moody's investors services, inc., are not eligible in excess of five percent of the legal reserve. Investments in a corporation incorporated under the laws of a

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1 foreign government other than Canada are not eligible in excess
2 of two percent of the legal reserve in the securities of any
3 one foreign corporation.
4 *b.* Eligible investments in foreign obligations under this
5 subsection are limited to the types of obligations specifically
6 referred to in this subsection. This subsection in no way
7 limits or restricts investments in Canadian obligations and
8 securities specifically authorized in other subsections of this
9 section.
10 *c.* This subsection shall not authorize investment in
11 evidences of indebtedness issued, assumed, or guaranteed by a
12 foreign government which engages in a consistent pattern of
13 gross violations of human rights.
14 Sec. 14. Section 511.8, subsection 23, Code Supplement
15 2011, is amended by adding the following new paragraph:
16 NEW PARAGRAPH. *g.* For securities loaned pursuant to this
17 subsection that are included in the legal reserve of the life
18 insurance company or association, the collateral received for
19 the loaned securities shall not be eligible for inclusion in
20 the legal reserve.
21 Sec. 15. Section 511.40, Code 2011, is amended by adding the
22 following new subsection:
23 NEW SUBSECTION. 5. *a.* The gross amount of premiums
24 received by a life insurance company or association for an
25 employer-owned life insurance contract which has not been
26 allocated to another state shall be allocated to this state
27 for purposes of section 432.1, subsection 1, if either of the
28 following is applicable:
29 (1) The contract is issued or delivered in this state.
30 (2) The company or association is domiciled in this state.
31 *b.* To the extent that premiums are allocated to this state
32 pursuant to paragraph *"a"*, the provisions of section 505.14 are
33 not applicable to those premiums.
34 *c.* As used in this subsection, *"employer-owned life*
35 *insurance contract"* means a policy which provides coverage on

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1 a life for which the employer has an insurable interest under
2 this section or a similar provision of the laws of another
3 state and the policy is owned by either the employer or a trust
4 established by the employer for the benefit of the employer or
5 the employer's active or retired employees.
6 Sec. 16. Section 514.4, Code 2011, is amended to read as
7 follows:
8 **514.4 Directors.**
9 1. At least two-thirds of the directors of a hospital
10 service corporation, medical service corporation, dental
11 service corporation, or pharmaceutical or optometric service
12 corporation subject to this chapter shall be at all times
13 subscribers and not more than one-third of the directors
14 shall be providers as provided in this section. The board of
15 directors of each corporation shall consist of at least nine
16 members.
17 2. A subscriber director is a director of the board of
18 a corporation who is a subscriber and who is not a provider
19 of health care pursuant to section 514B.1, subsection 7, a
20 person who has material financial or fiduciary interest in the
21 delivery of health care services or a related industry, an
22 employee of an institution which provides health care services,
23 or a spouse or a member of the immediate family of such a
24 person. However, a subscriber director of a dental service
25 corporation may be an employee, officer, director, or trustee
26 of a hospital or other entity that does not have a provider
27 contract with the dental service corporation. A subscriber
28 director of a hospital or medical service corporation shall be
29 a subscriber of the services of that corporation.
30 3. A provider director of a corporation subject to this
31 chapter shall be at all times a person who has a material
32 financial interest in or is a fiduciary to or an employee
33 of or is a spouse or member of the immediate family of a
34 provider having a contract with such corporation to render to
35 its subscribers the services of such corporation or who is a

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1 hospital trustee.
2 4. A director may serve on a board of only one corporation
3 at a time subject to this chapter.
4 5. The commissioner of insurance shall adopt rules pursuant
5 to chapter 17A to implement the process of the election of
6 subscriber directors of the board of directors of a corporation
7 to ensure the representation of a broad spectrum of subscriber
8 interest on each board and establish criteria for the selection
9 of nominees. The rules shall provide for an independent
10 subscriber nominating committee to serve until the composition
11 of the board of directors meets the percentage requirements
12 of this section. Once the composition requirements of this
13 section are met, the nominations for subscriber directors
14 shall be made by the subscriber directors of the board under
15 procedures the board establishes which shall also permit
16 nomination by a petition of at least fifty subscribers. The
17 board shall also establish procedures to permit nomination of
18 provider directors by petition of at least fifty participating
19 providers. A member of the board of directors of a corporation
20 subject to this chapter shall not serve on the independent
21 subscriber nominating committee. The nominating committee
22 shall consist of subscribers as defined in this section. The
23 rules of the commissioner of insurance shall also permit
24 nomination of subscriber directors by a petition of at least
25 fifty subscribers, and nomination of provider directors
26 by a petition of at least fifty participating providers.
27 These petitions shall be considered only by the independent
28 nominating committee during the duration of the committee.
29 Following the discontinuance of the committee, the petition
30 process shall be continued and the board of directors of the
31 corporation shall consider the petitions. The independent
32 subscriber nominating committee is not subject to chapter 17A.
33 The nominating committee shall not receive per diem or expenses
34 for the performance of their duties.
35 6. Population factors, representation of different

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geographic regions, and the demography of the service area of the corporation subject to this chapter shall be considered when making nominations for the board of directors of a corporation subject to this chapter.

7. A corporation serving states in addition to Iowa shall be required to implement this section only for directors who are residents of Iowa and elected as board members from Iowa.

Sec. 17. Section 515.26, Code 2011, is amended to read as follows:

515.26 Directors.

The affairs of a company organized as provided by this chapter shall be managed by a number of directors, of not less than five nor more than twenty-one. ~~In the case of a mutual company, all such directors shall be policyholders.~~

Sec. 18. Section 515.69, subsection 1, Code 2011, is amended to read as follows:

1. A stock insurance company organized under or by the laws of any other state or foreign government for the purpose specified in this chapter, shall not, directly or indirectly, take risks or transact business of insurance in this state unless the company ~~has two and one-half million dollars of actual paid-up capital, and a surplus in cash or invested in securities authorized by law of not less than two and one-half million dollars,~~ possesses the actual amount of capital and surplus required of any company organized pursuant to this chapter, or if the company is a mutual insurance company, the actual amount of surplus required of any mutual insurance company organized pursuant to this chapter, exclusive of assets deposited in a state, territory, district, or country for the special benefit or security of those insured in that state, territory, district, or country.

Sec. 19. Section 515.136, Code 2011, is amended to read as follows:

515.136 Value of building — liability.

~~The insurance company or association issuing such policy may~~

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1 ~~show the actual value of said property at date of policy, and~~
2 ~~any depreciation in the value thereof before the loss occurred;~~
3 ~~but the said~~ An insurance company or association shall be
4 liable for the actual value of the property insured at the date
5 of the loss, unless such value exceeds the amount stated in the
6 policy.
7 Sec. 20. Section 515A.7, subsection 1, paragraph b,
8 subparagraph (5), Code 2011, is amended to read as follows:
9 (5) An insurer may adopt a ~~scheduled or~~ schedule rating plan
10 providing for credits or debits in an amount not exceeding the
11 maximum modification allowed as set forth by the commissioner
12 by rule. This amount shall be in addition to the permitted
13 deviations set forth in subparagraphs (1) through (4).
14 Sec. 21. Section 518.14, subsection 4, paragraph f,
15 unnumbered paragraph 1, Code 2011, is amended to read as
16 follows:
17 Common stocks, common stock equivalents, mutual fund
18 shares, securities convertible into common stocks or common
19 stock equivalents, or preferred stocks issued or guaranteed
20 by a corporation incorporated under the laws of the United
21 States or a state, or the laws of Canada or a province of
22 Canada, or limited partnerships publicly traded on a nationally
23 established stock exchange in the United States. Aggregate
24 investments in nondividend paying stocks shall not exceed five
25 percent of surplus.
26 Sec. 22. Section 518A.12, subsection 4, paragraph f,
27 unnumbered paragraph 1, Code 2011, is amended to read as
28 follows:
29 Common stocks, common stock equivalents, mutual fund
30 shares, securities convertible into common stocks or common
31 stock equivalents, or preferred stocks issued or guaranteed
32 by a corporation incorporated under the laws of the United
33 States or a state, or the laws of Canada or a province of
34 Canada, or limited partnerships publicly traded on a nationally
35 established stock exchange in the United States. Aggregate

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1 investments in nondividend paying stocks shall not exceed five
2 percent of surplus.
3 Sec. 23. Section 521E.1, subsection 4, unnumbered paragraph
4 1, Code 2011, is amended to read as follows:
5 *"Domestic insurer"* means an insurance company domiciled in
6 this state and licensed to transact the business of insurance
7 under chapter 508, 512B, 515, or 520, except that it shall not
8 include any of the following:
9 Sec. 24. Section 521E.1, subsection 4, paragraph b, Code
10 2011, is amended by striking the paragraph.
11 Sec. 25. Section 521E.1, subsections 6 and 7, Code 2011, are
12 amended to read as follows:
13 6. *"Foreign insurer"* means an insurance company not
14 domiciled in this state which is licensed to transact the
15 business of insurance in this state under chapter 508, 512B,
16 515, or 520.
17 7. *"Life and health insurer"* means an insurance company
18 licensed under chapter 508, a fraternal benefit society
19 organized under chapter 512B, or a licensed property and
20 casualty insurer writing only accident and health insurance
21 under chapter 515.
22 Sec. 26. Section 521E.3, subsection 1, paragraph a,
23 subparagraph (2), Code Supplement 2011, is amended to read as
24 follows:
25 (2) For a life and health insurer, the insurer's
26 total adjusted capital is greater than or equal to its
27 company-action-level risk-based capital but less than the
28 product of its authorized-control-level risk-based capital and
29 ~~two and one-half~~ three, and has a negative trend.
30 Sec. 27. Section 522C.6, Code 2011, is amended by adding the
31 following new subsection:
32 NEW SUBSECTION. 3. *a.* A licensed public adjuster who,
33 after hearing, is found to have violated this chapter or any
34 rule adopted or order issued pursuant to this chapter, may
35 be ordered to cease and desist from engaging in the conduct

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1 resulting in the violation and may be assessed a civil penalty
2 as provided in section 505.7A.
3 *b.* A person who, after hearing, is found to have violated
4 this chapter by acting as a public adjuster without proper
5 licensure may be ordered to cease and desist from engaging in
6 the conduct resulting in the violation and may be assessed a
7 civil penalty according to the provisions of chapter 507A.
8 *c.* If a person has engaged, is engaging, or is about to
9 engage in any act or practice constituting a violation of
10 this chapter or any rule adopted or order issued pursuant to
11 this chapter, the commissioner may issue a summary order that
12 includes a brief statement of findings of fact, conclusions of
13 law, and policy reasons for the order, and that directs the
14 person to cease and desist from engaging in the act or practice
15 constituting the violation and that may assess a civil penalty
16 or take other affirmative action as in the judgment of the
17 commissioner is necessary to assure that the person complies
18 with the requirements of this chapter as provided in chapter
19 507A.
20 *d.* If a person does not comply with an order issued pursuant
21 to this subsection, the commissioner may petition a court of
22 competent jurisdiction to enforce the order. The court shall
23 not require the commissioner to post a bond in an action or
24 proceeding under this subsection. If the court finds, after
25 notice and opportunity for hearing, that the person is not in
26 compliance with an order, the court may adjudge the person to
27 be in civil contempt of the order. The court may impose a civil
28 penalty against the person for contempt in an amount not less
29 than three thousand dollars but not greater than ten thousand
30 dollars for each violation and may grant any other relief that
31 the court determines is just and proper in the circumstances.
32 Sec. 28. Section 598.20A, Code 2011, is amended to read as
33 follows:
34 **598.20A Beneficiary revocation — life insurance.**
35 1. Except as preempted by federal law, if a decree of

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1 dissolution, annulment, or separate maintenance is issued after
2 ~~an insured~~ the policy owner of an insurance contract insuring
3 the policy owner's own life has designated the ~~insured's~~ policy
4 owner's spouse or one or more relatives of the ~~insured's~~ policy
5 owner's spouse as a beneficiary under a life insurance policy
6 in effect on the date of the decree, a provision in the life
7 insurance policy making such a designation is voided by the
8 issuance of the decree unless any of the following apply:
9 *a.* The decree designates the ~~insured's~~ policy owner's former
10 spouse or one or more relatives of the ~~insured's~~ policy owner's
11 spouse as beneficiary.
12 *b.* After issuance of the decree, the ~~insured~~ policy owner
13 executes a designation of beneficiary form provided by the
14 insurance company naming the ~~insured's~~ policy owner's former
15 spouse or one or more relatives of the ~~insured's~~ policy owner's
16 former spouse as beneficiary.
17 *c.* The ~~insured~~ policy owner and the ~~insured's~~ policy owner's
18 former spouse remarry.
19 2. If a beneficiary designation is not effective pursuant to
20 subsection 1, the benefits or proceeds of the life insurance
21 policy are payable to an alternate beneficiary, or if there is
22 no alternate beneficiary, to the estate of the ~~insured~~ policy
23 owner.
24 3. An insurer who pays benefits or proceeds of a life
25 insurance policy to a beneficiary under a designation that is
26 void pursuant to subsection 1 is not liable for payment to an
27 alternative beneficiary as provided under subsection 2 unless
28 both of the following apply:
29 *a.* At least ten days prior to payment of the benefits
30 or proceeds of the life insurance policy to the designated
31 beneficiary, the insurer receives written notice at the home
32 office of the insurer that the designation of the beneficiary
33 is not effective pursuant to subsection 1.
34 *b.* The insurer has failed to interplead the benefits or
35 proceeds of the life insurance policy in a court of competent

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1 jurisdiction in accordance with the rules of civil procedure.
2 4. This section does not limit the right of a beneficiary
3 to seek recovery from any person or entity that erroneously
4 receives or collects the benefits or proceeds from a life
5 insurance policy.
6 5. This section does not affect the right of ~~an insured's~~
7 ~~former~~ a policy owner's spouse to assert an ownership interest
8 in a life insurance policy insuring the life of the policy
9 owner that is not disclosed to the ~~insured's~~ policy owner's
10 spouse prior to the decree of dissolution, annulment, or
11 separate maintenance and that is not addressed by the decree.
12 6. For purposes of this section, *"relative of the ~~insured's~~*
13 *policy owner's spouse"* means a person who is related to the
14 ~~insured's~~ policy owner's former spouse by blood, adoption,
15 or affinity, and who, subsequent to a decree of dissolution,
16 annulment, or separate maintenance, ceases to be related to the
17 ~~insured~~ policy owner by blood, adoption, or affinity.
18 Sec. 29. EFFECTIVE UPON ENACTMENT. The following
19 provision or provisions of this Act, being deemed of immediate
20 importance, take effect upon enactment:
21 1. The section of this Act enacting section 507C.17A.
22 EXPLANATION
23 This bill relates to various matters under the purview of the
24 insurance division of the department of commerce.
25 DEPARTMENT OF PUBLIC HEALTH. Code section 135.22A(2)(g)
26 is stricken to remove the commissioner of insurance from the
27 membership of the advisory council on brain injuries.
28 UNIFORM SECURITIES ACT (BLUE SKY LAW). Code section
29 502.412(3) is amended to increase the amount of the
30 disciplinary penalty for registrants that the administrator
31 (commissioner of insurance or the commissioner's deputy) can
32 impose for a violation of the Code chapter from a maximum of
33 $5,000 to $10,000 for a single violation, and from $500,000 to
34 $1 million for more than one violation, or in such amount as
35 agreed to by the parties.

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1 Code section 502.604(4) is amended to increase the amount
2 of a civil penalty the administrator can impose against a
3 person for engaging in an act, practice, or course of business
4 in violation of the Code chapter from a maximum of $5,000 to
5 $10,000 for a single violation, and from $500,000 to $1 million
6 for more than one violation, or in an amount agreed to by the
7 parties.
8 New Code section 502.604(5A) provides that a person
9 who fails to obey a valid cease and desist order issued by
10 the administrator may be subject to a civil penalty in an
11 amount of not less than $1,000 and not more than $10,000 for
12 violating the order. Each day the failure to obey continues
13 constitutes a separate violation. The penalties provided in
14 this subsection are in addition to, and not exclusive of other
15 remedies that may be available.
16 INSURANCE DIVISION. Code section 505.8(10) is amended to
17 allow the commissioner to assess the costs of the examination
18 of a regulated entity necessary to accomplish compliance with
19 the insurance laws of this state.
20 DOMESTIC INSURANCE COMPANIES. New Code section 506.14
21 provides that any plan for the voluntary dissolution of a
22 domestic mutual insurance company licensed in this state shall
23 be presented for approval by the commissioner not less than 90
24 days prior to notice of the plan to the policyholders. The
25 commissioner must approve the plan if it complies with all
26 applicable laws and is fair and equitable to the company and to
27 its policyholders.
28 EXAMINATION OF INSURANCE COMPANIES. Code section
29 507.10(4)(a) is amended to allow the board of directors of
30 an insurance company to signal that each member has reviewed
31 an examination report with a notation in the board's meeting
32 minutes instead of by filing affidavits indicating that each
33 member has received a copy of the report.
34 Code section 507.14 is amended to allow the commissioner
35 to release confidential documents and other materials to the

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1 international association of insurance supervisors and the bank
2 for international settlements provided that those entities
3 give written certification that the records will be kept
4 confidential.
5 INSURANCE TRADE PRACTICES. New Code section 507B.4(20)
6 makes it an unfair or deceptive act or practice in the business
7 of insurance for an issuer of a Medicare supplement policy
8 to fail to terminate that coverage and refund any unearned
9 premiums, upon receiving written notice from the policyholder
10 that the policyholder desires to terminate the coverage and has
11 obtained Medicare Part C coverage. An issuer is not required
12 to refund premiums for any period of time in excess of five
13 years prior to the date of receiving such written notice.
14 INSURERS SUPERVISION, REHABILITATION, AND LIQUIDATION.
15 New Code section 507C.17A contains provisions that apply in
16 accordance with the federal Dodd-Frank Wall Street Reform and
17 Consumer Protection Act to a domestic insurer that is a covered
18 financial company, as that term is defined in federal law.
19 The bill provides that the commissioner of insurance may
20 file a petition in the state district court for an order of
21 rehabilitation or liquidation of such a domestic insurer upon
22 receiving notice from the secretary of the treasury of the
23 United States that the insurer acquiesces or consents to the
24 appointment of a receiver; upon an order of the United States
25 district court for the District of Columbia as to that insurer;
26 or when a petition of the secretary of the treasury of the
27 United States concerning the insurer is granted by operation
28 of law.
29 Notwithstanding any other provision of law to the contrary,
30 the state district court, after notice to the insurer, may
31 grant an order on such a petition within 24 hours after the
32 filing of the petition. If the district court does not make a
33 determination on the petition within 24 hours of its filing,
34 the order is deemed granted by operation of law upon expiration
35 of the 24-hour period.

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1 At the time an order is deemed granted, the provisions of
2 Code chapter 507C are deemed to be in effect, the commissioner
3 is deemed to be affirmed as the receiver and to have all of
4 the applicable powers provided by Code chapter 507C, and the
5 state district court must expeditiously enter an order of
6 rehabilitation or liquidation. An order of rehabilitation or
7 liquidation made pursuant to the provisions of the bill is not
8 subject to a stay or injunction pending appeal.
9 This provision is effective upon enactment.
10 INSURANCE FRAUD. Code section 507E.5(2) is amended to allow
11 the commissioner to share documents with local as well as
12 state, federal, and international law enforcement authorities
13 if the recipient agrees to maintain the confidentiality of
14 confidential and privileged documents that are shared.
15 LIFE INSURANCE COMPANIES AND ASSOCIATIONS. Code section
16 511.8(14) is amended to provide that a life insurance company
17 can include in its legal reserve as real property a controlling
18 membership, partnership, shareholder, or trust interest in any
19 entity created solely for the purpose of owning and operating a
20 leasehold of real estate, an undivided interest in a leasehold
21 of real estate, or an undivided interest in the fee title of
22 real estate. The entity must be expressly limited to that
23 purpose by its organizational documents.
24 Code section 511.8(19) is amended to provide that a life
25 insurance company can include in its legal reserve certain
26 foreign investments not in excess of 25, instead of 20,
27 percent of its legal reserve. Investments in obligations of a
28 foreign government rated AAA by Standard and Poor's division
29 of McGraw-Hill companies, inc., or Aaa by Moody's investors
30 services, inc., are eligible for inclusion in the legal reserve
31 up to 5, instead of 2, percent of the legal reserve.
32 Code section 511.8(23) is amended to provide that if
33 securities held in a life insurance company's legal reserve are
34 loaned, the collateral received for the loaned securities is
35 not eligible for inclusion in the legal reserve.

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1 New Code section 511.40(5) provides that the gross amount of
2 premiums received by a life insurance company or association
3 for an employer-owned life insurance contract shall be
4 allocated to this state for purposes of calculating the state
5 premium tax if the contract is issued or delivered in this
6 state or the company or association is domiciled in this state.
7 For purposes of the subsection, "employer-owned life insurance
8 contract" means a policy which provides coverage on a life for
9 which the employer has an insurable interest under this Code
10 section or the laws of another state and the policy is owned by
11 either the employer or a trust established by the employer for
12 the benefit of the employer or the employer's active or retired
13 employees.
14 NONPROFIT HEALTH SERVICE CORPORATIONS. Code section 514.4
15 is amended to provide that a person who is affiliated with a
16 hospital or other entity that does not have a provider contract
17 with a dental service corporation can serve as a subscriber
18 director of that corporation.
19 INSURANCE OTHER THAN LIFE. Code section 515.26 is amended to
20 eliminate a requirement that all of the directors of a mutual
21 company shall be policyholders.
22 Code section 515.69(1) is amended to require that a foreign
23 stock insurance company must possess the actual amount of
24 capital and surplus required of any company organized pursuant
25 to Code chapter 515, or if the insurer is a mutual company,
26 the actual amount of surplus required of any mutual company
27 organized pursuant to Code chapter 515. Currently, a foreign
28 stock insurance company is required to have $2.5 million of
29 actual paid-up capital, and a surplus in cash or invested in
30 securities authorized by law of not less than $2.5 million.
31 Code section 515.136 is amended to provide that an insurance
32 company or association is liable for the actual value of the
33 property insured at a date of a loss, unless that value exceeds
34 the amount stated in the policy. Currently, the insurer
35 issuing such a policy may show the actual value of the property

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1 at the date of issuance of the policy and any depreciation in
2 the value of the property after a loss occurred but is still
3 liable for the actual value of the property insured on the date
4 of loss or the policy amount, whichever is less.
5 WORKERS' COMPENSATION LIABILITY INSURANCE. Code section
6 515A.7(1)(b)(5) is amended to remove a reference to a
7 "scheduled rating plan", a term that is not defined in the Code
8 chapter.
9 COUNTY MUTUAL INSURANCE ASSOCIATIONS. Code section
10 518.14(4)(f) is amended to allow county mutual insurance
11 associations to invest in stocks that are issued or guaranteed
12 by limited partnerships publicly traded on a nationally
13 established stock exchange in the United States.
14 STATE MUTUAL INSURANCE ASSOCIATIONS. Code section
15 518A.12(4)(f) is amended to allow state mutual insurance
16 associations to invest in stocks that are issued or guaranteed
17 by limited partnerships publicly traded on a nationally
18 established stock exchange in the United States.
19 RISK-BASED CAPITAL REQUIREMENTS FOR INSURERS. Code section
20 521E.1(4) is amended to provide that for purposes of the Code
21 chapter, a fraternal benefit society organized under Code
22 chapter 512B is a domestic insurer. Code section 521E.1(4)(b),
23 which excepted a fraternal benefit society from inclusion as
24 a domestic insurer, is stricken. Corresponding changes to
25 include such a society are made in Code section 521E.1(6) and
26 (7).
27 Code section 521E.3(1)(a)(2) is amended to provide that for
28 a life and health insurer, a company-action-level event means
29 the insurer's total adjusted capital is greater than or equal
30 to its company-action-level risk-based capital but less than
31 the product of its authorized-control-level risk-based capital
32 and three, instead of two and one-half, and has a negative
33 trend.
34 LICENSING OF PUBLIC ADJUSTERS. Code section 522C.6 is
35 amended to add provisions allowing the commissioner of

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1 insurance to hold hearings, issue cease and desist orders,
2 assess civil penalties, and petition for enforcement of those
3 orders by the district court against persons who violate
4 the provisions of Code chapter 522C. The district court is
5 authorized to adjudge a violator in civil contempt of an order
6 and to impose a civil penalty for contempt of not less than
7 $3,000 but not more than $10,000 for each violation and grant
8 any other relief the court determines is just and proper under
9 the circumstances.
10 DISSOLUTION OF MARRIAGE AND DOMESTIC RELATIONS. Code
11 section 598.20A is amended to provide that it is the policy
12 owner of an insurance contract insuring the policy owner's own
13 life, not the insured, who designates the beneficiary of the
14 policy and is authorized to make changes in that designation
15 after a decree of dissolution of marriage, annulment, or
16 separate maintenance.

House File 2340 - Introduced

HOUSE FILE 2340
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 628)

A BILL FOR

1 An Act relating to credit unions, including methods of
2 voting by credit union members and the board of directors,
3 electronic communications to certain credit union members,
4 the composition of the board of directors, assessment of
5 fees for examination and supervision, limited negotiated
6 disclosures of certain confidential information, treatment
7 of ownership shares, and superintendent management
8 authority, and making penalties applicable.
9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5194HV (1) 84
rn/rj

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Section 1. Section 533.108, subsection 1, Code 2011, is amended to read as follows:

1. *a.* Records of the credit union division are public records subject to the provisions of chapter 22, except as otherwise provided in this chapter.

b. Papers, documents, writings, reports, reports of examinations and other information relating specifically to the supervision and regulation of a specific state credit union or of other persons by the superintendent pursuant to the laws of this state are not public records and shall not be open for examination or copying by the public or for examination or publication by the news media.

c. The superintendent or an employee of the credit union division shall not disclose ~~such~~ information relating specifically to the supervision and regulation of a specific state credit union or of other persons in any manner to any person other than the person examined, except as otherwise authorized by this section or section 533.113 or 533.308.

d. Notwithstanding the prohibition on disclosure pursuant to paragraph *"c"*, the superintendent or an employee of the credit union division may disclose information relating specifically to the supervision and regulation of a specific state credit union or of other persons if the credit union or other person consents in writing to the disclosure and the persons to whom the disclosures are made are subject to, or agree to comply with, standards of confidentiality comparable to those contained in this chapter.

Sec. 2. Section 533.112, Code 2011, is amended to read as follows:

533.112 Annual and individual fees — examination fees — delinquencies.

1. Each state credit union shall pay an annual fee for examination and supervision as determined by the superintendent based on the actual cost of operating the credit union division.

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a. The cost of operating the credit union division shall include but not be limited to costs and expenses for salaries and benefits, expenses and travel for employees, office facilities, supplies, equipment, and administrative costs and expenses incurred in the discharge of the duties imposed on the superintendent under this chapter.

b. (1) The cost of operating the credit union division shall also include but not be limited to the costs incurred due to additional time and other division resources required for any of the following:

(a) Performing services for the credit union that are customarily performed by the credit union.

(b) Performing services related to a particular examination that exceed estimates for an individual credit union's examination based on factors including but not limited to the asset size of the credit union, the complexity of transactions to be examined, and the examination history of the credit union.

(2) An individual fee assessment for such costs incurred under this paragraph "*b*" may be made in addition to a credit union's annual fee.

c. ~~The~~ In establishing the structure of the fee schedule, the superintendent shall consider recommendations from the review board and from state credit unions ~~in determining the amount of the annual fee~~.

d. The annual fee may be paid in one or more installments, as provided by rule by the superintendent.

2. Each ~~state credit union,~~ corporation, credit union service organization, or other person subject to an examination pursuant to section 533.113 shall pay an examination fee as determined by the superintendent, which shall reflect but not be limited to the time required for the examination and the costs of the examination. ~~The superintendent shall establish by rule an examination fee schedule.~~

a. The costs of the examination shall include but not

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be limited to costs and expenses for salaries and benefits, expenses and travel for employees, office facilities, supplies, equipment, and administrative costs and expenses incurred in the discharge of duties imposed upon the superintendent under this chapter.

b. The examination fee shall be due within thirty days of presentation of the fee statement to the corporation, credit union service organization, or other person examined by the division.

3. In addition to the annual fee and examination fee assessed pursuant to this section, the division may also assess a credit union, credit union service organization, corporation, or other person subject to an examination pursuant to section 533.133 for the expense of accountants, investigators, and other experts reasonably necessary to assist in the conduct of the examination, pursuant to section 533.113, subsection 1.

4. *a.* Failure of a state credit union, corporation, credit union service organization, or other person to pay a fee pursuant to subsection 1, ~~or~~ 2, or 3 shall result in the fee being considered delinquent and a penalty equal to five percent of the original fee may be assessed for each day or part of a day the payment remains delinquent.

b. A fee delinquency under this subsection by a corporation, credit union service organization, or other person may result in the superintendent collecting the delinquent fee and penalty from the state credit union owning shares or investments or having business transactions or a relationship with such corporation, credit union service organization, or other person.

c. A fee delinquency under this subsection may also constitute grounds for revocation of the certificate of approval of the credit union to operate in this state.

Sec. 3. Section 533.113, subsection 6, paragraph e, Code 2011, is amended by striking the paragraph.

Sec. 4. Section 533.201, subsections 7 and 8, Code 2011, are

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amended to read as follows:

7. ~~Articles of incorporation may be amended by a favorable vote of a majority of the members present at a meeting, if that number constitutes a quorum and if the proposed amendment was contained in the notice of the meeting.~~

~~8. Bylaws~~ Articles of incorporation or bylaws may be amended by any of the following methods, upon a favorable vote of a majority of the board of directors selecting the method of voting:

a. The favorable vote of a majority of the members present at a meeting, if that number constitutes a quorum and if the proposed amendment was contained in the notice of the meeting.

b. The favorable vote of a majority of the members of the board.

c. By a majority vote of members voting by mailed or electronic ballot, ensuring ~~the confidentiality of voters~~ votes remain confidential and secret from all interested parties, and that each member is only allowed to vote once, according to procedures specified by rule of the superintendent~~, requiring at least twenty days' notice to all members~~ or as specified in the bylaws. ~~An announcement shall be made to members of the results of the vote. Ballots shall be preserved for a reasonable period of time following the vote.~~

d. A combination of procedures as specified in paragraphs *"a"* and *"c"*, ~~whereby members are allowed to vote either in person at a meeting or by mailed or electronic ballot,~~ according to procedures specified by rule of the superintendent or as specified in the bylaws.

8. If the proposed amendment receives a favorable majority of the total votes cast ~~in person and by mailed or electronic ballot~~ under the method of voting selected under subsection 7, the articles of incorporation or bylaws ~~shall be~~ are amended as proposed. Notice shall be given to members of the results of the vote. Ballots of members shall be preserved for at least sixty days after the results are tallied and notice given to

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1 members, and until any challenge is resolved.
2 Sec. 5. Section 533.203, Code 2011, is amended to read as
3 follows:
4 **533.203 Fiscal year — membership meetings — voting by**
5 **membership — notice.**
6 1. The fiscal year of all state credit unions shall end
7 December 31.
8 2. Annual meetings shall be held, and special meetings may
9 be held, in the manner indicated in the bylaws.
10 *a.* ~~At all meetings, a~~ A member shall have one vote
11 regardless of the number of or class of shares held by the
12 member.
13 *b.* There shall be no voting by proxy.
14 *c.* A member other than a natural person may cast a single
15 vote through a delegated agent.
16 3. *a.* ~~The majority of members present at any meeting may~~
17 ~~vote to modify, amend, or reverse any act of the board of~~
18 ~~directors or instruct the board to take action not inconsistent~~
19 ~~with the articles, bylaws, or this chapter.~~
20 ~~*b.* In order to be binding upon the board of directors, any~~
21 ~~action taken by the membership to modify, amend, or reverse~~
22 ~~an act of the board, or to instruct the board to take action,~~
23 ~~requires an affirmative vote of a majority of all eligible~~
24 ~~members obtained by submitting the modification, amendment, or~~
25 ~~reversal to the members by mail or electronic ballot, pursuant~~
26 ~~to rules adopted by the superintendent.~~ When a vote of the
27 membership is required under the provisions of this chapter,
28 the board of directors, by a favorable vote of the majority
29 of the board, shall select one of the following methods for
30 conducting that vote, unless a procedure for that vote is
31 otherwise specified:
32 (1) The favorable vote of a majority of the members present
33 at a meeting, if that number constitutes a quorum and if the
34 proposed vote was contained in the notice of the meeting.
35 (2) By a majority vote of members voting by mailed or

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electronic ballot according to procedures specified by rule of the superintendent or as specified in the bylaws.

(3) A combination of procedures as specified in subparagraphs (1) and (2), according to procedures specified by rule of the superintendent or as specified in the bylaws.

b. Notice shall be given to members of the results of the vote. Ballots of members shall be preserved for at least sixty days after the results are tallied and notice given to members, and until any challenge is resolved.

4. Votes of the membership conducted in accordance with this chapter shall ensure that votes remain confidential and secret from all interested parties, and that each member is only allowed to vote once.

5. When notice to members is required under the provisions of this chapter, the board of directors may satisfy the notice requirement by sending the notice electronically to those members who have exercised an option to receive notices electronically.

6. Credit unions may send account statements and other communications electronically to those members who have exercised an option to receive communications electronically.

Sec. 6. NEW SECTION. **533.203A Vote to modify, amend, or reverse act of board of directors — instruction to take action.**

1. The majority of members present at any meeting may vote to modify, amend, or reverse any act of the board of directors or instruct the board to take action not inconsistent with the articles, bylaws, or this chapter.

2. In order to be binding upon the board of directors, any action taken by the membership to modify, amend, or reverse an act of the board, or to instruct the board to take action, requires an affirmative vote of a majority of all eligible members obtained by submitting the modification, amendment, reversal, or instruction to the members for a vote, pursuant to the provisions of section 533.203.

Sec. 7. Section 533.204, Code Supplement 2011, is amended

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to read as follows:

533.204 Election of board.

1. At the organizational meeting, and at each annual meeting after initial organization, a board of directors ~~of not less than nine members~~ shall be elected to hold office ~~for such~~. The board shall consist of at least seven members, but in every instance shall be composed of an odd number of directors. The directors shall serve staggered terms of three years, as the bylaws provide ~~and~~, so that an approximately equal number of terms expire at each annual meeting. A director shall serve until ~~successors are~~ a successor is elected and qualified.

2. At each annual meeting, one member shall be elected to fill each position vacated by reason of an expiring term or other cause.

3. ~~Pursuant to rules adopted by the superintendent, state credit unions may~~ The board of directors shall allow members to vote on the election of directors ~~via electronic means including but not limited to the internet or telephone~~ according to the provisions of section 533.203.

4. A record of the names and addresses of the directors, officers, and committee persons shall be filed with the superintendent within ten days following each election or any other change in the directors, officers, or committee persons.

~~5. *a.* A state credit union wishing to maintain a board of directors of less than nine members may apply to the superintendent for permission to reduce the required number of directors. An application to reduce the required number of directors under this subsection must demonstrate both of the following:~~

~~(1) The application is necessitated by a hardship or other special circumstance.~~

~~(2) A lesser number of directors is in the best interest of the state credit union and its members.~~

~~*b.* In no event shall the superintendent allow a state credit union to maintain fewer than seven directors on a state credit~~

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1 ~~union board.~~
2 Sec. 8. Section 533.205, subsection 2, paragraph b, Code
3 Supplement 2011, is amended to read as follows:
4 *b.* The board may also appoint alternate members of the
5 credit committee or the auditing committee.
6 Sec. 9. Section 533.208, subsection 3, Code 2011, is amended
7 to read as follows:
8 3. Suspend by ~~unanimous~~ majority vote any officer,
9 director, or member of the auditing committee ~~and call the~~
10 ~~members together to act on the suspension~~, if the auditing
11 committee deems the action to be necessary to the proper
12 conduct of the state credit union. The suspension shall be
13 put to a vote of the membership, according to the provisions
14 of section 533.203. The members ~~at the meeting~~ may vote to
15 sustain the suspension and remove the officer, director, or
16 member permanently or may vote to reinstate the officer,
17 director, or member.
18 Sec. 10. Section 533.210, subsections 3, 4, and 6, Code
19 2011, are amended to read as follows:
20 3. Any member may withdraw from the state credit union
21 at any time, but advance notice of withdrawal of shares or
22 deposits may be required as provided in this section.
23 4. After deducting all amounts due from the member to
24 the state credit union and the amount necessary to honor
25 outstanding share drafts drawn against accounts of the member,
26 all amounts paid on shares or as deposits of an expelled or
27 ~~withdrawing~~ withdrawn member, along with accrued dividends and
28 interest to the date of expulsion or withdrawal, shall be paid
29 to that member.
30 6. ~~Withdrawing or expelled~~ Expelled or withdrawn members
31 shall have no further rights in the state credit union.
32 However, ~~withdrawing or~~ expelled or withdrawn members shall not
33 be released from any remaining liability to the state credit
34 union because of the expulsion or withdrawal.
35 Sec. 11. Section 533.213, subsection 3, paragraph f, Code

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2011, is amended to read as follows:

f. Sell all or part of its assets to another corporate central credit union and assume the liabilities of a selling corporate central credit union if the action is pursuant to a plan agreed upon by a majority of the board of directors and, in the case of the sale of all of its assets, the affirmative vote of a majority of its members ~~either by mail or in person at a meeting called for that purpose~~ according to the provisions of section 533.203.

Sec. 12. Section 533.302, Code 2011, is amended to read as follows:

533.302 Capital.

1. The capital of a credit union shall consist of the payments that have been made to it by the several members thereof on shares. A credit union may charge an entrance fee as may be provided by the bylaws.

2. A credit union may establish an equity share having a par value not to exceed one hundred dollars which shall be a part of the capital of the credit union and shall not be withdrawn or transferred except upon ~~termination of~~ expulsion or withdrawal from membership in the credit union, as provided in section 533.210.

3. At the option of the credit union, the equity share may earn a dividend and may be insured.

Sec. 13. Section 533.307, Code 2011, is amended to read as follows:

533.307 Account insurance.

Except as provided in section 533.302, subsection ~~2~~ 3, a credit union organized under this chapter, as a condition of maintaining its privilege of organization, shall acquire and maintain insurance to protect each shareholder and each depositor against loss of funds held on account by the credit union. The insurance shall be obtained from the national credit union administrator or from some other share guarantor or insurance plan approved by the Iowa commissioner of

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1 insurance and the superintendent, provided that each credit
2 union shall acquire deposit insurance from the appropriate
3 agency of the federal government.
4 Sec. 14. Section 533.308, subsection 2, Code 2011, is
5 amended to read as follows:
6 2. The superintendent may furnish to any official of an
7 insurance plan by which the accounts of a state credit union
8 are insured or by which its employees and officials are bonded,
9 any information relating to examinations, investigations,
10 and reports of the status of that state credit union or
11 its employees and officials for the purpose of facilitating
12 the availability or continuation of the insurance or bond
13 of the state credit union or resolution of a claim. The
14 superintendent and the insurance company shall, whenever
15 possible, execute a confidentiality agreement regarding
16 the information provided by the superintendent that imposes
17 standards of confidentiality comparable to those required by
18 this chapter.
19 Sec. 15. Section 533.308, Code 2011, is amended by adding
20 the following new subsection:
21 NEW SUBSECTION. 3. A state credit union may furnish to
22 any official of an insurance plan by which the accounts of the
23 state credit union are insured or by which its employees and
24 officials are bonded, any information regarding transactions
25 of the state credit union, examinations, investigations,
26 or reports of the status of the state credit union or its
27 employees and officials for the purpose of facilitating the
28 availability or continuation of the insurance or bond of the
29 state credit union or resolution of a claim. The state credit
30 union and the insurance company shall, whenever possible,
31 execute a confidentiality agreement regarding the information
32 provided by the state credit union that imposes standards of
33 confidentiality comparable to those required by this chapter.
34 Sec. 16. Section 533.309, subsection 1, Code 2011, is
35 amended to read as follows:

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1. *Ownership share account.* The ownership share account shall consist of an account balance held by the state credit union in accordance with the state credit union's bylaws. Each member may acquire only one ownership share. In the case of a joint account, the joint account owners may acquire only one ownership share unless each joint account owner applies for and is accepted as an individual member. ~~The state credit union shall not set off fees against a member's ownership share.~~

Sec. 17. Section 533.325, subsection 1, Code 2011, is amended to read as follows:

1. The directors, officers, committee members, and employees of a state credit union shall hold in confidence all information regarding transactions of the state credit union, including information regarding transactions with its members and their personal affairs, except to the extent necessary in connection with ~~making~~ any of the following:

a. Making, extending, or collecting a loan or line of credit~~, guaranteeing~~.

b. Guaranteeing of member share drafts by third parties~~, or complying~~.

c. Communicating with an insurance company for the purpose of facilitating the availability or continuation of the insurance or bond of the state credit union or the resolution of a claim, pursuant to section 533.308, subsection 3.

d. Pursuant to a confidentiality agreement that is executed pursuant to section 533.108, subsection 1.

e. Complying with the examination of credit union records by regulatory authorities ~~or compliance~~.

f. Compliance with an order from a court having jurisdiction over the state credit union.

Sec. 18. Section 533.401, subsection 1, Code 2011, is amended to read as follows:

1. With the approval of the superintendent, a state credit union may merge with another credit union under the existing certificate of approval of the other credit union if the merger

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is pursuant to a plan agreed upon by a majority of the board of directors of each credit union joining in the merger and the merger is approved by the affirmative vote of a majority of the members of the merging credit union ~~either by mail or in person at a meeting called for the purpose of voting on the merger~~ according to the provisions of section 533.203. At least twenty days' notice shall be provided between the sending of notice and the scheduled conclusion of the vote.

Sec. 19. Section 533.401, subsection 3, paragraph c, Code 2011, is amended to read as follows:

c. ~~At the meeting called to consider the merger, a~~ A majority of the votes received, ~~by regular mail or in person, upon the question~~ according to the method of voting selected by the board of directors pursuant to section 533.203, were in favor of the merger.

Sec. 20. Section 533.403, subsection 1, Code 2011, is amended to read as follows:

1. A state credit union may convert into a federal credit union with the approval of the administrator of the national credit union administration and by the affirmative vote of a majority of the credit union's members who vote on the proposal, according to the provisions of section 533.203. ~~This vote, if taken, shall be at a meeting called for that purpose and shall be in the manner prescribed by the bylaws.~~

Sec. 21. Section 533.405, subsections 1, 2, and 6, Code 2011, are amended to read as follows:

1. ~~At a special meeting called for that purpose, a~~ A state credit union may dissolve upon the affirmative vote of a majority of its members eligible to vote ~~at the special meeting~~ according to the provisions of section 533.203. At least twenty days' notice shall be provided between the sending of notice and the scheduled conclusion of the vote.

~~*a.* Notice of the meeting's purpose shall be contained in the meeting's notice.~~

~~*b.* Any member eligible to vote and not present at the~~

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~~meeting may, within twenty days after the date on which the meeting was held, vote in favor of dissolution by signing a statement in a form approved by the superintendent. This vote shall have the same force and effect as if cast at the meeting.~~

2. *a.* The state credit union shall cease to do business except for the purposes of liquidation immediately upon ~~giving~~ sending notice of the ~~special meeting called for the~~ members' vote on dissolution.

b. The board of directors shall ~~immediately~~ notify the superintendent of the intention of the state credit union to dissolve within three business days of a vote by a majority of the board of directors in favor of dissolution, and prior to sending notice of the members' vote.

c. The state credit union shall not resume its regular business unless the dissolution fails to receive the required vote of the members or unless the members have revoked prior affirmative action to dissolve as provided for in subsection 6.

6. *a.* At any time prior to any distribution of its assets, a state credit union may revoke the voluntary dissolution proceedings by the affirmative vote of a majority of its members eligible to vote, according to the provisions of section 533.203. ~~This vote, if taken, shall be at a special meeting called for that purpose in the manner prescribed by the bylaws.~~ At least twenty days' notice shall be provided between the sending of notice and the scheduled conclusion of the vote.

b. ~~The~~ Upon the conclusion of the vote, the board of directors shall immediately notify the superintendent of any such action to revoke voluntary dissolution proceedings.

Sec. 22. Section 533.502, subsection 2, Code 2011, is amended to read as follows:

2. *a.* The superintendent shall ~~thereafter~~ manage the property and business of the state credit union until such time as the superintendent may relinquish to the state credit union the management, upon such conditions as the superintendent may prescribe, or until the affairs of the state credit

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union are finally dissolved as provided in this chapter. The superintendent may operate and direct the affairs of the state credit union in its regular course of business. The superintendent may also collect amounts due the state credit union and do such other acts as are necessary or expedient to conduct the affairs of the state credit union and conserve or protect its assets, property, and business.

b. The superintendent may appoint one or more persons, with powers specified in the certificate of appointment, to assist the superintendent in the duty of management, conservation, or dissolution and distribution of the business and property of a state credit union.

c. During the period of the superintendent's management of the property and business of the state credit union, and prior to the time that the superintendent may apply to the district court for appointment as receiver, the superintendent may assess the state credit union for costs and expenses incurred by the division in the management of the state credit union. Costs and expenses shall include but not be limited to costs and expenses for salaries and benefits, expenses and travel for employees, office facilities, supplies, equipment, and administrative costs and expenses incurred in the management of the state credit union.

EXPLANATION

This bill relates to matters under the purview of the credit union division of the department of commerce.

The bill modifies provisions prohibiting disclosure of confidential information pertaining to the supervision and regulation of a specific state credit union or of other persons. The bill provides that, notwithstanding the general prohibition on disclosure, the superintendent of credit unions or an employee of the credit union division may disclose information relating specifically to the supervision and regulation of a specific state credit union or of other persons if the credit union or other person consents in writing to

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1 the disclosure and the persons to whom the disclosures are
2 made are subject to, or agree to comply with, standards of
3 confidentiality comparable to those contained in Code chapter
4 533. The bill references Code sections 533.113 and 533.308
5 as constituting exceptions to the general prohibition. In
6 connection specifically to Code section 533.308, relating to
7 the furnishing to officials of an insurance plan and specified
8 information to facilitate the availability or continuation
9 of insurance or a bond, or the resolution of a claim, the
10 bill adds that the superintendent and the insurance company
11 shall, whenever possible, execute a confidentiality agreement
12 regarding the information provided by the superintendent.
13 The bill specifies that the annual fees referenced in Code
14 section 533.112 payable by state credit unions refer to one
15 annual fee relating to examination and supervision, based on
16 the actual cost of operating the credit union division. The
17 bill provides that the cost of operating the credit union
18 division shall include but not be limited to costs and expenses
19 for salaries and benefits, expenses and travel for employees,
20 office facilities, supplies, equipment, and administrative
21 costs and expenses incurred in the discharge of the duties
22 imposed on the superintendent under Code chapter 533. The bill
23 provides that the cost of operating the credit union division
24 shall also include but not be limited to the costs incurred
25 due to additional time and other division resources required
26 for either performing services for the credit union that are
27 customarily performed by the credit union, or performing
28 services related to a particular examination that exceed
29 estimates for an individual credit union´s examination based on
30 specified factors, and that an individual fee assessment for
31 such costs may be made in addition to a credit union´s annual
32 fee. The bill states that the annual fee may be paid in one or
33 more installments, as provided by rule by the superintendent.
34 The bill also provides that a separate examination fee shall
35 be payable by a corporation, credit union service organization,

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1 or other person subject to an examination pursuant to Code
2 section 533.113 in an amount determined by the superintendent,
3 which shall reflect but not be limited to the time required
4 for the examination and the costs of the examination. The
5 bill provides that the costs of the examination shall include
6 components similar to the previously referenced fee payable
7 by state credit unions including but not be limited to costs
8 and expenses for salaries and benefits, expenses and travel
9 for employees, office facilities, supplies, equipment, and
10 administrative costs and expenses incurred in the discharge
11 of duties imposed upon the superintendent. The bill provides
12 that this examination fee shall be due within 30 days of
13 presentation of the fee statement to the corporation, credit
14 union service organization, or other person examined by the
15 division. Further, the bill specifies that the assessment of a
16 credit union, credit union service organization, corporation,
17 or other person subject to an examination for the expense
18 of accountants, investigators, and other experts reasonably
19 necessary to assist in the conduct of the examination, is
20 separate from and not included in the annual fee.
21 The bill deletes a provision in Code section 533.309
22 that prohibits credit unions from setting off fees against
23 a member's ownership share. The bill modifies provisions
24 contained in Code sections 533.210 and 533.302 relating to
25 withdrawing members providing advance notice of the withdrawal
26 of shares or deposits in the credit union, and referring to
27 expelled or withdrawn members.
28 The bill additionally coordinates voting procedures
29 throughout Code chapter 533 pursuant to modifications to
30 Code section 533.203. The bill provides that when a vote
31 is required, the board of directors of the credit union by
32 majority vote shall select one of several alternative methods
33 for conducting the vote, unless a procedure for a particular
34 vote is otherwise specified. The alternative methods include
35 by a vote of a majority of the members present at a meeting,

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if that number constitutes a quorum and if the proposed vote was contained in the notice of the meeting; by a majority vote of members voting by mailed or electronic ballot according to procedures specified by rule of the superintendent or as specified in the bylaws; or by a combination of these procedures as established by rule of the superintendent or as specified in the bylaws. The bill provides that notice shall be given to members of the results of the vote, and that ballots of members shall be preserved for at least 60 days after the results are tallied and notice given to members, and until any challenge is resolved. The bill further provides that voting shall remain confidential and secret from all interested parties, that each member is only allowed to vote once, that the board of directors may satisfy notice requirements by sending the notice electronically to members who have opted to receive notices electronically, and that credit unions may send account statements and other communications electronically to members who opt to receive communications electronically. Comparable provisions are included with reference to amending the articles of incorporation or the bylaws of a credit union, provided a majority of the board of directors votes to proceed with such an amendment. Additionally, the bill relocates current provisions regarding votes to modify, amend, reverse, or instruct the board of directors contained in Code section 533.203 to a separate Code section 533.203A, and specifies notice durations. The bill references the modified voting procedures with regard to several forms of voting in Code chapter 533, and provides applicable notice requirements.

The bill addresses elections of the board of directors, modifying Code section 533.204 to refer to ongoing annual meetings, as well as the initial election of the board. Membership of the board is changed from not less than nine members to consisting of at least seven members, serving staggered terms of three years. The bill provides that the

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1 board may appoint an alternate member of the credit union's
2 auditing committee, in addition to currently authorized
3 appointments to a credit committee; and changes the voting
4 requirements for suspensions of any officer, director, or
5 member of the auditing committee from a unanimous to a majority
6 vote.
7 The bill provides, with reference to management of a state
8 credit union by the superintendent under the extraordinary
9 circumstances specified in Code chapter 533, that the
10 superintendent may operate and direct the affairs of the state
11 credit union in its regular course of business, to collect
12 amounts due the state credit union, and do such other acts as
13 are necessary or expedient to conduct the affairs of the state
14 credit union and conserve or protect its assets, property,
15 and business. The bill authorizes the superintendent to
16 appoint one or more persons, with powers specified in the
17 certificate of appointment, to assist the superintendent in
18 the duty of management, conservation, or dissolution and
19 distribution of the business and property of a state credit
20 union. Additionally, the bill provides that during the period
21 of the superintendent's management, and prior to the time
22 that the superintendent may apply to the district court for
23 appointment as receiver, the superintendent may assess the
24 state credit union for costs and expenses incurred by the
25 division in the management of the state credit union. These
26 costs and expenses shall include but not be limited to costs
27 and expenses for salaries and benefits, expenses and travel
28 for employees, office facilities, supplies, equipment, and
29 administrative costs and expenses incurred in the management of
30 the state credit union.
31 The bill also deletes an outdated reference to the federal
32 office of thrift supervision.

House File 2341 - Introduced

HOUSE FILE 2341
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 608)

A BILL FOR

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

TLSB 6023HV (2) 84
ec/nh

H.F. 2341

1 Section 1. Section 123.173A, Code 2011, is amended to read
2 as follows:
3 **123.173A Charity beer, spirits, and wine auction permit.**
4 1. For purposes of this section, *"authorized nonprofit*
5 *entity"* includes a nonprofit entity which has a principal office
6 in the state, a nonprofit corporation organized under chapter
7 504, or a foreign corporation as defined in section 504.141,
8 whose income is exempt from federal taxation under section
9 501(c) of the Internal Revenue Code.
10 2. An authorized nonprofit entity may, upon application to
11 the division and receipt of a charity beer, spirits, and wine
12 auction permit from the division, conduct a charity auction
13 which includes beer, spirits, and wine. The application shall
14 specify the date and time when the charity beer, spirits, and
15 wine auction is to be conducted and the premises in this state
16 where the charity beer, spirits, and wine auction is to be
17 physically conducted. The applicant shall certify that the
18 objective of the charity beer, spirits, and wine auction is
19 to raise funds solely to be used for educational, religious,
20 or charitable purposes and that the entire proceeds from the
21 charity beer, spirits, and wine auction are to be expended for
22 any of the purposes described in section 423.3, subsection 78.
23 3. An authorized nonprofit entity shall be eligible to
24 receive only two charity beer, spirits, and wine auction
25 permits during a calendar year and each charity beer, spirits,
26 and wine auction permit shall be valid for a period not to
27 exceed thirty-six consecutive hours.
28 4. The authorized nonprofit entity conducting the charity
29 beer, spirits, and wine auction shall obtain the beer, spirits,
30 and wine to be auctioned at the charity beer, spirits, and
31 wine auction from an Iowa retail beer permittee, an Iowa
32 retail alcoholic liquor permittee, an Iowa micro-distilled
33 spirits permittee, or an Iowa retail wine permittee, or may
34 receive donations of beer, spirits, or wine to be auctioned
35 at the charity beer, spirits, and wine auction from persons

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

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

Sec. 2. Section 123.179, subsection 5, Code 2011, is amended to read as follows:

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

EXPLANATION

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

House File 2342 - Introduced

HOUSE FILE 2342
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HF 2126)

A BILL FOR

1 An Act relating to the composition of the board of massage
2 therapy and the education requirements for licensed massage
3 therapists.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5958HV (2) 84
jr/nh

H.F. 2342

1 Section 1. Section 147.14, subsection 1, paragraph q, Code
2 2011, is amended to read as follows:
3 *q.* For massage therapists, four members licensed to practice
4 massage therapy, two members who are instructors at a school
5 of massage therapy in the state of Iowa, and three members ~~who~~
6 ~~are not licensed to practice massage therapy and~~ who shall
7 represent the general public.
8 Sec. 2. Section 152C.3, Code Supplement 2011, is amended
9 by striking the section and inserting in lieu thereof the
10 following:
11 **152C.3 Requirements for licensure.**
12 1. *a.* The board shall adopt rules pursuant to chapter 17A
13 to establish a procedure for licensing of massage therapists.
14 The rules shall establish minimum educational requirements and
15 specify and define the required massage therapy academic course
16 units.
17 *b.* License requirements shall include the following:
18 (1) Graduation from an accredited high school or the
19 equivalent.
20 (2) Graduation from a postsecondary educational institution
21 offering academic credit or clock-hour training in a massage
22 therapy curriculum approved by the board.
23 (3) Passage of a licensing examination given or approved by
24 the board.
25 (4) Payment of a fee required by the board which shall
26 compensate and be retained by the board for the costs of
27 administering this chapter.
28 *c.* To be approved by the board an educational institution
29 shall do all of the following:
30 (1) Require that applicants are at least eighteen years of
31 age and have earned a diploma from an accredited high school
32 or the equivalent.
33 (2) Require for graduation satisfactory completion of all
34 coursework required by the educational institution and proof of
35 passing an entry-level, competency-based examination.

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1 (3) Award upon completion a certificate, diploma, or
2 academic degree and transcripts.
3 (4) Maintain student records indefinitely.
4 (5) Pay a fee established by the board.
5 2. In addition to provisions for licensure, the rules shall
6 include the following:
7 *a.* Requirements regarding completion of at least twelve
8 hours of continuing education annually regarding subjects
9 concerning massage and related techniques or the health and
10 safety of the public, subject to reduction by the board if,
11 after public notice and hearing, the board determines that the
12 welfare of the public may be adequately protected with fewer
13 hours.
14 *b.* (1) Requirements for issuance of a reciprocal license
15 to licensees of states with license requirements equal to or
16 exceeding those of this chapter. The rules shall provide for
17 issuance of a temporary reciprocal license for licensees of
18 states with lesser requirements.
19 (2) A person who applies for licensure from another
20 state who provides satisfactory proof of having been
21 licensed in another state for at least twelve months in the
22 twenty-four-month period preceding the application submission,
23 whose license is currently in good standing with that state,
24 has no history of disciplinary action against such license,
25 meets or exceeds Iowa's educational requirements, and has proof
26 of passing an exam approved by the board may be considered for
27 licensure by the board.
28 3. A massage therapist licensed pursuant to this chapter
29 shall be issued a license number and a license certificate.
30 EXPLANATION
31 In order to be licensed under current law, a massage
32 therapist must complete a massage education curriculum at a
33 school approved by the board of massage therapy requiring at
34 least 600 hours of supervised academic instruction. This bill
35 eliminates the 600-hour requirement and substitutes specific

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1 educational requirements and requires approval of massage
2 therapy schools by the board of massage therapy.
3 The bill also adds two representatives of massage schools to
4 the board of massage therapy.

House File 2343 - Introduced

HOUSE FILE 2343
BY COMMITTEE ON NATURAL
RESOURCES

(SUCCESSOR TO HF 2247)

A BILL FOR

1 An Act requiring the department of natural resources to conduct
2 pheasant studies, contingent on outside funding, and
3 including a repeal.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5594HV (2) 84
av/nh

H.F. 2343

1 Section 1. NEW SECTION. **481A.6B Pheasant population studies**
2 **— reports.**
3 1. The department, in cooperation with private and public
4 partners, shall conduct a multiyear study to determine the
5 effectiveness of stocking wild or first-generation pheasants
6 in the state.
7 2. The department, in cooperation with private and public
8 partners, shall stock wild or first-generation pheasants
9 in an area with suitable pheasant habitat that has a very
10 low or no wild pheasant population. The rate at which the
11 pheasant population changes over time in the stocked area shall
12 be compared to the rate of change in another area where no
13 pheasants have been stocked. Both areas shall be located in
14 the southern half of the state. The results of the study shall
15 be published and made available to the public at the conclusion
16 of the study.
17 3. The department shall collect a sufficient amount of new
18 data as is necessary to confirm or revise population parameters
19 used by the department to predict pheasant population change.
20 A report discussing the data collected and the changes made to
21 the department's pheasant population prediction model, if any,
22 shall be submitted to the general assembly and made available
23 to the public by December 31, 2015.
24 4. The department, in cooperation with an institution under
25 the control of the state board of regents, shall also conduct a
26 study to determine the economic impact of pheasant hunting in
27 Iowa. The study shall focus on the impact to rural areas of the
28 state and to small communities. A report on the results of the
29 study shall be submitted to the general assembly by December
30 31, 2014.
31 5. The duties imposed in this section are contingent on
32 the receipt of outside funding by the department sufficient to
33 cover the costs associated with the studies required.
34 6. This section is repealed June 30, 2018.
35 EXPLANATION

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This bill requires the department of natural resources, in cooperation with private and public partners, to conduct a multiyear study to determine the effectiveness of stocking wild or first-generation pheasants in the state.

The department, along with partners, must stock wild or first-generation pheasants in an area with suitable pheasant habitat that has a very low or no wild pheasant population. The rate at which the pheasant population changes over time in the stocked area is to be compared to the rate of change in another area where no pheasants have been stocked. The results of the study shall be published and made available to the public.

The department is required to collect sufficient data to confirm or revise population parameters used by the department to predict pheasant population change. A report discussing the data collected and the changes made to the department´s pheasant population prediction model, if any, is to be submitted to the general assembly and made available to the public by December 31, 2015.

The department, in cooperation with a regents institution, is also required to conduct a study that determines the economic impact of pheasant hunting in Iowa, focusing on the impact to rural Iowa and to small communities. A report of the results of the study shall be submitted to the general assembly by December 31, 2014.

The duties imposed in the bill are contingent on the receipt of outside funding by the department sufficient to cover the costs associated with the studies required. The bill provisions are repealed June 30, 2018.

House File 2344 - Introduced

HOUSE FILE 2344
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HSB 624)

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 5146HV (2) 84
ad/rj

H.F. 2344

1 Section 1. Section 4.1, Code 2011, is amended by adding the
2 following new subsection:
3 NEW SUBSECTION. 09A. *"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,

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subparagraph (4), Code 2011, is amended to read as follows:

(4) Nothing in this paragraph shall be construed to prohibit a state resource center from providing a service a resident needs for compliance with accreditation standards for intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability.

Sec. 5. Section 48A.2, subsection 3, Code 2011, is amended to read as follows:

3. *"Person who is incompetent to vote"* means a person ~~described in section 222.2, subsection 5,~~ with an intellectual disability who has been found to lack the mental capacity to vote in a proceeding held pursuant to section 222.31 or 633.556.

Sec. 6. Section 126.16, subsection 2, Code 2011, is amended to read as follows:

2. For the purpose of this chapter, advertising is false if it represents a drug, device, or cosmetic to have any effect in the diagnosis, prevention, or treatment of arthritis, blood disorders, bone or joint diseases, kidney diseases or disorders, cancer, diabetes, gall bladder disease or disorders, heart and vascular disease, high blood pressure, diseases or disorders of the ear, mental disease or ~~mental retardation~~ an intellectual disability, degenerative neurological diseases, paralysis, prostate gland disorders, conditions of the scalp affecting hair loss, baldness, endocrine disorders, sexual impotence, tumors, venereal diseases, varicose ulcers, breast enlargement, purifying blood, metabolic disorders, immune system disorders or conditions affecting the immune system, extension of life expectancy, stress and tension, brain stimulation or performance, the body's natural defense mechanisms, blood flow, and depression. However, advertising not in violation of subsection 1 is not false under this subsection if it is disseminated only to members of the medical, dental, or veterinary professions, or appears only in the scientific periodicals of these professions, or is

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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

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an application fee under this subsection, an applicant for a new institutional health service or a changed institutional health service offered or developed by an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability or an intermediate care facility for persons with mental illness as defined pursuant to section 135C.1 is exempt from payment of the application fee.

Sec. 8. Section 135.63, subsection 2, paragraphs f and p, Code 2011, are amended to read as follows:

f. A residential care facility, as defined in section 135C.1, including a residential care facility for persons with ~~mental retardation~~ an intellectual disability, notwithstanding any provision in this division to the contrary.

p. The conversion of an existing number of beds by an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability to a smaller facility environment, including but not limited to a community-based environment which does not result in an increased number of beds, notwithstanding any provision in this division to the contrary, including subsection 4, if all of the following conditions exist:

(1) The intermediate care facility for persons with ~~mental retardation~~ an intellectual disability reports the number and type of beds to be converted on a form prescribed by the department at least thirty days before the conversion.

(2) The intermediate care facility for persons with ~~mental retardation~~ an intellectual disability reports the conversion of beds on its next annual report to the department.

Sec. 9. Section 135.63, subsection 4, unnumbered paragraph 1, Code 2011, is amended to read as follows:

A copy of the application shall be sent to the department of human services at the time the application is submitted to the Iowa department of public health. The department shall not process applications for and the council shall not consider a new or changed institutional health service for an

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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

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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

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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,

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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

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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 an intellectual ~~disabilities~~ disability, 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

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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

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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,

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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

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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

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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

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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

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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,

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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,

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is amended to read as follows:

The following persons, in addition to the person alleged to ~~be mentally retarded~~ have an intellectual disability, shall be made party respondents if the persons reside in this state and their names and residences are known:

Sec. 34. Section 222.21, Code 2011, is amended to read as follows:

222.21 Order requiring attendance.

If the person alleged to have ~~mental retardation~~ an intellectual disability is not before the court, the court may issue an order requiring the person who has the care, custody, and control of the person who is alleged to have ~~mental retardation~~ an intellectual disability to bring the person into court at the time and place stated in the order.

Sec. 35. Section 222.22, Code 2011, is amended to read as follows:

222.22 Time of appearance.

The time of appearance shall not be less than five days after completed service unless the court orders otherwise. Appearance on behalf of the person who is alleged to have ~~mental retardation~~ an intellectual disability may be made by any citizen of the county or by any relative. The district court shall assign counsel for the person who is alleged to have ~~mental retardation~~ an intellectual disability. Counsel shall prior to proceedings personally consult with the person who is alleged to have ~~mental retardation~~ an intellectual disability unless the judge appointing counsel certifies that in the judge's opinion, consultation shall serve no useful purpose. The certification shall be made a part of the record. An attorney assigned by the court shall be compensated by the county at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.

Sec. 36. Section 222.25, Code 2011, is amended to read as follows:

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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

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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~~

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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

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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

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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.

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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.

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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

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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

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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~~ 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~~ ensure 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

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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

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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

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are subject to confirmation by the senate. Commission members shall be appointed on the basis of interest and experience in the fields of mental health, ~~mental retardation~~ intellectual disability, ~~or~~ other developmental disabilities, and brain injury, in a manner so as to ensure adequate representation from persons with disabilities and individuals knowledgeable concerning disability services. The department shall provide staff support to the commission, and the commission may utilize staff support and other assistance provided to the commission by other persons. The commission shall meet at least four times per year. The membership of the commission shall consist of the following persons who, at the time of appointment to the commission, are active members of the indicated groups:

Sec. 65. Section 225C.7, subsections 2 and 4, Code 2011, are amended to read as follows:

2. Moneys appropriated to the fund shall be allocated to counties for funding of community-based mental health, ~~mental retardation~~ intellectual disability, developmental disabilities, and brain injury services in the manner provided in the appropriation to the fund. If the allocation methodology includes a population factor, the most recent population estimates issued by the United States bureau of the census shall be applied.

4. *a.* A county is entitled to receive money from the fund if that county raised by county levy and expended for mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services, in the preceding fiscal year, an amount of money at least equal to the amount so raised and expended for those purposes during the fiscal year beginning July 1, 1980.

b. With reference to the fiscal year beginning July 1, 1980, money *"raised by county levy and expended for mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services"* means the county's maintenance of effort determined by using the general allocation application for the

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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

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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

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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.**

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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

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state mental health institute unless a professional diagnostic evaluation indicates that such person will benefit from psychiatric treatment or from some other specific program available at the mental health institute to which it is proposed to admit or transfer the person. Charges for the care of any person with ~~mental retardation~~ an intellectual disability admitted to a state mental health institute shall be made by the institute in the manner provided by chapter 230, but the liability of any other person to any county for the cost of care of such person with ~~mental retardation~~ an intellectual disability shall be as prescribed by section 222.78.

Sec. 76. Section 226.9C, subsection 2, paragraph a, Code Supplement 2011, is amended to read as follows:

a. A county may split the charges between the county's mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services fund created pursuant to section 331.424A and the county's budget for substance abuse expenditures.

Sec. 77. Section 227.2, subsections 1, 2, and 4, Code 2011, are amended to read as follows:

1. The director of inspections and appeals shall make, or cause to be made, at least one licensure inspection each year of every county care facility. Either the administrator of the division or the director of inspections and appeals, in cooperation with each other, upon receipt of a complaint or for good cause, may make, or cause to be made, a review of a county care facility or of any other private or county institution where persons with mental illness or ~~mental retardation~~ an intellectual disability reside. A licensure inspection or a review shall be made by a competent and disinterested person who is acquainted with and interested in the care of persons with mental illness and persons with ~~mental retardation~~ an intellectual disability. The objective of a licensure inspection or a review shall be an evaluation of the

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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

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matters which the director of public health, in consultation with the administrator of the division, may require.

2. A copy of the written report prescribed by subsection 1 shall be furnished to the county board of supervisors, to the county mental health and ~~mental retardation~~ intellectual disability coordinating board or to its advisory board if the county board of supervisors constitutes ex officio the coordinating board, to the administrator of the county care facility inspected and to its resident advocate committee, and to the department on aging.

4. In addition to the licensure inspections required or authorized by this section, the administrator of the division shall cause to be made an evaluation of each person cared for in a county care facility at least once each year by one or more qualified mental health, ~~mental retardation~~ intellectual disability, or medical professionals, whichever is appropriate.

a. It is the responsibility of the state to secure the annual evaluation for each person who is on convalescent leave or who has not been discharged from a state mental health institute. It is the responsibility of the county to secure the annual evaluation for all other persons with mental illness in the county care facility.

b. It is the responsibility of the state to secure the annual evaluation for each person who is on leave and has not been discharged from a state resource center. It is the responsibility of the county to secure the annual evaluation for all other persons with ~~mental retardation~~ an intellectual disability in the county care facility.

c. It is the responsibility of the county to secure an annual evaluation of each resident of a county care facility to whom neither paragraph *"a"* nor paragraph *"b"* is applicable.

Sec. 78. Section 227.4, Code 2011, is amended to read as follows:

227.4 Standards for care of persons with mental illness or ~~mental retardation~~ an intellectual disability in county care

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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

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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 ~~mental~~
15 ~~retardation~~ an 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:

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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

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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 the
27 placement every six months by the department's foster care
28 review committees or by a local citizen foster care review
29 board. Court oversight shall be provided prior to the initial
30 placement and at periodic intervals which shall not exceed
31 twelve months. It is the purpose and policy of this division
32 to ~~assure~~ ensure 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

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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

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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

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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:

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The provision of medical assistance to an individual who is fifty-five years of age or older, or who is a resident of a nursing facility, intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, or mental health institute, who cannot reasonably be expected to be discharged and return to the individual's home, creates a debt due the department from the individual's estate for all medical assistance provided on the individual's behalf, upon the individual's death.

Sec. 98. Section 249A.5, subsection 2, paragraph f, subparagraph (1), Code 2011, is amended to read as follows:

(1) If a debt is due under this subsection from the estate of a recipient, the administrator of the nursing facility, intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, or mental health institute in which the recipient resided at the time of the recipient's death, and the personal representative of the recipient, if applicable, shall report the death to the department within ten days of the death of the recipient.

Sec. 99. Section 249A.12, subsection 1, Code 2011, is amended to read as follows:

1. Assistance may be furnished under this chapter to an otherwise eligible recipient who is a resident of a health care facility licensed under chapter 135C and certified as an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability.

Sec. 100. Section 249A.12, subsection 4, paragraphs a and c, Code 2011, are amended to read as follows:

a. Effective July 1, 1995, the state shall be responsible for all of the nonfederal share of the costs of intermediate care facility for persons with ~~mental retardation~~ an intellectual disability services provided under medical assistance to minors. Notwithstanding subsection 2 and contrary provisions of section 222.73, effective July 1, 1995, a county is not required to reimburse the department and shall

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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 an intellectual ~~disabilities~~ disability in a manner which
24 maximizes the use of existing public and private facilities.
25 The actions may include but are not limited to submitting any
26 of the following or a combination of any of the following as
27 a request for a revision of the medical assistance home and
28 community-based services waiver for persons with intellectual
29 disabilities:
30 (1) Allow for the transition of intermediate care
31 facilities for persons with ~~mental retardation~~ an intellectual
32 disability licensed under chapter 135C, to services funded
33 under the medical assistance home and community-based
34 services waiver for persons with an intellectual ~~disabilities~~
35 disability. The request shall be for inclusion of additional

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1 persons under the waiver associated with the transition.
2 (2) Allow for reimbursement under the waiver for day program
3 or other service costs.
4 (3) Allow for exception provisions in which an intermediate
5 care facility for persons with ~~mental retardation~~ an
6 intellectual disability which does not meet size and other
7 facility-related requirements under the waiver in effect on
8 June 30, 1996, may convert to a waiver service for a set period
9 of time such as five years. Following the set period of time,
10 the facility would be subject to the waiver requirements
11 applicable to services which were not operating under the
12 exception provisions.
13 *b.* In implementing the provisions of this subsection, the
14 mental health and disability services commission shall consult
15 with other states. The waiver revision request or other action
16 necessary to assist in the transition of service provision
17 from intermediate care facilities for persons with ~~mental~~
18 ~~retardation~~ an intellectual disability to alternative programs
19 shall be implemented by the department in a manner that can
20 appropriately meet the needs of individuals at an overall
21 lower cost to counties, the federal government, and the state.
22 In addition, the department shall take into consideration
23 significant federal changes to the medical assistance program
24 in formulating the department's actions under this subsection.
25 The department shall consult with the mental health and
26 disability services commission in adopting rules for oversight
27 of facilities converted pursuant to this subsection. A
28 transition approach described in paragraph *"a"* may be modified
29 as necessary to obtain federal waiver approval.
30 Sec. 102. Section 249A.12, subsection 6, paragraphs a and d,
31 Code 2011, are amended to read as follows:
32 *a.* The provisions of the home and community-based services
33 waiver for persons with an intellectual ~~disabilities~~ disability
34 shall include adult day care, prevocational, and transportation
35 services. Transportation shall be included as a separately

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1 payable service.
2 *d.* The county of legal settlement shall pay for one hundred
3 percent of the nonfederal share of the costs of care provided
4 for adults which is reimbursed under a home and community-based
5 services waiver that would otherwise be approved for provision
6 in an intermediate care facility for persons with ~~mental~~
7 ~~retardation~~ an intellectual disability provided under the
8 medical assistance program.
9 Sec. 103. Section 249A.12, subsections 7 and 8, Code 2011,
10 are amended to read as follows:
11 7. When paying the necessary and legal expenses for
12 intermediate care facility for persons with ~~mental retardation~~
13 an intellectual disability services, the cost requirements of
14 section 222.60 shall be considered fulfilled when payment is
15 made in accordance with the medical assistance payment rates
16 established by the department for intermediate care facilities
17 for persons with ~~mental retardation~~ an intellectual disability,
18 and the state or a county of legal settlement shall not be
19 obligated for any amount in excess of the rates.
20 8. If a person with ~~mental retardation~~ an intellectual
21 disability has no legal settlement or the legal settlement is
22 unknown so that the person is deemed to be a state case and
23 services associated with the ~~mental retardation~~ intellectual
24 disability can be covered under a medical assistance home and
25 community-based services waiver or other medical assistance
26 program provision, the nonfederal share of the medical
27 assistance program costs for such coverage shall be paid from
28 the appropriation made for the medical assistance program.
29 Sec. 104. Section 249A.21, subsections 1 and 6, Code 2011,
30 are amended to read as follows:
31 1. The department may assess intermediate care facilities
32 for persons with ~~mental retardation~~ an intellectual disability,
33 as defined in section 135C.1, a fee in an amount not to exceed
34 six percent of the total annual revenue of the facility for the
35 preceding fiscal year.

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6. The department may adopt administrative rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b", to implement this section, and any fee assessed pursuant to this section against an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability that is operated by the state may be made retroactive to October 1, 2003.

Sec. 105. Section 249A.26, subsection 2, paragraph a, Code 2011, is amended to read as follows:

a. Except as provided for disallowed costs in section 249A.27, the county of legal settlement shall pay for fifty percent of the nonfederal share of the cost and the state shall have responsibility for the remaining fifty percent of the nonfederal share of the cost of case management provided to adults, day treatment, and partial hospitalization provided under the medical assistance program for persons with ~~mental retardation~~ an intellectual disability, a developmental disability, or chronic mental illness. For purposes of this section, persons with mental disorders resulting from Alzheimer's disease or substance abuse shall not be considered chronically mentally ill. To the maximum extent allowed under federal law and regulations, the department shall consult with and inform a county of legal settlement's central point of coordination process, as defined in section 331.440, regarding the necessity for and the provision of any service for which the county is required to provide reimbursement under this subsection.

Sec. 106. Section 249A.26, subsections 3, 7, and 9, Code 2011, are amended to read as follows:

3. To the maximum extent allowed under federal law and regulations, a person with mental illness or ~~mental retardation~~ an intellectual disability shall not be eligible for any service which is funded in whole or in part by a county share of the nonfederal portion of medical assistance funds unless the person is referred through the central point of coordination

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process, as defined in section 331.440. However, to the extent federal law allows referral of a medical assistance recipient to a service without approval of the central point of coordination process, the county of legal settlement shall be billed for the nonfederal share of costs for any adult person for whom the county would otherwise be responsible.

7. Unless a county has paid or is paying for the nonfederal share of the costs of a person's home and community-based waiver services or placement in an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability under the county's mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services fund, or unless a county of legal settlement would become liable for the costs of services for a person at the level of care provided in an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability due to the person reaching the age of majority, the state shall pay for the nonfederal share of the costs of an eligible person's services under the home and community-based services waiver for persons with brain injury.

9. Notwithstanding section 8.39, the department may transfer funds appropriated for the medical assistance program to a separate account established in the department's case management unit in an amount necessary to pay for expenditures required to provide case management for mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services under the medical assistance program which are jointly funded by the state and county, pending final settlement of the expenditures. Funds received by the case management unit in settlement of the expenditures shall be used to replace the transferred funds and are available for the purposes for which the funds were originally appropriated.

Sec. 107. Section 249A.30A, Code Supplement 2011, is amended to read as follows:

249A.30A Medical assistance — personal needs allowance.

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The personal needs allowance under the medical assistance program, which may be retained by a person who is a resident of a nursing facility, an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, or an intermediate care facility for persons with mental illness, as defined in section 135C.1, or a person who is a resident of a psychiatric medical institution for children as defined in section 135H.1, shall be fifty dollars per month. A resident who has income of less than fifty dollars per month shall receive a supplement from the state in the amount necessary to receive a personal needs allowance of fifty dollars per month, if funding is specifically appropriated for this purpose.

Sec. 108. Section 249A.31, subsection 1, Code 2011, is amended to read as follows:

1. Providers of individual case management services for persons with ~~mental retardation~~ an intellectual disability, a developmental disability, or chronic mental illness shall receive cost-based reimbursement for one hundred percent of the reasonable costs for the provision of the services in accordance with standards adopted by the mental health and disability services commission pursuant to section 225C.6.

Sec. 109. Section 252.16, subsection 6, paragraph c, Code 2011, is amended to read as follows:

c. A blind person who is an inpatient or resident of, is supported by, or is receiving treatment or support services from a state resource center created under chapter 222, a state mental health institute created under chapter 226, the Iowa braille and sight saving school administered by the state board of regents, or any community-based provider of treatment or services for ~~mental retardation~~ an intellectual disability, developmental disabilities, mental health, or substance abuse, does not acquire legal settlement in the county in which the institution, facility, or provider is located, unless the blind person has resided in the county in which the institution, facility, or provider is located for a period of six months

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prior to the date of commencement of receipt of assistance under the laws of this state or for a period of six months subsequent to the date of termination of assistance under the laws of this state.

Sec. 110. Section 252.16, subsection 8, Code 2011, is amended to read as follows:

8. A person receiving treatment or support services from any provider, whether organized for pecuniary profit or not or whether supported by charitable or public or private funds, that provides treatment or services for ~~mental retardation~~ intellectual disability, developmental disabilities, mental health, brain injury, or substance abuse does not acquire legal settlement in a county unless the person continuously resides in that county for one year from the date of the last treatment or support service received by the person.

Sec. 111. Section 262.70, Code 2011, is amended to read as follows:

262.70 Education, prevention, and research programs in mental health and disability services.

The division of mental health and disability services of the department of human services may contract with the board of regents or any institution under the board's jurisdiction to establish and maintain programs of education, prevention, and research in the fields of mental health, ~~mental retardation~~ intellectual disability, developmental disabilities, and brain injury. The board may delegate responsibility for these programs to the state psychiatric hospital, the university hospital, or any other appropriate entity under the board's jurisdiction.

Sec. 112. Section 263.11, subsection 2, Code 2011, is amended to read as follows:

2. Persons who are not eligible for admission to the schools already established for persons with ~~mental retardation~~ an intellectual disability or epilepsy or persons who are deaf or blind.

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1 Sec. 113. Section 331.381, subsection 4, Code 2011, is
2 amended to read as follows:
3 4. Comply with chapter 222, including but not limited to
4 sections 222.13, 222.14, and 222.59 to 222.82, in regard to
5 the care of persons with ~~mental retardation~~ an intellectual
6 disability.
7 Sec. 114. Section 331.424A, subsections 1, 2, and 5, Code
8 Supplement 2011, are amended to read as follows:
9 1. For the purposes of this chapter, unless the context
10 otherwise requires, *"services fund"* means the county mental
11 health, ~~mental retardation~~ intellectual disability, and
12 developmental disabilities services fund created in subsection
13 2. The county finance committee created in section 333A.2
14 shall consult with the state commission in adopting rules and
15 prescribing forms for administering the services fund.
16 2. For the fiscal year beginning July 1, 1996, and
17 succeeding fiscal years, county revenues from taxes and other
18 sources designated for mental health, ~~mental retardation~~
19 intellectual disability, and developmental disabilities
20 services shall be credited to the mental health, ~~mental~~
21 ~~retardation~~ intellectual disability, and developmental
22 disabilities services fund of the county. The board shall make
23 appropriations from the fund for payment of services provided
24 under the county management plan approved pursuant to section
25 331.439. The county may pay for the services in cooperation
26 with other counties by pooling appropriations from the fund
27 with other counties or through county regional entities
28 including but not limited to the county's mental health and
29 developmental disabilities regional planning council created
30 pursuant to section 225C.18.
31 5. Appropriations specifically authorized to be made from
32 the mental health, ~~mental retardation~~ intellectual disability,
33 and developmental disabilities services fund shall not be made
34 from any other fund of the county.
35 Sec. 115. Section 331.432, subsection 3, Code Supplement

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2011, is amended to read as follows:

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.

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Sec. 118. Section 331.438, subsection 4, paragraph b, subparagraph (6), Code Supplement 2011, is amended to read as follows:

(6) Consider recommendations for measuring and improving the quality of state and county mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services and other support.

Sec. 119. Section 331.439, subsection 1, paragraphs a, b, and f, Code Supplement 2011, are amended to read as follows:

a. The county accurately reported by December 1 the county's expenditures for mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services and the information required under section 225C.6A, subsection 3, paragraph *"c"*, for the previous fiscal year in accordance with rules adopted by the state commission. If the department determines good cause exists, the department may extend a deadline otherwise imposed under this chapter, chapter 225C, or chapter 426B for a county's reporting concerning mental health, ~~mental retardation~~ intellectual disability, or developmental disabilities services or related revenues and expenditures.

b. The county developed and implemented a county management plan for the county's mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services system in accordance with the provisions of this paragraph *"b"*. The plan shall comply with the administrative rules adopted for this purpose by the state commission and is subject to the approval of the director of human services in consultation with the state commission. The plan shall include a description of the county's service management provision for mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services. For ~~mental retardation~~ intellectual disability and developmental disabilities service management, the plan shall describe the county's development and implementation of a system of cost-effective individualized services and shall comply with the provisions of paragraph

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1 "f". The goal of this part of the plan shall be to assist
2 the individuals served to be as independent, productive,
3 and integrated into the community as possible. The service
4 management provisions for mental health shall comply with the
5 provisions of paragraph "e". A county is subject to all of the
6 following provisions in regard to the county's services system
7 management plan and planning process:
8 (1) The county shall have in effect an approved policies and
9 procedures manual for the county's services fund. The county
10 management plan shall be defined in the manual. The manual
11 submitted by the county as part of the county's management plan
12 for the fiscal year beginning July 1, 2000, as approved by the
13 director of human services, shall remain in effect, subject to
14 amendment. An amendment to the manual shall be submitted to
15 the department of human services at least forty-five days prior
16 to the date of implementation. Prior to implementation of any
17 amendment to the manual, the amendment must be approved by
18 the director of human services in consultation with the state
19 commission.
20 (2) For informational purposes, the county shall submit a
21 management plan review to the department of human services by
22 December 1 of each year. The annual review shall incorporate
23 an analysis of the data associated with the services system
24 managed during the preceding fiscal year by the county or by
25 a private entity on behalf of the county. The annual review
26 shall also identify measurable outcomes and results showing
27 the county's progress in fulfilling the purposes listed
28 in paragraph "c", and in achieving the disability services
29 outcomes and indicators identified by the commission pursuant
30 to section 225C.6.
31 (3) For informational purposes, every three years the
32 county shall submit to the department of human services
33 a three-year strategic plan. The strategic plan shall
34 describe how the county will proceed to attain the plan's
35 goals and objectives, and the measurable outcomes and results

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1 necessary for moving the county's services system toward
2 an individualized, community-based focus in accordance
3 with paragraph "*c*". The three-year strategic plan shall be
4 submitted by April 1, 2000, and by April 1 of every third year
5 thereafter.
6 *f.* For ~~mental retardation~~ intellectual disability and
7 developmental disabilities services management, the county must
8 either develop and implement a system of care which addresses a
9 full array of appropriate services and cost-effective delivery
10 of services by contracting directly with service providers
11 or by contracting with a state-approved private entity to
12 manage the county services system. The county services system
13 shall incorporate a central point of coordination and clinical
14 assessment process developed in accordance with the provisions
15 of section 331.440. The elements of a county services system
16 shall be specified in rules developed by the department of
17 human services in consultation with and adopted by the state
18 commission.
19 Sec. 120. Section 331.439, subsection 3, paragraph a, Code
20 Supplement 2011, is amended to read as follows:
21 *a.* For the fiscal year beginning July 1, 1996, and
22 succeeding fiscal years, the county's mental health, ~~mental~~
23 ~~retardation~~ intellectual disability, and developmental
24 disabilities service expenditures for a fiscal year are limited
25 to a fixed budget amount. The fixed budget amount shall be
26 the amount identified in the county's management plan and
27 budget for the fiscal year. The county shall be authorized an
28 allowed growth factor adjustment as established by statute for
29 services paid from the county's services fund under section
30 331.424A which is in accordance with the county's management
31 plan and budget, implemented pursuant to this section. The
32 statute establishing the allowed growth factor adjustment shall
33 establish the adjustment for the fiscal year which commences
34 two years from the beginning date of the fiscal year in
35 progress at the time the statute is enacted.

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1 Sec. 121. Section 331.439, subsection 6, Code Supplement
2 2011, is amended to read as follows:
3 6. The director's approval of a county's mental health,
4 ~~mental retardation~~ intellectual disability, and developmental
5 disabilities services management plan shall not be construed to
6 constitute certification of the county's budget.
7 Sec. 122. Section 331.440, subsection 1, paragraphs a and b,
8 Code Supplement 2011, are amended to read as follows:
9 *a.* For the purposes of this section, unless the context
10 otherwise requires, *"central point of coordination process"*
11 means a central point of coordination process established
12 by a county or consortium of counties for the delivery of
13 mental health, ~~mental retardation~~ intellectual disability, and
14 developmental disabilities services which are paid for in whole
15 or in part by county funds. The central point of coordination
16 process may include but is not limited to reviewing a person's
17 eligibility for services, determining the appropriateness of
18 the type, level, and duration of services, and performing
19 periodic review of the person's continuing eligibility and
20 need for services. Any recommendations developed concerning
21 a person's plan of services shall be consistent with the
22 person's unique strengths, circumstances, priorities, concerns,
23 abilities, and capabilities. For those services funded
24 under the medical assistance program, the central point of
25 coordination process shall be used to ~~assure~~ ensure that the
26 person is aware of the appropriate service options available
27 to the person.
28 *b.* The central point of coordination process may include
29 a clinical assessment process to identify a person's service
30 needs and to make recommendations regarding the person's plan
31 for services. The clinical assessment process shall utilize
32 qualified mental health professionals and qualified ~~mental~~
33 ~~retardation~~ intellectual disability professionals.
34 Sec. 123. Section 331.440, subsection 2, paragraph d, Code
35 Supplement 2011, is amended to read as follows:

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1 *d. "State case services and other support"* means the mental
2 health, ~~mental retardation~~ intellectual disability, and
3 developmental disabilities services and other support paid for
4 under the rules and requirements in effect prior to October 1,
5 2006, from the annual appropriation made to the department of
6 human services for such services and other support provided
7 to persons who have no established county of legal settlement
8 or the legal settlement is unknown so that the person is
9 deemed to be a state case. Such services and other support do
10 not include medical assistance program services or services
11 provided in a state institution.
12 Sec. 124. Section 331.502, subsection 11, Code 2011, is
13 amended to read as follows:
14 11. Carry out duties relating to the determination of legal
15 settlement, collection of funds due the county, and support of
16 persons with ~~mental retardation~~ an intellectual disability as
17 provided in sections 222.13, 222.50, 222.61 to 222.66, 222.69,
18 and 222.74.
19 Sec. 125. Section 331.756, subsections 42 and 43, Code
20 Supplement 2011, are amended to read as follows:
21 42. Carry out duties relating to the commitment of a person
22 with ~~mental retardation~~ an intellectual disability as provided
23 in section 222.18.
24 43. Proceed to collect, as requested by the county,
25 the reasonable costs for the care, treatment, training,
26 instruction, and support of a person with ~~mental retardation~~
27 an intellectual disability from parents or other persons who
28 are legally liable for the support of the person with ~~mental~~
29 ~~retardation~~ an intellectual disability as provided in section
30 222.82.
31 Sec. 126. Section 335.25, subsection 2, paragraph b,
32 subparagraphs (1) and (2), Code 2011, are amended to read as
33 follows:
34 (1) Attributable to ~~mental retardation~~ an intellectual
35 disability, cerebral palsy, epilepsy, or autism.

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(2) Attributable to any other condition found to be closely related to ~~mental retardation~~ an intellectual disability because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with ~~mental retardation~~ an intellectual disability or requires treatment and services similar to those required for the persons.

Sec. 127. Section 347.9A, subsection 3, Code 2011, is amended to read as follows:

3. This section does not prohibit a licensed health care practitioner from serving as a hospital trustee if the practitioner's sole use of the county hospital is to provide health care service to an individual with ~~mental retardation~~ an intellectual disability as defined in section ~~222.2~~ 4.1.

Sec. 128. Section 414.22, subsection 2, paragraph b, subparagraphs (1) and (2), Code 2011, are amended to read as follows:

(1) Attributable to ~~mental retardation~~ an intellectual disability, cerebral palsy, epilepsy, or autism.

(2) Attributable to any other condition found to be closely related to ~~mental retardation~~ an intellectual disability because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with ~~mental retardation~~ an intellectual disability or requires treatment and services similar to those required for the persons.

Sec. 129. Section 422.7, subsection 12, paragraph c, subparagraph (1), Code Supplement 2011, is amended to read as follows:

(1) *"Physical or mental impairment"* means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems or any mental or psychological disorder, including ~~mental retardation~~ intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

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Sec. 130. Section 422.35, subsection 6, paragraph c, subparagraph (1), Code Supplement 2011, is amended to read as follows:

(1) *"Physical or mental impairment"* means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems or any mental or psychological disorder, including ~~mental retardation~~ intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Sec. 131. Section 423.3, subsection 18, paragraphs a and c, Code Supplement 2011, are amended to read as follows:

a. Residential care facilities and intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability and residential care facilities for persons with mental illness licensed by the department of inspections and appeals under chapter 135C.

c. Rehabilitation facilities that provide accredited rehabilitation services to persons with disabilities which are accredited by the commission on accreditation of rehabilitation facilities or the accreditation council for services for persons with ~~mental retardation~~ an intellectual disability and other persons with developmental disabilities and adult day care services approved for reimbursement by the state department of human services.

Sec. 132. Section 426B.2, subsection 3, paragraph b, Code 2011, is amended to read as follows:

b. Any replacement generation tax in the property tax relief fund as of May 1 shall be paid to the county treasurers in July and January of the fiscal year beginning the following July 1. The department of management shall determine the amount each county will be paid pursuant to this lettered paragraph for the following fiscal year. The department shall reduce by the determined amount the amount of each county's certified budget to be raised by property tax for that fiscal year which is to be expended for mental health, ~~mental retardation~~ intellectual

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1 disability, and developmental disabilities services and
2 shall revise the rate of taxation as necessary to raise the
3 reduced amount. The department of management shall report
4 the reduction in the certified budget and the revised rate of
5 taxation to the county auditors by June 15.
6 Sec. 133. Section 426B.3, subsection 1, Code 2011, is
7 amended to read as follows:
8 1. The county auditor shall reduce the certified budget
9 amount received from the board of supervisors for the
10 succeeding fiscal year for the county mental health, ~~mental~~
11 ~~retardation~~ intellectual disability, and developmental
12 disabilities services fund created in section 331.424A by an
13 amount equal to the amount the county will receive from the
14 property tax relief fund pursuant to section 426B.2, for the
15 succeeding fiscal year and the auditor shall determine the rate
16 of taxation necessary to raise the reduced amount. On the tax
17 list, the county auditor shall compute the amount of taxes due
18 and payable on each parcel before and after the amount received
19 from the property tax relief fund is used to reduce the county
20 budget. The director of human services shall notify the county
21 auditor of each county of the amount of moneys the county will
22 receive from the property tax relief fund pursuant to section
23 426B.2, for the succeeding fiscal year.
24 Sec. 134. Section 426B.5, subsection 1, paragraph d,
25 subparagraph (1), subparagraph divisions (a) and (b), Code
26 Supplement 2011, are amended to read as follows:
27 (a) The county is levying the maximum amount allowed for
28 the county's mental health, ~~mental retardation~~ intellectual
29 disability, and developmental disabilities services fund under
30 section 331.424A for the fiscal year in which the funding is
31 distributed.
32 (b) In the latest fiscal year reported in accordance with
33 section 331.403, the county's mental health, ~~mental retardation~~
34 intellectual disability, and developmental disabilities
35 services fund ending balance under generally accepted

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accounting principles was equal to or less than twenty-five percent of the county's actual gross expenditures for that fiscal year.

Sec. 135. Section 426B.5, subsection 2, paragraph a, Code Supplement 2011, is amended to read as follows:

a. For the purposes of this subsection, unless the context otherwise requires, *"services fund"* means a county's mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services fund created in section 331.424A.

Sec. 136. Section 514E.7, subsection 2, paragraph a, subparagraph (1), Code 2011, is amended to read as follows:

(1) Incapable of self-sustaining employment by reason of ~~mental retardation~~ an intellectual disability or physical disability.

Sec. 137. Section 602.8102, subsections 36 and 37, Code 2011, are amended to read as follows:

36. Carry out duties relating to the commitment of a person with ~~mental retardation~~ an intellectual disability as provided in sections 222.37 through 222.40.

37. Keep a separate docket of proceedings of cases relating to persons with ~~mental retardation~~ an intellectual disability as provided in section 222.57.

Sec. 138. Section 633.556, subsection 1, Code 2011, is amended to read as follows:

1. If the allegations of the petition as to the status of the proposed ward and the necessity for the appointment of a guardian are proved by clear and convincing evidence, the court may appoint a guardian. If the court appoints a guardian based upon mental incapacity of the proposed ward because the proposed ward is a person ~~described in section 222.2, subsection 5~~ with an intellectual disability, as defined in section 4.1, the court shall make a separate determination as to the ward's competency to vote. The court shall find a ward incompetent to vote only upon determining that the person lacks

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1 sufficient mental capacity to comprehend and exercise the right
2 to vote.
3 Sec. 139. Section 633C.1, subsection 4, Code 2011, is
4 amended to read as follows:
5 4. *"Maximum monthly medical assistance payment rate for*
6 *services in an intermediate care facility for persons with* ~~*mental*~~
7 ~~*retardation*~~ *an intellectual disability"* means the allowable
8 rate established by the department of human services and as
9 published in the Iowa administrative bulletin.
10 Sec. 140. Section 633C.3, subsection 3, paragraph a, Code
11 2011, is amended to read as follows:
12 *a.* For a beneficiary who meets the medical assistance level
13 of care requirements for services in an intermediate care
14 facility for persons with ~~mental retardation~~ an intellectual
15 disability and who either resides in an intermediate care
16 facility for persons with ~~mental retardation~~ an intellectual
17 disability or is eligible for services under the medical
18 assistance home and community-based services waiver except
19 that the beneficiary's income exceeds the allowable maximum,
20 the applicable rate is the maximum monthly medical assistance
21 payment rate for services in an intermediate care facility for
22 persons with ~~mental retardation~~ an intellectual disability.
23 Sec. 141. Section 904.108, subsection 1, paragraph d, Code
24 2011, is amended to read as follows:
25 *d.* Establish and maintain acceptable standards of treatment,
26 training, education, and rehabilitation in the various
27 state penal and corrective institutions which shall include
28 habilitative services and treatment for offenders with ~~mental~~
29 ~~retardation~~ an intellectual disability. For the purposes of
30 this paragraph, *"habilitative services and treatment"* means
31 medical, mental health, social, educational, counseling,
32 and other services which will assist a person with ~~mental~~
33 ~~retardation~~ an intellectual disability to become self-reliant.
34 However, the director may also provide rehabilitative treatment
35 and services to other persons who require the services.

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1 The director shall identify all individuals entering the
2 correctional system who are persons with ~~mental retardation~~
3 an intellectual disability, as defined in section ~~222.2,~~
4 ~~subsection 5~~ 4.1. Identification shall be made by a qualified
5 professional in the area of ~~mental retardation~~ intellectual
6 disability. In assigning an offender with ~~mental retardation~~
7 an intellectual disability, or an offender with an inadequately
8 developed intelligence or with impaired mental abilities, to
9 a correctional facility, the director shall consider both the
10 program needs and the security needs of the offender. The
11 director shall consult with the department of human services
12 in providing habilitative services and treatment to offenders
13 with mental illness or ~~mental retardation~~ an intellectual
14 disability. The director may enter into agreements with
15 the department of human services to utilize mental health
16 institutions and share staff and resources for purposes of
17 providing habilitative services and treatment, as well as
18 providing other special needs programming. Any agreement to
19 utilize mental health institutions and to share staff and
20 resources shall provide that the costs of the habilitative
21 services and treatment shall be paid from state funds. Not
22 later than twenty days prior to entering into any agreement
23 to utilize mental health institution staff and resources,
24 other than the use of a building or facility, for purposes of
25 providing habilitative services and treatment, as well as other
26 special needs programming, the directors of the departments
27 of corrections and human services shall each notify the
28 chairpersons and ranking members of the joint appropriations
29 subcommittees that last handled the appropriation for their
30 respective departments of the pending agreement. Use of a
31 building or facility shall require approval of the general
32 assembly if the general assembly is in session or, if the
33 general assembly is not in session, the legislative council
34 may grant temporary authority, which shall be subject to final
35 approval of the general assembly during the next succeeding

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1 legislative session.
2 Sec. 142. Section 904.205, Code 2011, is amended to read as
3 follows:
4 **904.205 Clarinda correctional facility.**
5 The state correctional facility at Clarinda shall be
6 utilized as a secure men's correctional facility primarily
7 for offenders with chemical dependence, ~~mental retardation~~ an
8 intellectual disability, or mental illness.
9 Sec. 143. Section 915.38, subsections 1 and 2, Code 2011,
10 are amended to read as follows:
11 1. Upon its own motion or upon motion of any party, a court
12 may protect a minor, as defined in section 599.1, from trauma
13 caused by testifying in the physical presence of the defendant
14 where it would impair the minor's ability to communicate, by
15 ordering that the testimony of the minor be taken in a room
16 other than the courtroom and be televised by closed-circuit
17 equipment for viewing in the courtroom. However, such an order
18 shall be entered only upon a specific finding by the court that
19 such measures are necessary to protect the minor from trauma.
20 Only the judge, prosecuting attorney, defendant's attorney,
21 persons necessary to operate the equipment, and any person
22 whose presence, in the opinion of the court, would contribute
23 to the welfare and well-being of the minor may be present in
24 the room with the minor during the minor's testimony. The
25 judge shall inform the minor that the defendant will not be
26 present in the room in which the minor will be testifying
27 but that the defendant will be viewing the minor's testimony
28 through closed-circuit television.
29 During the minor's testimony the defendant shall remain in
30 the courtroom and shall be allowed to communicate with the
31 defendant's counsel in the room where the minor is testifying
32 by an appropriate electronic method.
33 In addition, upon a finding of necessity, the court may
34 allow the testimony of a victim or witness with a mental
35 illness, ~~mental retardation~~ an intellectual disability, or

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other developmental disability to be taken as provided in this subsection, regardless of the age of the victim or witness.

2. The court may, upon its own motion or upon motion of a party, order that the testimony of a minor, as defined in section 599.1, be taken by recorded deposition for use at trial, pursuant to rule of criminal procedure 2.13(2)(b). In addition to requiring that such testimony be recorded by stenographic means, the court may on motion and hearing, and upon a finding that the minor is unavailable as provided in rule of evidence 5.804(a), order the videotaping of the minor's testimony for viewing in the courtroom by the court. The videotaping shall comply with the provisions of rule of criminal procedure 2.13(2)(b), and shall be admissible as evidence in the trial. In addition, upon a finding of necessity, the court may allow the testimony of a victim or witness with a mental illness, ~~mental retardation~~ an intellectual disability, or other developmental disability to be taken as provided in this subsection, regardless of the age of the victim or witness.

EXPLANATION

This bill replaces the terms "mental retardation" and "mentally retarded" with the term "intellectual disability" throughout the Iowa Code.

The bill defines "intellectual disability" for the entire Iowa Code as a disability of children and adults who as a result of inadequately developed intelligence have a significant impairment in ability to learn or to adapt to the demands of society. This is the current definition of "mental retardation" in Code chapter 222. The bill also provides for the entire Iowa Code that if a diagnosis is required, "intellectual disability" means a diagnosis of mental retardation as defined in the diagnostic and statistical manual of mental disorders, fourth edition, text revised, published by the American psychiatric association. This language currently exists in Code section 222.60.

House File 2345 - Introduced

HOUSE FILE 2345
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HF 2076)

A BILL FOR

1 An Act relating to the factors considered by the court in a
2 determination of the best interest of the child in custody
3 arrangements.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5361HV (2) 84
pf/nh

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1 Section 1. Section 598.41, subsection 3, Code 2011, is
2 amended by adding the following new paragraph:
3 NEW PARAGRAPH. *k.* Whether a parent has allowed a person
4 custody or control of, or unsupervised access to a child after
5 knowing the person is required to register or is on the sex
6 offender registry as a sex offender under chapter 692A.
7 EXPLANATION
8 This bill adds to the list of factors the court is to
9 consider in determining the best interest of a child in a
10 custody arrangement, whether a parent has allowed a person
11 custody or control of, or unsupervised access to, a child after
12 knowing the person is required to register or is on the sex
13 offender registry as a sex offender under chapter 692A.

House File 2346 - Introduced

HOUSE FILE 2346
BY J. TAYLOR, KLEIN, HEIN,
DE BOEF, MOORE, PAUSTIAN,
QUIRK, SCHULTZ, GRASSLEY,
WINDSCHITL, and HAGER

A BILL FOR

1 An Act relating to funding for projects on roads and bridges
2 in critical need of repair or maintenance, and making an
3 appropriation.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5785YH (3) 84
dea/nh

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Section 1. Section 8.55, subsection 2, paragraph a, Code Supplement 2011, is amended to read as follows:

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

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

(2) Moneys in excess of the amount transferred under subparagraph (1), up to a maximum amount of sixty million dollars, shall be transferred to the critical needs road fund created under section 312B.1.

~~(2)~~ (3) The remainder of the excess, if any, shall be transferred to the general fund of the state.

Sec. 2. Section 8.58, Code Supplement 2011, is amended to read as follows:

8.58 Exemption from automatic application.

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

2. To the extent that moneys appropriated under section 8.57 do not result in moneys being credited to the general fund under section 8.55, subsection 2, moneys appropriated under section 8.57 and moneys contained in the cash reserve fund,

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rebuild Iowa infrastructure fund, environment first fund, Iowa economic emergency fund, ~~and~~ taxpayers trust fund, and critical needs road fund shall not be considered by an arbitrator or in negotiations under chapter 20.

Sec. 3. NEW SECTION. **312B.1 Critical needs road fund.**

1. A critical needs road fund is created in the state treasury under the control of the department of transportation. The fund shall be separate from the general fund of the state and the balance in the fund shall not be considered part of the balance of the general fund of the state. The fund shall consist of moneys appropriated by the general assembly and any revenues credited by law to the critical needs road fund. The moneys in the fund are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this section. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the critical needs road fund shall be credited to the fund.

2. Moneys in the critical needs road fund are appropriated to the department of transportation to be used as directed by the department exclusively for the repair and maintenance of roads on the primary or secondary road system, or the municipal street system, including bridges. The department shall establish guidelines for identifying roads and bridges in critical need of repair or maintenance and for prioritizing projects to receive funding under this section. Moneys distributed from the critical needs road fund may be used in combination with other available funding as necessary to accomplish the completion of a qualifying project and to accomplish the goal of reducing the number of Iowa roads and bridges with critical needs.

EXPLANATION

This bill establishes a critical needs road fund in the state treasury under the control of the department of transportation. Moneys in the fund are appropriated to the department to be

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used exclusively for repair and maintenance of state and local roads. The department is authorized to direct the use of the fund's resources according to guidelines to be established by the department for identifying roads and bridges in critical need of repair or maintenance and for prioritizing critical needs projects. Moneys from the fund may be used in combination with other available funding.

The bill provides that if the economic emergency fund reaches the maximum balance, after the required transfer of a portion of the excess to the taxpayers trust fund and before any remaining excess is transferred to the general fund of the state, any excess moneys in an amount up to $60 million shall be transferred to the critical needs road fund.

House File 2347 - Introduced

HOUSE FILE 2347
BY PETTENGILL

A BILL FOR

1 An Act relating to the tax-sheltered investment program
2 administered by the department of administrative services.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5903YH (4) 84
mm/sc

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1 Section 1. Section 8A.438, subsection 2, Code 2011, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:
4 2. The director shall select a third-party administrator
5 for the program that is independent from the director and that
6 does not offer its own investment options to participants
7 through the tax-sheltered investment program. The director
8 shall provide centralized oversight of the program.
9 Sec. 2. Section 8A.438, Code 2011, is amended by adding the
10 following new subsections:
11 NEW SUBSECTION. 3. Each public school district that is a
12 participating employer in the program may select additional
13 investment contracts authorized under section 403(b) of the
14 Internal Revenue Code to supplement any investment contracts
15 chosen by the director. The additional investment contracts
16 selected by each public school district shall be administered
17 by the independent third-party administrator selected pursuant
18 to subsection 2. The selection of an available investment
19 contract by any public school employee may not be unreasonably
20 denied. Educational material and information provided by the
21 director and the independent third-party administrator shall
22 not favor an investment contract selected by the director over
23 an investment contract selected by a public school district
24 and shall not direct participants to an investment contract
25 selected by the director. Each public school district may
26 independently negotiate the terms and conditions, including
27 fees charged, of any investment contract that it selects. Any
28 administrative requirement and fee imposed by the department
29 on an investment contract selected by a public school district
30 shall also be imposed on an investment contract selected by the
31 director.
32 NEW SUBSECTION. 4. *a.* All investment contracts must
33 disclose and furnish to each participant the following
34 information:
35 (1) All services provided, including how the services are

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1 provided and whether they are provided by a licensed advisor
2 or licensed agent.
3 (2) All fees that may be charged to a participant.
4 (3) A description of the amount and recipient of all
5 payments made or promised to third parties, including but
6 not limited to commissions, payments related to the purchase
7 or deposit of a product, payments related to marketing or
8 promotion of a product, and any other payment a third party is
9 eligible to receive.
10 (4) All other information required by the United States
11 department of labor in 29 C.F.R. § 2550.404a-5(d), in the same
12 model comparative chart format provided in the appendix to 29
13 C.F.R. § 2550.404a-5.
14 *b.* The information in paragraph *"a"* shall be provided in a
15 comparative chart using a format prescribed by the director
16 and federal regulations, and furnished to the participant on
17 or before the date on which a participant can first direct the
18 participant's investments, and at least annually thereafter.
19 NEW SUBSECTION. 5. Investment contracts authorized by the
20 director prior to February 1, 2012, shall have twenty-four
21 months to opt out of their existing agreements with the
22 director without penalty. Investment contracts which opt
23 out shall not modify or add fees or reduce services for
24 participants that are currently enrolled with that investment
25 contract in the tax-sheltered investment program during such
26 twenty-four-month period. Investment contracts which opt
27 out shall not enter into another investment contract with
28 the director for thirty-six months following the date their
29 contract with the director is terminated. However, investment
30 contracts that opt out of existing agreements with the director
31 pursuant to this subsection may be selected by public school
32 districts pursuant to this section during and after the
33 thirty-six-month period.
34 EXPLANATION
35 This bill amends the tax-sheltered investment program in

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1 Code section 8A.438. Under current law, the tax-sheltered
2 investment program is administered by the department
3 of administrative services through a special, separate
4 tax-sheltered investment revolving trust fund in the state
5 treasury. The bill terminates the tax-sheltered investment
6 revolving trust fund and places the program under the
7 administration of an independent third-party administrator.
8 The director of the department of administrative services
9 is required to select a third-party administrator that is
10 independent from the director and that does not offer its own
11 investment options to participants through the tax-sheltered
12 investment program.
13 The bill also amends the tax-sheltered investment program to
14 allow public school districts that are participating employers
15 to select additional investment contracts authorized under
16 section 403(b) of the Internal Revenue Code. In providing
17 educational and other informational material to participants,
18 neither the third-party administrator or the director of the
19 department of administrative services is allowed to favor
20 an investment contract selected by the director over an
21 investment contract selected by a public school district, or
22 direct participants to an investment contract selected by the
23 director.
24 All investment contracts are required to disclose and
25 furnish various information relating to services provided,
26 fees, payments made to third parties, and other information
27 required by the United States department of labor in 29
28 C.F.R. § 2550.404a-5(d). The information must be provided
29 to participants in the form prescribed by the director of
30 administrative services on or before the date a participant
31 can first direct their investments, and at least annually
32 thereafter.
33 Investment contracts authorized by the director prior to
34 February 1, 2012, will have 24 months to opt out of their
35 existing agreements with the director of the department of

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1 administrative services. Those that opt out are not allowed
2 to modify or add fees or reduce services for participants
3 currently enrolled and are not allowed to enter into another
4 investment contract with the department of administrative
5 services for 36 months following the date their contract is
6 terminated. Investment contracts that opt out of existing
7 agreements may still be selected by public school districts as
8 provided in the bill during and after the 36-month period.

House File 2348 - Introduced

HOUSE FILE 2348
BY COMMITTEE ON ENVIRONMENTAL PROTECTION

(SUCCESSOR TO HSB 594)

A BILL FOR

1 An Act relating to pollution prevention and waste management
2 assistance.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5191HV (2) 84
tm/nh

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Section 1. Section 455B.481, subsections 1 through 3, Code 2011, are amended to read as follows:

1. The purpose of this part is to promote the proper ~~and safe storage, treatment, and disposal~~ management of solid, hazardous, and low-level radioactive wastes in Iowa. ~~The management of these wastes generated within Iowa is the responsibility of Iowans. It is the intent of the general assembly that Iowans assume this responsibility to the extent consistent with the protection of public health, safety, and the environment, and that Iowans insure that waste management practices, as alternatives to land disposal, including source reduction, recycling, compaction, incineration, and other forms of waste reduction, are employed.~~

~~2. It is also the intent of the general assembly that a comprehensive waste management plan be established by the department which includes: the determination of need and adequate regulatory controls prior to the initiation of site selection; the process for selecting a superior site determined to be necessary; the establishment of a process for a site community to submit or present data, views, or arguments regarding the selection of the operator and the technology that best ensures proper facility operation; the prohibition of shallow land burial of hazardous and low-level radioactive wastes; the establishment of a regulatory framework for a facility; and the establishment of provisions for the safe and orderly development, operation, closure, postclosure, and long-term monitoring and maintenance of the facility.~~

~~3.~~ 2. ~~In order to meet capacity assurance requirements of section 104k of the federal Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, and further the objectives of waste minimization, the~~ The department, in cooperation with the small business assistance center at the university of northern Iowa, shall work with generators of hazardous wastes in the state to develop and implement aggressive waste minimization programs. ~~The goal of these~~

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~~programs is to reduce the volume of hazardous waste generated in the state as a whole by twenty-five percent of the amount generated as of January 1, 1987, as reported in the biennial reports collected by the United States environmental protection agency. The twenty-five percent reduction goal shall be reached as expeditiously as possible and no later than July 1, 1994. In meeting the reduction goal, elements "a" through "d" of the hazardous waste management hierarchy shall be utilized. The department, in cooperation with the small business assistance center, shall reassess the twenty-five percent reduction goal in 1994.~~ The department shall ~~promote research and development,~~ provide and promote educational and informational programs, ~~promote and encourage~~ provide confidential, voluntary technical assistance to hazardous waste generators, promote assistance by the small business assistance center, and promote other activities by the public and private sectors that support ~~this goal. In the promotion of the goal,~~ the following ~~hazardous waste management~~ pollution prevention hierarchy, in descending order of preference~~, is established by the department~~:

a. Source reduction for waste elimination.

b. Reuse.

c. On-site recycling.

~~*c.*~~ *d.* Off-site recycling.

~~*d.*~~ *e.* Waste treatment.

~~*e.*~~ *f.* ~~Incineration~~ Combustion with energy recovery.

~~*f.*~~ *g.* Land disposal.

Sec. 2. Section 455B.481, subsections 4 and 5, Code 2011, are amended by striking the subsections.

Sec. 3. Section 455B.482, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. *"Pollution prevention"* means employment of a practice that reduces the industrial use of toxic substances or reduces the environmental and health hazards associated with an environmental waste without diluting or

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1 concentrating the waste before the release, handling, storage,
2 transport, treatment, or disposal of the waste.
3 Sec. 4. Section 455B.484, Code 2011, is amended by adding
4 the following new subsection:
5 NEW SUBSECTION. 1A. Implement the waste management policy
6 provided in section 455B.481.
7 Sec. 5. Section 455B.484, subsections 2, 3, 4, 6, 7, 9, and
8 10, Code 2011, are amended by striking the subsections.
9 Sec. 6. Section 455B.484A, subsection 1, paragraph c, Code
10 2011, is amended to read as follows:
11 *c. "Assistance program"* means the ~~waste reduction assistance~~
12 pollution prevention program of the department or of the Iowa
13 waste reduction center for safe and economic management of
14 solid waste and hazardous substances conducted pursuant to
15 section 268.4.
16 Sec. 7. Section 455B.485, subsections 3 and 5, Code 2011,
17 are amended by striking the subsections.
18 Sec. 8. Section 455B.486, subsection 1, Code 2011, is
19 amended by striking the subsection.
20 Sec. 9. Section 455B.487, unnumbered paragraph 1, Code
21 2011, is amended to read as follows:
22 The commission shall adopt rules establishing criteria for
23 the identification of land areas or sites which are suitable
24 for the operation of facilities for the management of ~~hazardous~~
25 ~~and~~ low-level radioactive wastes. Upon request, the department
26 shall assist in locating suitable sites for the location of
27 a facility. The commission may purchase or condemn land to
28 be leased or used for the operation of a facility subject to
29 chapter 6A. Consideration for a contract for purchase of land
30 shall not be in excess of funds appropriated by the general
31 assembly for that purpose. The commission may lease land
32 purchased under this section to any person including the state
33 or a state agency. This section authorizes the state to own or
34 operate ~~hazardous waste facilities and~~ low-level radioactive
35 waste facilities, subject to the approval of the general

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1 assembly.
2 Sec. 10. Section 455B.487, unnumbered paragraph 11, Code
3 2011, is amended by striking the unnumbered paragraph.
4 Sec. 11. Section 455B.487, subsections 1 through 3, Code
5 2011, are amended by striking the subsections.
6 Sec. 12. NEW SECTION. **455B.810 Product stewardship —**
7 **report.**
8 1. By January 15 of each year, the department shall submit a
9 product stewardship report to the general assembly. The report
10 shall supply information identifying solid waste according
11 to product or product category. The report shall consider
12 latex paint, oil-based paint, aseptic packaging, waste tires,
13 florescent bulbs, and food waste. The report shall not include
14 consideration of motor vehicles or watercraft.
15 2. The department shall use the report described in
16 subsection 1 to recommend a strategy that most efficiently
17 manages solid waste as classified according to product
18 or product category. The strategy shall at least include
19 recommendations for all of the following:
20 *a.* Disposing of hazardous chemicals, toxic materials, or
21 harmful physical agents that pose a risk of an adverse impact
22 to the environment or public health and safety.
23 *b.* Increasing the recovery of materials for reuse or
24 recycling.
25 *c.* Reducing costs associated with solid waste management.
26 3. In preparing its report, the department shall consider
27 how other states have classified solid waste according to
28 products and product categories and how other states have
29 successfully collected and managed solid waste, including
30 recovering and recycling efforts. When preparing the report,
31 the department shall consult with landfill operators and
32 businesses engaged in recycling solid waste. The department
33 shall also invite participation from interested members of the
34 public.
35 4. As part of its report, the department shall recommend the

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1 establishment of a product stewardship program that implements
2 or improves upon the strategy developed by the department under
3 this section, including by detailing any legislative proposals
4 required for implementation or explaining the adoption of
5 proposed rules under existing statutory authority.
6 Sec. 13. Section 455D.1, Code 2011, is amended by adding the
7 following new subsection:
8 NEW SUBSECTION. 4A. *"Pollution prevention techniques"* means
9 any of the following practices employed by the user of a toxic
10 substance:
11 *a.* Input substitution, which is the replacement of a toxic
12 substance or raw material used in a production process with a
13 nontoxic or less toxic substance.
14 *b.* Product reformulation, which is the substitution of an
15 end product which is nontoxic or less toxic upon use or release
16 for an existing end product.
17 *c.* Production process redesign or modification, which is
18 the development and use of production processes of a different
19 design other than those currently in use.
20 *d.* Production process modernization, which is the upgrading
21 or replacing of existing production process equipment or
22 methods with other equipment or methods based on the same
23 production process.
24 *e.* Improved operation and maintenance of existing production
25 process equipment and methods, which is the modification or
26 addition to existing equipment or methods, including but not
27 limited to such techniques as improved housekeeping practices,
28 system adjustments, product and process inspections, and
29 production process control equipment or methods.
30 *f.* Recycling, reuse, or extended use of toxic substances by
31 using equipment or methods that become an integral part of the
32 production process.
33 Sec. 14. Section 455D.7, subsection 1, Code 2011, is amended
34 to read as follows:
35 1. Unless otherwise specified in this chapter, adopt rules

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1 necessary to implement this chapter pursuant to chapter 17A.
2 ~~Initial rules shall be adopted no later than April 1, 1992.~~
3 Sec. 15. Section 455D.7, subsection 4, Code 2011, is amended
4 by striking the subsection.
5 Sec. 16. Section 455D.15, subsection 2, Code Supplement
6 2011, is amended by striking the subsections and inserting in
7 lieu thereof the following:
8 2. The fund shall be utilized by the department for
9 providing technical assistance to Iowa businesses in developing
10 and implementing pollution prevention techniques.
11 Sec. 17. Section 455D.15, subsection 3, Code Supplement
12 2011, is amended by striking the subsection.
13 Sec. 18. Section 455E.8, subsections 2 and 3, Code 2011, are
14 amended by striking the subsections.
15 Sec. 19. REPEAL. Sections 455B.516, 455B.517, and
16 455B.518, Code 2011, are repealed.
17 EXPLANATION
18 This bill relates to pollution prevention and waste
19 management assistance.
20 The bill amends the waste management assistance provisions
21 of Code chapter 455B by updating the waste management policy.
22 The bill includes reuse and combustion with energy recovery in
23 the pollution prevention hierarchy and removes incineration
24 from the hierarchy.
25 The bill includes a new definition for "pollution
26 prevention" and uses the term to replace "hazardous waste
27 management" and "waste reduction assistance". The bill
28 eliminates references to hazardous waste throughout Code
29 chapter 455B, division IV, part 9, including duties of
30 the department of natural resources and the environmental
31 protection commission relating to hazardous waste and the
32 location, acquisition, and operation of hazardous waste
33 management facilities.
34 The bill requires the department to annually submit a
35 product stewardship report to the general assembly to supply

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information identifying solid waste according to product or product category. The department shall use the report to recommend an efficient strategy for solid waste management according to product or product category.

The bill eliminates many of the duties of the department in relation to waste management and includes a new general duty to implement the waste management policy.

The bill eliminates two duties of the environmental protection commission in relation to waste management policy. The duties relate to budget requests and approval of certain contracts and agreements.

The bill eliminates a duty of the commission to recommend to the general assembly, annually, the imposition of waste abatement fees, rebates, and deposits.

The bill amends provisions related to the waste volume reduction and recycling fund. The bill eliminates a requirement that grants from the fund be awarded based on the solid waste management hierarchy. The bill provides that the fund shall be utilized for purposes of providing technical assistance to Iowa businesses in developing and implementing pollution prevention techniques.

The bill eliminates two duties of the director of the department relating to groundwater reporting requirements.

The bill repeals Code sections 455B.516, 455B.517, and 455B.518, which relate to the toxics pollution prevention program.

House File 2349 - Introduced

HOUSE FILE 2349
BY HAGENOW and ROGERS

A BILL FOR

1 An Act relating to commercial sexual activity and human
2 trafficking and providing penalties and making penalties
3 applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5889YH (3) 84
rh/rj

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Section 1. Section 692A.102, subsection 1, paragraph c, Code Supplement 2011, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (032) Solicitation of commercial sexual activity in violation of section 710A.2A.

Sec. 2. Section 710A.1, subsection 4, Code 2011, is amended to read as follows:

4. *a.* *"Human trafficking"* means participating in a venture to recruit, harbor, transport, supply provisions, or obtain a person for any of the following purposes:

~~*a.*~~ (1) Forced labor or service that results in involuntary servitude, peonage, debt bondage, or slavery.

~~*b.*~~ (2) Commercial sexual activity through the use of force, fraud, or coercion, except that if the trafficked person is under the age of eighteen, the commercial sexual activity need not involve force, fraud, or coercion.

b. *"Human trafficking"* also means knowingly purchasing or attempting to purchase services involving commercial sexual activity from a victim or another person engaged in human trafficking.

Sec. 3. Section 710A.2, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A person's ignorance of the age of the victim or a belief that the victim was older is no defense to a violation of this section.

Sec. 4. NEW SECTION. **710A.2A Solicitation of commercial sexual activity.**

A person shall not entice, coerce, or recruit, or attempt to entice, coerce, or recruit a victim reasonably believed to be under the age of eighteen, to engage in a commercial sexual activity. A person who violates this section commits a class "D" felony.

Sec. 5. Section 915.87, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. The victim assisting, attempting, or committing a

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1 criminal act. This paragraph shall not apply to a victim under
2 the age of eighteen involved in commercial sexual activity as
3 defined in section 710A.1.
4 EXPLANATION
5 The bill classifies the crime of solicitation of commercial
6 sexual activity, as created in new Code section 710A.2A in
7 the bill, as a tier III sex offense for purposes of the sex
8 offender registry law in Code chapter 692A.
9 The bill defines human trafficking pursuant to Code chapter
10 710A to include knowingly purchasing or attempting to purchase
11 services involving commercial sexual activity from a victim or
12 another person engaged in human trafficking.
13 The bill provides that a person's ignorance of the age of the
14 victim or a belief that the victim was older is no defense to a
15 violation of the human trafficking law pursuant to Code section
16 710A.2.
17 The bill creates the crime of solicitation of commercial
18 sexual activity prohibiting a person from enticing, coercing,
19 or recruiting, or attempting to entice, coerce, or recruit a
20 victim reasonably believed to be under the age of 18, to engage
21 in a commercial sexual activity. A person who violates this
22 law commits a class "D" felony. Under Code section 710A.1,
23 "commercial sexual activity" means any sex act or sexually
24 explicit performance for which anything of value is given,
25 promised to, or received by any person and includes but is not
26 limited to prostitution, participation in the production of
27 pornography, and performance in strip clubs.
28 The bill provides that a victim shall not be disqualified
29 from receiving crime victim compensation under Code chapter
30 915 if the victim was under the age of 18 and was involved in
31 commercial sexual activity as defined in Code section 710A.1.

House File 2350 - Introduced

HOUSE FILE 2350
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HF 2252)

A BILL FOR

1 An Act relating to the possession of certain substances with
2 the intent to manufacture a controlled substance, and
3 providing a penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5902HV (1) 84
jm/nh

H.F. 2350

1 Section 1. Section 124.401, subsection 4, Code Supplement
2 2011, is amended by adding the following new paragraphs:
3 NEW PARAGRAPH. *o.* Ammonium sulfate.
4 NEW PARAGRAPH. *p.* Ammonium nitrate.
5 NEW PARAGRAPH. *q.* Sodium hydroxide.
6 EXPLANATION
7 This bill relates to the possession of certain substances
8 with the intent to manufacture a controlled substance.
9 Under the bill, it is illegal for any unauthorized person
10 to possess ammonium sulfate (commonly used in tree fertilizer
11 spikes), ammonium nitrate, or sodium hydroxide (lye) with the
12 intent to manufacture a controlled substance.
13 A person who violates the bill commits a class "D" felony. A
14 class "D" felony is punishable by confinement for no more than
15 five years and a fine of at least $750 but not more than $7,500.

House File 2351 - Introduced

HOUSE FILE 2351
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 596)

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 5458HV (3) 84
da/rj

H.F. 2351

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

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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.

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15. *"State"* means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

16. *"Verification on oath or affirmation"* means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

Sec. 3. NEW SECTION. **9B.4 Authority to perform notarial act.**

1. A notarial officer may perform a notarial act authorized by this chapter or by law of this state other than this chapter.

2. A notarial officer shall not perform a notarial act with respect to a record to which the notarial officer or the notarial officer's spouse is a party, or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

Sec. 4. NEW SECTION. **9B.5 Requirements for certain notarial acts.**

1. A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the notarial officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

2. A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the notarial officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

3. A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or

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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

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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.

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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

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act.

4. The notarial act performed in another state must be performed in accordance with section 9B.6.

Sec. 11. NEW SECTION. **9B.12 Notarial act under authority of federally recognized Indian tribe.**

1. A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state, if the act performed in the jurisdiction of the tribe is performed by any of the following:

a. A notary public of the tribe.

b. A judge, clerk, or deputy clerk of a court of the tribe.

c. Any other individual authorized by the law of the tribe to perform the notarial act.

2. The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

3. The signature and title of a notarial officer described in subsection 1, paragraph *"a"* or *"b"*, conclusively establish the authority of the notarial officer to perform the notarial act.

Sec. 12. NEW SECTION. **9B.13 Notarial act under federal authority.**

1. A notarial act performed under federal law has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed under federal law is performed by any of the following:

a. A judge, clerk, or deputy clerk of a court.

b. An individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law.

c. An individual designated a notarial officer by the United States department of state for performing notarial acts

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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.

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6. A consular authentication issued by an individual designated by the United States department of state as a notarial officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the notarial officer holds the indicated office.

Sec. 14. NEW SECTION. **9B.15 Certificate of notarial act.**

1. A notarial act must be evidenced by a certificate. The certificate must meet all of the following requirements:

a. Be executed contemporaneously with the performance of the notarial act.

b. Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the secretary of state.

c. Identify the jurisdiction in which the notarial act is performed.

d. Contain the title of office of the notarial officer.

e. If the notarial officer is a notary public, indicate the date of expiration, if any, of the notarial officer's commission.

2. If a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to or embossed on the certificate. If a notarial act is performed regarding a tangible record by a notarial officer other than a notary public and the certificate contains the information specified in subsection 1, paragraphs "*b*", "*c*", and "*d*", an official stamp may be affixed to or embossed on the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in subsection 1, paragraphs "*b*", "*c*", and "*d*", an official stamp may be attached to or logically associated with the certificate.

3. A certificate of a notarial act is sufficient if it meets the requirements of subsections 1 and 2 and all of the

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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 .....

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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 .....

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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

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accordance with state or federal authority. This section does not apply to a chief officer or a chief officer's designee certifying a peace officer's verification of a uniform citation and complaint pursuant to section 805.6, subsection 3. A judicial officer, chief officer, or chief officer's designee is not required to acquire or use an official stamp in performing these acts.

Sec. 17. NEW SECTION. **9B.18 Stamping device.**

1. A notary public is responsible for the security of the notary public's stamping device and shall not allow another individual to use the device to perform a notarial act.

2. If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall notify promptly the commissioning officer or agency on discovering that the device is lost or stolen.

Sec. 18. NEW SECTION. **9B.20 Notification regarding performance of notarial act on electronic record — selection of technology.**

1. A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person shall not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

2. Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall notify the secretary of state that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use. If the secretary of state has established standards for approval of technology pursuant to section 9B.27, the technology must conform to the standards. If the technology conforms to the standards, the secretary of state shall approve the use of the technology.

Sec. 19. NEW SECTION. **9B.21 Commission as notary public —**

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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

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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.

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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

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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

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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 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

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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.

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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:

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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

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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.

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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

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follows:

558.15 ~~Notarial~~ Official stamps ~~or seals~~ of ~~nonresidents~~ nonresident public notaries — presumption.

Any ~~notarial~~ official stamp ~~or seal~~ purporting to have been affixed to any instrument in writing, by any notary public as provided in chapter 9B residing elsewhere than in this state, shall be prima facie evidence that the words thereon engraved conform to the requirements of the law of the place where such certificate purports to have been made.

Sec. 47. Section 558.20, Code 2011, is amended to read as follows:

558.20 Acknowledgments.

The acknowledgment of any deed, conveyance, or other instrument in writing by which real estate in this state is conveyed or encumbered, whether made within this state, outside this state, outside the United States, or under federal authority, shall comply with the provisions of chapter ~~9E~~ 9B.

Sec. 48. Section 558.40, Code 2011, is amended to read as follows:

558.40 Liability of officer.

Any officer, who knowingly misstates a material fact in any of the certificates mentioned in this chapter or chapter ~~9E~~ 9B, shall be liable for all damages caused thereby, and shall be guilty of a serious misdemeanor.

Sec. 49. Section 558.42, Code 2011, is amended to read as follows:

558.42 Acknowledgment as condition precedent.

A document shall not be deemed lawfully recorded, unless it has been previously acknowledged or proved in the manner prescribed in chapter ~~9E~~ 9B, except that affidavits, and certified copies of petitions in bankruptcy with or without the schedules appended, of decrees of adjudication in bankruptcy, and of orders approving trustees' bonds in bankruptcy, and uniform commercial code financing statements and financing statement changes as provided in chapter 554 need not be thus

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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

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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

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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

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date of the date of such will; and that the testator, at the time of the execution of such instrument, was of full age and of sound mind and that the witnesses were sixteen years of age or older and otherwise competent to be witnesses.

.....
Testator
.....
Witness
.....
Witness

Subscribed, sworn and acknowledged before me by ....., the testator; and subscribed and sworn before me by ..... and ....., witnesses, this ... day of ..... (month), ... (year)

.....
Notary Public, or other notarial officer authorized to take and certify acknowledgments and administer oaths

~~(Seal)~~ (Stamp)

Sec. 57. Section 633.295, Code 2011, is amended to read as follows:

633.295 Testimony of witnesses.

The proof may be made by the oral or written testimony of one or more of the subscribing witnesses to the will. If such testimony is in writing, it shall be substantially in the following form executed and sworn to after the death of the decedent:

In the District Court of Iowa
In and for ..... County
In the Matter of the Estate of .....
....., Deceased
Probate No. ....
Testimony of Subscribing
Witness on Probate of Will.
State of .....)

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1 ..... County) ss
2 I, ..., being first duly sworn, state:
3 I reside in the County of ....., State of .....; I
4 knew the testator on the .... day of ..... (month), ...
5 (year), the date of the instrument, the original or exact
6 reproduction of which is attached hereto, now shown to me,
7 and purporting to be the last will and testament of the said
8 ....., deceased; I am one of the subscribing witnesses to
9 said instrument; at the said date of said instrument, I knew
10 ....., the other subscribing witness; that said instrument was
11 exhibited to me and to the other subscribing witness by the
12 testator, who declared the same to be the testator's last will
13 and testament, and was signed by the testator at .....,
14 in the County of ....., State of ....., on the date shown
15 in said instrument, in the presence of myself and the other
16 subscribing witness; and the other subscribing witness and I
17 then and there, at the request of the testator, in the presence
18 of said testator and in the presence of each other, subscribed
19 our names thereto as witnesses.
20 .....
21 Name of witness
22 .....
23 Address
24 Subscribed and sworn to before me this ... day of .....
25 (month), ... (year)
26 .....
27 Notary Public in and for
28 ~~(Seal)~~ (Stamp) the State of .....
29 Sec. 58. Section 633A.4604, subsection 2, Code 2011, is
30 amended to read as follows:
31 2. The certification must contain a statement that the trust
32 has not been revoked, modified, or amended in any manner which
33 would cause the representations contained in the certification
34 of trust to be incorrect and must contain a statement that it
35 is being signed by all of the currently acting trustees of the

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1 trust and is sworn and subscribed to under penalty of perjury
2 before a notary public as provided in chapter 9B.
3 DIVISION III
4 EFFECTIVE DATE
5 Sec. 59. EFFECTIVE DATE. This Act takes effect January 1,
6 2013.
7 EXPLANATION
8 GENERAL. This bill is based in part on the Revised Uniform
9 Law on Notarial Acts as proposed by the national conference
10 of commissioners on uniform state laws (tentatively codified
11 under Code chapter 9B), repeals the "Iowa Law on Notarial
12 Acts" (currently codified under Code chapter 9E), and makes
13 conforming changes throughout the Code concerning notaries
14 public. The bill differs from the model act in several
15 respects. For example, it does not include optional provisions
16 requiring a notary public to maintain a journal or pass an
17 examination. The bill also includes provisions that are part
18 of the current law. For example, it requires the secretary
19 of state to notify a notary public of an upcoming expiration.
20 The secretary of state is responsible for administering
21 requirements applicable to notaries public.
22 NOTARIAL OFFICERS. Under the bill, a notarial officer
23 (a notary public or other authorized individual) may take
24 an acknowledgment, administer an oath or affirmation, take
25 a verification on oath or affirmation, witness or attest a
26 signature, certify or attest a copy, and note a protest of a
27 negotiable instrument. The bill requires a notarial officer
28 to have personal knowledge or satisfactory evidence of the
29 identity of someone appearing before the officer for certain
30 notarial acts. The bill requires notaries public to use a
31 stamp, and sets requirements for the stamp and stamping device.
32 It establishes qualifications to become a notary public,
33 including requiring a notary public to be a citizen or legal
34 permanent resident. It provides grounds for the secretary of
35 state to deny, suspend, or otherwise limit a notary public's

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appointment. It also requires a nonattorney notary public to state in any advertisement that they are not authorized to give legal advice. The bill replaces a reference to a notarial seal with an official stamp.

NOTARIAL ACTS. The bill provides for the recognition of notarial acts, under specified procedures, that are performed both within and outside the state. It prescribes requirements for different types of notarial acts as well as certificates that must be executed along with such acts. The bill authorizes a notarial act to be performed in Iowa by a notary public or other designated person (a judge, clerk or deputy clerk of a court, a person authorized by the law of this state to administer oaths, an individual authorized to perform a specific act by the law, or a registrar of vital statistics or a designee). Under the bill, the signature and title of someone performing a notarial act is prima facie evidence that the signature is genuine and that the individual holds the designated title. The bill recognizes a notarial act legally performed in another state, territory, or insular possession of the United States, or on the land of a federally recognized Indian tribe. The bill specifically applies to a notarial act performed with respect to a tangible or electronic record. It requires a notary public who wishes to perform a notarial act involving an electronic record to notify the secretary of state regarding the technology that the notary public will use.

RULEMAKING. The bill authorizes the secretary of state to adopt rules necessary to administer the bill.

COORDINATING AMENDMENTS. The bill amends a number of provisions which refer to a notary public, by expressly referencing the bill's new Code chapter. The affected Code chapters include those relating to the office of citizens' aide, military justice, elections, vital statistics, health care, family support, transportation and recreation, commercial law, court administration, property conveyances, family law, evidence, and probate.

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1 EFFECTIVE DATE. The bill takes effect on January 1, 2013.

House File 2352 - Introduced

HOUSE FILE 2352
BY LUKAN

A BILL FOR

1 An Act providing an Iowa rebate tax credit for eligible
2 individuals, providing an exemption from the computation of
3 the state individual income tax, and including effective
4 date and retroactive applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5337YH (3) 84
mm/sc

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DIVISION I
IOWA TAX REBATE CREDIT

Section 1. NEW SECTION. **422.11I Iowa tax rebate credit.**

1. For purposes of this section, unless the context otherwise requires, *"eligible individual"* means an Iowa resident who, for the first tax year beginning on or after January 1, 2011, had an Iowa individual net income tax liability which was greater than zero, and who made and filed an income tax return pursuant to section 422.13 for that tax year. An eligible individual does not include an estate or trust, or a resident with respect to whom a deduction under section 151 of the Internal Revenue Code is allowable to another taxpayer for the first tax year beginning on or after January 1, 2011.

2. The taxes imposed under this division, less the credits allowed under section 422.12, shall be reduced by an Iowa tax rebate credit to an eligible individual for the first tax year beginning on or after January 1, 2012, in the amount of three hundred dollars.

3. The amount of the credit allowable in subsection 2 shall be reduced, but not below zero, by the aggregate refunds and credits made or allowed to the taxpayer under subsection 5.

4. Any credit in excess of the taxpayer's tax liability shall be refunded. In lieu of claiming the refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

5. *a.* Each taxpayer who is an eligible individual shall be treated as having made a payment against the tax imposed in this chapter for such first tax year beginning on or after January 1, 2011, in an amount equal to the credit in subsection 2.

b. The director shall, subject to the provisions of this section, refund or credit any overpayment attributable to this subsection as soon as practicable. A refund or credit shall not be made or allowed under this subsection after December 31,

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2012.

c. Notwithstanding any other provision of this chapter, interest shall not be allowed on any overpayment attributable to this subsection.

6. This section is repealed on June 30, 2013.

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

Sec. 3. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to January 1, 2012, for the tax year beginning on or after January 1, 2012, and ending on December 31, 2012.

DIVISION II

INCOME TAX EXEMPTION FOR IOWA TAX REBATE CREDIT

Sec. 4. Section 422.7, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 6. *a.* Subtract the credit or refund received from the Iowa tax rebate credit pursuant to section 422.11I to the extent that the credit or refund increased federal adjusted gross income.

b. This subsection is repealed on June 30, 2014.

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

Sec. 6. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to January 1, 2012, for tax years beginning on or after that date.

EXPLANATION

This bill relates to the creation of an Iowa tax rebate credit and an individual income tax exemption for the Iowa tax rebate credit.

Division I of the bill relates to the Iowa tax rebate credit.

This division provides a one-time refundable individual income tax credit to eligible individuals for the 2012 tax year equal to $300. "Eligible individual" is defined as an

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1 Iowa resident who had a 2011 Iowa individual net income tax
2 liability which was greater than zero, and who made and filed
3 an Iowa income tax return for that tax year. An eligible
4 individual does not include an estate or trust, or a resident
5 who could be claimed as a dependent on the federal income tax
6 return of another taxpayer for the 2011 tax year.
7 An eligible individual who qualifies for the credit
8 is treated as having made a payment against the eligible
9 individual's 2011 tax in an amount equal to the credit. The
10 director is required to refund or credit any overpayment
11 attributable to this payment as soon as practicable. A refund
12 or credit shall not be made or allowed with respect to this
13 advance refund after December 31, 2012. Interest shall not be
14 allowed on any overpayment attributable to this advance refund.
15 The amount of the credit allowed in 2012 shall be reduced,
16 but not below zero, by the advance refund or credit described
17 above. Any credit in excess of the taxpayer's liability shall
18 be refunded. The Iowa tax rebate credit is automatically
19 repealed on June 30, 2013.
20 The division takes effect upon enactment and applies to the
21 tax year beginning on or after January 1, 2012, and ending on
22 December 31, 2012.
23 Division II of the bill relates to an exemption from the
24 individual income tax for the Iowa tax rebate credit.
25 The division provides an exemption from the state individual
26 income tax for the amount of any credit or refund received
27 from the Iowa tax rebate credit, to the extent the credit or
28 refund increased federal adjusted gross income. The income tax
29 exemption is automatically repealed on June 30, 2014.
30 The division takes effect upon enactment and applies
31 retroactively to January 1, 2012, for tax years beginning on
32 or after that date.

House Study Bill 653 - Introduced

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

A BILL FOR

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

TLSB 5446YC (1) 84
da/nh

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DIVISION I
PRINCIPAL PROVISIONS

Section 1. Section 490.140, subsections 3, 6, 9, and 26, Code Supplement 2011, are amended to read as follows:

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

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

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

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

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

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

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

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

Sec. 2. Section 490.140, Code Supplement 2011, is amended by adding the following new subsections:

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

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

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1 includes any writing or written instrument.
2 *b.* An electronic record.
3 NEW SUBSECTION. 7B. *"Domestic unincorporated entity"* means
4 an unincorporated entity whose internal affairs are governed by
5 the laws of this state.
6 NEW SUBSECTION. 8A. *"Electronic"* means relating to
7 technology having electrical, digital, magnetic, wireless,
8 optical, electromagnetic, or similar capabilities.
9 NEW SUBSECTION. 8B. *"Electronic record"* means information
10 that is stored in an electronic or other medium and is
11 retrievable in paper form through an automated process used in
12 conventional commercial practice, unless otherwise authorized
13 in accordance with section 490.141, subsection 10.
14 NEW SUBSECTION. 11A. *"Expenses"* means reasonable expenses
15 of any kind that are incurred in connection with a matter.
16 NEW SUBSECTION. 21B. *"Qualified director"* means the same
17 as defined in section 490.143.
18 NEW SUBSECTION. 32. *"Writing"* or *"written"* means any
19 information in the form of a document.
20 Sec. 3. Section 490.141, Code 2011, is amended to read as
21 follows:
22 **490.141 Notice or other communication.**
23 1. Notice under this chapter must be in writing unless oral
24 notice is reasonable ~~under~~ in the circumstances. ~~Notice by~~
25 ~~electronic transmission is written notice.~~ Unless otherwise
26 agreed between the sender and the recipient, words in a notice
27 or other communication under this chapter must be in English.
28 2. ~~Notice~~ A notice or other communication may be
29 ~~communicated in person; by mail or other~~ given or sent by
30 any method of delivery~~; or by telephone, voice mail, or~~
31 ~~other~~, except that electronic ~~means~~ transmissions must be in
32 accordance with this section. If these ~~forms of personal~~
33 ~~notice~~ methods of delivery are impracticable, a notice or
34 other communication may be communicated by a newspaper of
35 general circulation in the area where published; or by radio,

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

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the following apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 delivery of the written notice of revocation.
2 2. Any shareholder who fails to object by written notice
3 to the corporation, within sixty days of written notice by the
4 corporation of its intention to send single copies of notices,
5 reports, or statements to shareholders who share a common
6 address as permitted by subsection 1, shall be deemed to have
7 consented to receiving such single copy at the common address.
8 Sec. 6. Section 490.502, subsection 2, Code 2011, is amended
9 to read as follows:
10 2. If ~~a registered agent changes~~ the street address of ~~the~~
11 a registered agent's business office changes, the ~~registered~~
12 agent may change the street address of the registered office of
13 any corporation for which the person is the registered agent by
14 ~~notifying~~ delivering a signed written notice of the change to
15 the corporation ~~in writing of the change and signing, either~~
16 ~~manually or in facsimile,~~ and delivering to the secretary of
17 state for filing a signed statement that complies with the
18 requirements of subsection 1 and recites that the corporation
19 has been notified of the change.
20 Sec. 7. Section 490.620, subsection 4, Code 2011, is amended
21 to read as follows:
22 4. If a subscriber defaults in payment of money or
23 property under a subscription agreement entered into before
24 incorporation, the corporation may collect the amount owed
25 as any other debt. Alternatively, unless the subscription
26 agreement provides otherwise, the corporation may rescind the
27 agreement and may sell the shares if the debt remains unpaid
28 more than twenty days after the corporation sends a written
29 demand for payment to the subscriber.
30 Sec. 8. Section 490.624, Code 2011, is amended by adding the
31 following new subsection:
32 NEW SUBSECTION. 3. The board of directors may authorize one
33 or more officers to do all of the following:
34 *a.* Designate the recipients of rights, options, warrants,
35 or other equity compensation awards that involve the issuance

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of shares.

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

Sec. 9. Section 490.701, subsection 1, Code 2011, is amended to read as follows:

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

Sec. 10. Section 490.703, Code 2011, is amended to read as follows:

490.703 Court-ordered meeting.

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

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

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

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1 the following applies:
2 (1) Notice of the special meeting was not given within
3 thirty days after the date the demand was delivered to the
4 corporation's secretary.
5 (2) The special meeting was not held in accordance with the
6 notice.
7 2. The court may fix the time and place of the meeting,
8 ascertain the shares entitled to participate in the meeting,
9 specify a record date or dates for ascertaining shareholders
10 entitled to notice of and to vote at the meeting, prescribe the
11 form and content of the meeting notice, fix the quorum required
12 for specific matters to be considered at the meeting or direct
13 that the votes represented at the meeting constitute a quorum
14 for action on those matters, and enter other orders necessary
15 to accomplish the purpose or purposes of the meeting.
16 Sec. 11. Section 490.704, Code 2011, is amended to read as
17 follows:
18 **490.704 Action without meeting.**
19 1. Unless otherwise provided in the articles of
20 incorporation, any action required or permitted by this chapter
21 to be taken at a shareholders' meeting may be taken without
22 a meeting or vote, and, except as provided in subsection
23 5, without prior notice, if one or more written consents
24 describing the action taken are signed by the holders of
25 outstanding shares having not less than ninety percent of the
26 votes entitled to be cast at a meeting at which all shares
27 entitled to vote on the action were present and voted, and are
28 delivered to the corporation for inclusion in the minutes or
29 filing with the corporate records.
30 2. ~~A written consent shall bear the date of signature of~~
31 ~~each shareholder who signs the consent and no written consent~~
32 ~~is effective to take the corporate action referred to in~~
33 ~~the consent unless, within sixty days of the earliest dated~~
34 ~~consent delivered in the manner required by this section to the~~
35 ~~corporation, written consents signed by a sufficient number~~

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

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

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

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

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

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

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1 (1) Written consents sufficient to take the action have been
2 delivered to the corporation.
3 (2) Such later date that tabulation of consents is completed
4 pursuant to an authorization under subsection 4.
5 *b.* The notice must reasonably describe the action taken and
6 contain or be accompanied by the same material that, under any
7 provision of this chapter, would have been required to be sent
8 to nonvoting shareholders in a notice of a meeting at which the
9 proposed action would have been submitted to the shareholders
10 for action.
11 6. *a.* If action is taken by less than unanimous written
12 consent of the voting shareholders, the corporation must give
13 its nonconsenting voting shareholders written notice of the
14 action not more than ten days after any of the following:
15 (1) Written consents sufficient to take the action have been
16 delivered to the corporation.
17 (2) Such later date that tabulation of consents is completed
18 pursuant to an authorization under subsection 4.
19 *b.* The notice must reasonably describe the action taken
20 and contain or be accompanied by the same material that, under
21 any provision of this chapter, would have been required to be
22 sent to voting shareholders in a notice of a meeting at which
23 the action would have been submitted to the shareholders for
24 action.
25 7. The notice requirements in subsections 5 and 6 shall not
26 delay the effectiveness of actions taken by written consent,
27 and a failure to comply with such notice requirements shall
28 not invalidate actions taken by written consent, provided that
29 this subsection shall not be deemed to limit judicial power
30 to fashion any appropriate remedy in favor of a shareholder
31 adversely affected by a failure to give such notice within the
32 required time period.
33 Sec. 12. Section 490.705, subsections 1 and 5, Code 2011,
34 are amended to read as follows:
35 1. A corporation shall notify shareholders of the date,

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1 time, and place of each annual and special shareholders'
2 meeting no fewer than ten nor more than sixty days before
3 the meeting date. The notice shall include the record date
4 for determining the shareholders entitled to vote at the
5 meeting, if such date is different than the record date for
6 determining shareholders entitled to notice of the meeting. If
7 the board of directors has authorized participation by means
8 of remote communication pursuant to section 490.709 for any
9 class or series of shareholders, the notice to such class or
10 series of shareholders shall describe the means of remote
11 communication to be used. Unless this chapter or the articles
12 of incorporation require otherwise, the corporation is required
13 to give notice only to shareholders entitled to vote at the
14 meeting as of the record date for determining the shareholders
15 entitled to notice of the meeting.
16 5. Unless the bylaws require otherwise, if an annual or
17 special shareholders' meeting is adjourned to a different date,
18 time, or place, notice need not be given of the new date,
19 time, or place if the new date, time, or place is announced at
20 the meeting before adjournment. If a new record date for the
21 adjourned meeting is or must be fixed under section 490.707,
22 however, notice of the adjourned meeting must be given under
23 this section to ~~persons who are~~ shareholders ~~as of the new~~
24 ~~record date~~ entitled to vote at such adjourned meeting as of
25 the record date fixed for notice of such adjourned meeting.
26 Sec. 13. Section 490.707, Code 2011, is amended to read as
27 follows:
28 **490.707 Record date.**
29 1. The bylaws may fix or provide the manner of fixing
30 the record date or dates for one or more voting groups in
31 order to determine the shareholders entitled to notice of a
32 shareholders' meeting, to demand a special meeting, to vote,
33 or to take any other action. If the bylaws do not fix or
34 provide for fixing a record date, the board of directors of the
35 corporation may fix a future date as the record date.

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

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reasonable measures to do all of the following:

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

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

Sec. 15. Section 490.720, Code 2011, is amended to read as follows:

490.720 Shareholders' list for meeting.

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

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

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1 3. The corporation shall make the ~~shareholders'~~ list of
2 shareholders entitled to vote available at the meeting, and any
3 shareholder, or a shareholder's agent or attorney, is entitled
4 to inspect the list at any time during the meeting or any
5 adjournment.
6 4. If the corporation refuses to allow a shareholder, or a
7 shareholder's agent or attorney, to inspect ~~the~~ a shareholders'
8 list before or at the meeting, or copy ~~the~~ a list as permitted
9 by subsection 2, the district court of the county where a
10 corporation's principal office or, if none in this state,
11 its registered office, is located, on application of the
12 shareholder, may summarily order the inspection or copying at
13 the corporation's expense and may postpone the meeting for
14 which the list was prepared until the inspection or copying is
15 complete.
16 5. Refusal or failure to prepare or make available ~~the~~ a
17 shareholders' list does not affect the validity of action taken
18 at the meeting.
19 Sec. 16. Section 490.722, subsection 2, Code 2011, is
20 amended by striking the subsection.
21 Sec. 17. Section 490.724, subsection 4, Code 2011, is
22 amended to read as follows:
23 4. The corporation and its officer or agent who accepts
24 or rejects a vote, consent, waiver, or proxy appointment in
25 good faith and in accordance with the standards of this section
26 ~~or section 490.722, subsection 2,~~ are not liable in damages
27 to the shareholder for the consequences of the acceptance or
28 rejection.
29 Sec. 18. Section 490.728, Code 2011, is amended by adding
30 the following new subsection:
31 NEW SUBSECTION. 4. Shares otherwise entitled to vote
32 cumulatively shall not be voted cumulatively at a particular
33 meeting unless any of the following applies:
34 *a.* The meeting notice or proxy statement accompanying
35 the notice states conspicuously that cumulative voting is

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1 authorized.
2 *b.* A shareholder who has the right to cumulate the
3 shareholder's votes gives notice to the corporation not less
4 than forty-eight hours before the time set for the meeting of
5 the shareholder's intent to cumulate votes during the meeting,
6 and if one shareholder gives this notice all other shareholders
7 in the same voting group participating in the election are
8 entitled to cumulate their votes without giving further notice.
9 Sec. 19. Section 490.742, subsection 2, Code 2011, is
10 amended to read as follows:
11 2. Ninety days have expired from the date delivery of
12 the demand was made, unless the shareholder has earlier been
13 notified that the demand has been rejected by the corporation
14 or unless irreparable injury to the corporation would result by
15 waiting for the expiration of the ninety-day period.
16 Sec. 20. Section 490.744, Code 2011, is amended to read as
17 follows:
18 **490.744 Dismissal.**
19 1. A derivative proceeding shall be dismissed by the court
20 on motion by the corporation if one of the groups specified
21 in subsection 2 or ~~6~~ 5 has determined in good faith after
22 conducting a reasonable inquiry upon which its conclusions are
23 based that the maintenance of the derivative proceeding is
24 not in the best interests of the corporation. A corporation
25 moving to dismiss on this basis shall submit in support of the
26 motion a short and concise statement of the reasons for its
27 determination.
28 2. Unless a panel is appointed pursuant to subsection ~~6~~ 5,
29 the determination in subsection 1 shall be made by ~~one~~ any of
30 the following:
31 *a.* A majority vote of ~~independent~~ qualified directors
32 present at a meeting of the board of directors if the
33 ~~independent~~ qualified directors constitute a quorum.
34 *b.* A majority vote of a committee consisting of two or
35 more ~~independent~~ qualified directors appointed by majority

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

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

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

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

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

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

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

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

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

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

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1 met; if not, the corporation shall have the burden of proving
2 that the requirements of subsection 1 have been met. ~~If a~~
3 ~~majority of the board of directors consists of independent~~
4 ~~directors at the time the determination is made, the plaintiff~~
5 ~~shall have the burden of proving that the requirements of~~
6 ~~subsection 1 have not been met.~~
7 ~~6.~~ 5. ~~The~~ Upon motion by the corporation, the court may
8 appoint a panel of one or more ~~independent persons upon motion~~
9 ~~by the corporation~~ individuals to make a determination whether
10 the maintenance of the derivative proceeding is in the best
11 interests of the corporation. In such case, the plaintiff
12 shall have the burden of proving that the requirements of
13 subsection 1 have not been met.
14 Sec. 21. Section 490.746, Code 2011, is amended to read as
15 follows:
16 **490.746 Payment of expenses.**
17 On termination of the derivative proceeding, the court may
18 do ~~either~~ any of the following:
19 1. Order the corporation to pay the plaintiff's ~~reasonable~~
20 expenses~~, including attorney fees~~ incurred in the proceeding,
21 if it finds that the proceeding has resulted in a substantial
22 benefit to the corporation.
23 2. Order the plaintiff to pay any defendant's ~~reasonable~~
24 expenses~~, including attorney fees~~ incurred in defending the
25 proceeding, if it finds that the proceeding was commenced or
26 maintained without reasonable cause or for an improper purpose.
27 Sec. 22. NEW SECTION. **490.748 Shareholder action to appoint**
28 **custodian or receiver.**
29 1. The district court may appoint one or more persons
30 to be custodians, or, if the corporation is insolvent, to
31 be receivers, of and for a corporation in a proceeding by a
32 shareholder where it is established that any of the following
33 applies:
34 *a.* The directors are deadlocked in the management of
35 the corporate affairs, the shareholders are unable to break

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1 the deadlock, and irreparable injury to the corporation is
2 threatened or being suffered.
3 *b.* The directors or those in control of the corporation are
4 acting fraudulently and irreparable injury to the corporation
5 is threatened or being suffered.
6 2. *a.* The district court may issue injunctions, appoint a
7 temporary custodian or temporary receiver with all the powers
8 and duties the court directs, take other action to preserve the
9 corporate assets wherever located, and carry on the business of
10 the corporation until a full hearing is held.
11 *b.* The district court shall hold a full hearing, after
12 notifying all parties to the proceeding and any interested
13 persons designated by the court, before appointing a custodian
14 or receiver.
15 *c.* The district court has jurisdiction over the corporation
16 and all of its property, wherever located.
17 3. The district court may appoint an individual or domestic
18 or foreign corporation, authorized to transact business in this
19 state, as a custodian or receiver and may require the custodian
20 or receiver to post bond, with or without sureties, in an
21 amount the court directs.
22 4. The district court shall describe the powers and duties
23 of the custodian or receiver in its appointing order, which may
24 be amended from time to time. Among other powers, all of the
25 following apply:
26 *a.* A custodian may exercise all of the powers of the
27 corporation, through or in place of its board of directors, to
28 the extent necessary to manage the business and affairs of the
29 corporation.
30 *b.* A receiver may do any of the following:
31 (1) Dispose of all or any part of the assets of the
32 corporation wherever located, at a public or private sale, if
33 authorized by the district court.
34 (2) Sue and defend in the receiver's own name as receiver in
35 all courts of this state.

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1 5. The district court during a custodianship may
2 redesignate the custodian as a receiver, and during a
3 receivership may redesignate the receiver as a custodian, if
4 doing so is in the best interests of the corporation.
5 6. The district court from time to time during the
6 custodianship or receivership may order compensation paid and
7 expense disbursements or reimbursements made to the custodian
8 or receiver from the assets of the corporation or proceeds from
9 the sale of its assets.
10 Sec. 23. Section 490.801, Code 2011, is amended to read as
11 follows:
12 **490.801 Requirement for and ~~duties~~ functions of board of**
13 **directors.**
14 1. Except as provided in section 490.732, each corporation
15 must have a board of directors.
16 2. All corporate powers shall be exercised by or under the
17 authority of the board of directors of the corporation, and
18 the business and affairs of the corporation shall be managed
19 by or under the direction, and subject to the oversight, of~~,~~
20 its board of directors, subject to any limitation set forth in
21 the articles of incorporation, or in an agreement authorized
22 under section 490.732.
23 Sec. 24. Section 490.805, subsection 2, Code Supplement
24 2011, is amended by striking the subsection and inserting in
25 lieu thereof the following:
26 2. The terms of all other directors expire at the next,
27 or if their terms are staggered in accordance with section
28 490.806 or 490.806A, at the applicable second or third, annual
29 shareholders' meeting following their election, except to
30 the extent a shorter term is specified in the articles of
31 incorporation in the event of a director nominee failing to
32 receive a specified vote for the election.
33 Sec. 25. Section 490.805, subsection 2, Code Supplement
34 2011, as amended by this Act, is amended to read as follows:
35 2. The terms of all other directors expire at the next,

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1 or if their terms are staggered in accordance with section
2 490.806 ~~or 490.806A~~, at the applicable second or third, annual
3 shareholders' meeting following their election, except to
4 the extent a shorter term is specified in the articles of
5 incorporation in the event of a director nominee failing to
6 receive a specified vote for the election.
7 Sec. 26. Section 490.805, subsection 5, Code Supplement
8 2011, is amended to read as follows:
9 5. ~~Despite~~ Except to the extent otherwise provided in
10 the articles of incorporation, despite the expiration of a
11 director's term, the director continues to serve until ~~a~~ the
12 director's successor ~~for that director~~ is elected and qualifies
13 or ~~until~~ there is a decrease in the number of directors.
14 Sec. 27. Section 490.807, Code 2011, is amended to read as
15 follows:
16 **490.807 Resignation of directors.**
17 1. A director may resign at any time by delivering a
18 written ~~notice~~ resignation to the board of directors~~,~~ or its
19 ~~chairperson~~ chair, or to the secretary of the corporation.
20 2. A resignation is effective when the ~~notice~~ resignation
21 is delivered unless the ~~notice~~ resignation specifies a
22 later effective date or an effective date determined upon
23 the happening of an event or events. A resignation that is
24 conditioned upon failing to receive a specified vote for
25 election as a director may provide that it is irrevocable.
26 Sec. 28. Section 490.810, subsection 2, Code Supplement
27 2011, is amended to read as follows:
28 2. If the vacant office was held by a director elected by
29 a voting group of shareholders, only the holders of shares of
30 that voting group are entitled to vote to fill the vacancy
31 if it is filled by the shareholders, and only the directors
32 elected by that voting group are entitled to fill the vacancy
33 if it is filled by the directors.
34 Sec. 29. NEW SECTION. **490.826 Submission of matters for**
35 **shareholder vote.**

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

Sec. 30. Section 490.830, Code 2011, is amended by adding the following new subsection:

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

Sec. 31. Section 490.831, subsection 1, paragraph a, subparagraph (1), Code 2011, is amended to read as follows:

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

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

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

(c) The protection afforded by section 490.870.

Sec. 32. Section 490.831, subsection 3, paragraphs a and b, Code 2011, are amended to read as follows:

a. In any instance where fairness is at issue, such as consideration of the fairness of a transaction to the corporation under section ~~490.832~~ 490.861, subsection 2, paragraph *"c"*, alter the burden of proving the fact or lack of fairness otherwise applicable.

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

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1 section 490.833 or a transactional interest under section
2 ~~490.832~~ 490.861.
3 Sec. 33. Section 490.841, Code 2011, is amended to read as
4 follows:
5 **490.841 ~~Duties~~ Functions of officers.**
6 Each officer has the authority and shall perform the ~~duties~~
7 functions set forth in the bylaws or, to the extent consistent
8 with the bylaws, the ~~duties~~ functions prescribed by the board
9 of directors or by direction of an officer authorized by the
10 board of directors to prescribe the ~~duties~~ functions of other
11 officers.
12 Sec. 34. Section 490.842, subsection 1, unnumbered
13 paragraph 1, Code 2011, is amended to read as follows:
14 An officer when performing in such capacity ~~shall~~ has the
15 duty to act in conformity with all of the following:
16 Sec. 35. Section 490.842, Code 2011, is amended by adding
17 the following new subsection:
18 NEW SUBSECTION. 1A. The duty of an officer includes the
19 obligation to do all of the following:
20 *a.* Inform the superior officer to whom, or the board of
21 directors or the committee thereof to which, the officer
22 reports of information about the affairs of the corporation
23 known to the officer, within the scope of the officer's
24 functions, and known to the officer to be material to such
25 superior officer, board, or committee.
26 *b.* Inform a superior officer, or another appropriate
27 person within the corporation, or the board of directors, or a
28 committee thereof, of any actual or probable material violation
29 of law involving the corporation or material breach of duty
30 to the corporation by an officer, employee, or agent of the
31 corporation, that the officer believes has occurred or is
32 likely to occur.
33 Sec. 36. Section 490.850, subsection 2, Code 2011, is
34 amended to read as follows:
35 2. *"Director"* or *"officer"* means an individual who is or

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1 was a director or officer, respectively, of a corporation or
2 who, while a director or officer of the corporation, is or was
3 serving at the corporation's request as a director, officer,
4 partner, trustee, employee, or agent of another domestic
5 or foreign corporation, partnership, joint venture, trust,
6 employee benefit plan, or other entity. A director or officer
7 is considered to be serving an employee benefit plan at the
8 corporation's request if the ~~director's~~ individual's duties to
9 the corporation also impose duties on, or otherwise involve
10 services by, ~~that director~~ the individual to the plan or to
11 participants in or beneficiaries of the plan. *"Director"* or
12 *"officer"* includes, unless the context requires otherwise, the
13 estate or personal representative of a director or officer.
14 Sec. 37. Section 490.850, subsections 3 and 4, Code 2011,
15 are amended by striking the subsections.
16 Sec. 38. Section 490.850, subsection 5, Code 2011, is
17 amended to read as follows:
18 5. *"Liability"* means the obligation to pay a judgment,
19 settlement, penalty, fine, including an excise tax assessed
20 with respect to an employee benefit plan, or ~~reasonable~~
21 expenses incurred with respect to a proceeding.
22 Sec. 39. Section 490.853, Code 2011, is amended to read as
23 follows:
24 **490.853 Advance for expenses.**
25 1. A corporation may, before final disposition of
26 a proceeding, advance funds to pay for or reimburse the
27 reasonable expenses incurred in connection with the proceeding
28 by ~~a director~~ an individual who is a party to ~~a~~ the proceeding
29 because ~~the person is a director if the person~~ that individual
30 is a member of the board of directors if the director delivers
31 all of the following to the corporation:
32 *a.* A signed written affirmation of the director's good
33 faith belief that the ~~director has met the~~ relevant standard
34 of conduct described in section 490.851 has been met by the
35 director or that the proceeding involved conduct for which

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liability has been eliminated under a provision of the articles of incorporation as authorized by section 490.202, subsection 2, paragraph "*d*".

b. ~~The director's~~ A signed written undertaking of the director to repay any funds advanced if the director is not entitled to mandatory indemnification under section 490.852 and it is ultimately determined under section 490.854 or ~~section~~ 490.855 that the director has not met the relevant standard of conduct described in section 490.851.

2. The undertaking required by subsection 1, paragraph "*b*", must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

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

a. By the board of directors as follows:

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

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

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

Sec. 40. Section 490.855, Code 2011, is amended to read as follows:

490.855 Determination and authorization of indemnification.

1. A corporation shall not indemnify a director under

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1 section 490.851 unless authorized for a specific proceeding
2 after a determination has been made that indemnification ~~of~~
3 ~~the director~~ is permissible because the director has met the
4 relevant standard of conduct set forth in section 490.851.
5 2. The determination shall be made by any of the following:
6 *a.* If there are two or more ~~disinterested~~ qualified
7 directors, by the board of directors by a majority vote of all
8 the ~~disinterested~~ qualified directors, a majority of whom shall
9 for such purpose constitute a quorum, or by a majority of the
10 members of a committee of two or more ~~disinterested~~ qualified
11 directors appointed by such a vote.
12 *b.* By special legal counsel selected in one of the following
13 manners:
14 (1) Selected in the manner prescribed in paragraph *"a"*.
15 (2) If there are fewer than two ~~disinterested~~ qualified
16 directors, selected by the board of directors, in which
17 selection directors who ~~do not qualify as disinterested~~ are not
18 qualified directors may participate.
19 *c.* By the shareholders, but shares owned by or voted under
20 the control of a director who at the time ~~does not qualify as a~~
21 ~~disinterested~~ is not a qualified director shall not be voted on
22 the determination.
23 3. Authorization of indemnification shall be made in
24 the same manner as the determination that indemnification
25 is permissible, except that if there are fewer than two
26 ~~disinterested~~ qualified directors or if the determination is
27 made by special legal counsel, authorization of indemnification
28 shall be made by those entitled ~~under subsection 2, paragraph~~
29 ~~*"b"*,~~ to select special legal counsel under subsection 2,
30 paragraph *"b"*, subparagraph (2).
31 Sec. 41. Section 490.858, Code 2011, is amended by adding
32 the following new subsection:
33 NEW SUBSECTION. 1A. A right of indemnification or to
34 advances for expenses created by this division or under
35 subsection 1 and in effect at the time of an act or omission

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1 shall not be eliminated or impaired with respect to such act
2 or omission by an amendment of the articles of incorporation
3 or bylaws or a resolution of the directors or shareholders,
4 adopted after the occurrence of such act or omission, unless,
5 in the case of a right created under subsection 1, the
6 provision creating such right and in effect at the time of
7 such act or omission explicitly authorizes such elimination or
8 impairment after such act or omission has occurred.
9 Sec. 42. Section 490.858, subsection 3, Code 2011, is
10 amended to read as follows:
11 3. ~~A~~ Subject to subsection 1A, a corporation may, by a
12 provision in its articles of incorporation, limit any of the
13 rights to indemnification or advance for expenses created by or
14 pursuant to this part.
15 Sec. 43. NEW SECTION. **490.860 Part definitions.**
16 As used in this part, unless the context otherwise requires:
17 1. *"Control"*, including the term *"controlled by"*, means any
18 of the following:
19 *a.* Having the power, directly or indirectly, to elect or
20 remove a majority of the members of the board of directors
21 or other governing body of an entity, whether through the
22 ownership of voting shares or interests, by contract, or
23 otherwise.
24 *b.* Being subject to a majority of the risk of loss from the
25 entity's activities or entitled to receive a majority of the
26 entity's residual returns.
27 2. *"Director's conflicting interest transaction"* means
28 a transaction effected or proposed to be effected by the
29 corporation, or by an entity controlled by the corporation to
30 which, or respecting which, any of the following applies:
31 *a.* To which, at the relevant time, the director is a party.
32 *b.* Respecting which, at the relevant time, the director
33 had knowledge and a material financial interest known to the
34 director.
35 *c.* Respecting which, at the relevant time, the director knew

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1 that a related person was a party or had a material financial
2 interest.
3 3. *"Fair to the corporation"* means, for purposes of section
4 490.861, subsection 2, paragraph *"c"*, that the transaction
5 as a whole was beneficial to the corporation, taking into
6 appropriate account whether it was all of the following:
7 *a.* Fair in terms of the director's dealings with the
8 corporation.
9 *b.* Comparable to what might have been obtainable in an arm's
10 length transaction, given the consideration paid or received
11 by the corporation.
12 4. *"Material financial interest"* means a financial interest
13 in a transaction that would reasonably be expected to impair
14 the objectivity of the director's judgment when participating
15 in action on the authorization of the transaction.
16 5. *"Related person"* means any of the following:
17 *a.* The director's spouse.
18 *b.* A child, stepchild, grandchild, parent, stepparent,
19 grandparent, sibling, step sibling, half sibling, aunt, uncle,
20 niece, or nephew, or spouse of any thereof, of the director or
21 of the director's spouse.
22 *c.* An individual living in the same home as the director.
23 *d.* An entity, other than the corporation or an entity
24 controlled by the corporation, controlled by the director or
25 any person specified in this subsection.
26 *e.* A domestic or foreign person who is any of the following:
27 (1) A business or nonprofit corporation, other than the
28 corporation or an entity controlled by the corporation, of
29 which the director is a director.
30 (2) An unincorporated entity of which the director is a
31 general partner or a member of the governing body.
32 (3) An individual, trust, or estate for whom or of which the
33 director is a trustee, guardian, personal representative, or
34 like fiduciary.
35 *f.* A person that is, or an entity that is controlled by, an

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1 employer of the director.
2 6. *"Relevant time"* means any of the following:
3 *a.* The time at which directors' action respecting the
4 transaction is taken in compliance with section 490.862.
5 *b.* If the transaction is not brought before the board of
6 directors of the corporation, or its committee, for action
7 under section 490.862, at the time the corporation, or an
8 entity controlled by the corporation, becomes legally obligated
9 to consummate the transaction.
10 7. *"Required disclosure"* means disclosure of all of the
11 following:
12 *a.* The existence and nature of the director's conflicting
13 interest.
14 *b.* All facts known to the director respecting the subject
15 matter of the transaction that a director free of such
16 conflicting interest would reasonably believe to be material in
17 deciding whether to proceed with the transaction.
18 Sec. 44. NEW SECTION. **490.861 Judicial action.**
19 1. A transaction effected or proposed to be effected by the
20 corporation, or by an entity controlled by the corporation,
21 shall not be the subject of equitable relief, or give rise to
22 an award of damages or other sanctions against a director of
23 the corporation, in a proceeding by a shareholder or by or in
24 the right of the corporation, on the ground that the director
25 has an interest respecting the transaction, if it is not a
26 director's conflicting interest transaction.
27 2. A director's conflicting interest transaction may
28 not be the subject of equitable relief, or give rise to an
29 award of damages or other sanctions against a director of the
30 corporation, in a proceeding by a shareholder or by or in the
31 right of the corporation, on the ground that the director has
32 an interest respecting the transaction, if any of the following
33 apply:
34 *a.* Directors' action respecting the transaction was taken in
35 compliance with section 490.862 at any time.

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1 *b.* Shareholders' action respecting the transaction was taken
2 in compliance with section 490.863 at any time.
3 *c.* The transaction, judged according to the circumstances
4 at the relevant time, is established to have been fair to the
5 corporation.
6 Sec. 45. NEW SECTION. **490.862 Directors' action.**
7 1. Directors' action respecting a director's conflicting
8 interest transaction is effective for purposes of section
9 490.861, subsection 2, paragraph *"a"*, if the transaction has
10 been authorized by the affirmative vote of a majority, but
11 no fewer than two, of the qualified directors who voted on
12 the transaction, after required disclosure by the conflicted
13 director of information not already known by such qualified
14 directors, or after modified disclosure in compliance with
15 subsection 2, provided that all of the following apply:
16 *a.* The qualified directors have deliberated and voted
17 outside the presence of and without the participation by any
18 other director.
19 *b.* Where the action has been taken by a committee, all
20 members of the committee were qualified directors, and any of
21 the following apply:
22 (1) The committee was composed of all the qualified
23 directors on the board of directors.
24 (2) The members of the committee were appointed by the
25 affirmative vote of a majority of the qualified directors on
26 the board.
27 2. Notwithstanding subsection 1, when a transaction is
28 a director's conflicting interest transaction only because a
29 related person described in section 490.860, subsection 5,
30 paragraph *"e"* or *"f"*, is a party to or has a material financial
31 interest in the transaction, the conflicted director is not
32 obligated to make required disclosure to the extent that the
33 director reasonably believes that doing so would violate a
34 duty imposed under law, a legally enforceable obligation of
35 confidentiality, or a professional ethics rule, provided that

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1 the conflicted director discloses to the qualified directors
2 voting on the transaction all of the following:
3 *a.* All information required to be disclosed that is not so
4 violative.
5 *b.* The existence and nature of the director's conflicting
6 interest.
7 *c.* The nature of the conflicted director's duty not to
8 disclose the confidential information.
9 3. A majority, but no fewer than two, of all the qualified
10 directors on the board of directors, or on the committee,
11 constitutes a quorum for purposes of action that complies with
12 this section.
13 4. Where directors' action under this section does not
14 satisfy a quorum or voting requirement applicable to the
15 authorization of the transaction by reason of the articles of
16 incorporation, the bylaws, or a provision of law, independent
17 action to satisfy those authorization requirements must be
18 taken by the board of directors or a committee, in which action
19 directors who are not qualified directors may participate.
20 Sec. 46. NEW SECTION. **490.863 Shareholders' action.**
21 1. *a.* Shareholders' action respecting a director's
22 conflicting interest transaction is effective for purposes of
23 section 490.861, subsection 2, paragraph "*b*", if a majority of
24 the votes cast by the holders of all qualified shares are in
25 favor of the transaction after all of the following occur:
26 (1) Notice to shareholders describing the action to be taken
27 respecting the transaction.
28 (2) Provision to the corporation of the information
29 referred to in subsection 2.
30 (3) Communication to the shareholders entitled to vote
31 on the transaction of the information that is the subject of
32 required disclosure, to the extent the information is not known
33 by them.
34 *b.* In the case of shareholders' action at a meeting, the
35 shareholders entitled to vote shall be determined as of the

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1 record date for notice of the meeting.
2 2. A director who has a conflicting interest respecting
3 the transaction shall, before the shareholders' vote, inform
4 the secretary or other officer or agent of the corporation
5 authorized to tabulate votes, in writing, of the number of
6 shares that the director knows are not qualified shares under
7 subsection 3, and the identity of the holders of those shares.
8 3. For purposes of this section, all of the following apply:
9 *a. "Holder"* means and *"held by"* refers to shares held by
10 both a record shareholder, as defined in section 490.1301,
11 subsection 7, and a beneficial shareholder, as defined in
12 490.1301, subsection 2.
13 *b. "Qualified shares"* means all shares entitled to be
14 voted with respect to the transaction except for shares that
15 the secretary or other officer or agent of the corporation
16 authorized to tabulate votes either knows, or under subsection
17 2 is notified, are held by any of the following:
18 (1) A director who has a conflicting interest respecting the
19 transaction.
20 (2) A related person of the director, excluding a person
21 described in section 490.860, subsection 5, paragraph *"f"*.
22 4. A majority of the votes entitled to be cast by the
23 holders of all qualified shares constitutes a quorum for
24 purposes of compliance with this section. Subject to the
25 provisions of subsection 5, shareholders' action that otherwise
26 complies with this section is not affected by the presence of
27 holders, or by the voting, of shares that are not qualified
28 shares.
29 5. If a shareholders' vote does not comply with subsection
30 1 solely because of a director's failure to comply with
31 subsection 2, and if the director establishes that the failure
32 was not intended to influence and did not in fact determine the
33 outcome of the vote, the court may take such action respecting
34 the transaction and the director, and may give such effect,
35 if any, to the shareholders' vote, as the court considers

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1 appropriate in the circumstances.
2 6. Where shareholders' action under this section does
3 not satisfy a quorum or voting requirement applicable to the
4 authorization of the transaction by reason of the articles of
5 incorporation, the bylaws, or a provision of law, independent
6 action to satisfy those authorization requirements must be
7 taken by the shareholders, in which action shares that are not
8 qualified shares may participate.
9 Sec. 47. Section 490.870, subsection 1, paragraphs a and b,
10 Code 2011, are amended to read as follows:
11 *a.* Action by qualified directors disclaiming the
12 corporation's interest in the opportunity is taken in
13 compliance with the procedures set forth in section ~~490.832~~
14 490.862, as if the decision being made concerned a director's
15 conflicting interest transaction.
16 *b.* Shareholders' action disclaiming the corporation's
17 interest in the opportunity is taken in compliance with the
18 procedure set forth in section ~~490.832~~ 490.863, as if the
19 decision being made concerned a director's conflicting interest
20 transaction; except that, rather than making the ~~disclosure~~
21 *"required disclosure"* as ~~required~~ defined in section ~~490.832~~
22 490.860, in each case the director shall have made prior
23 disclosure to those acting on behalf of the corporation of all
24 material facts concerning the business opportunity that are
25 then known to the director.
26 Sec. 48. Section 490.1003, subsection 2, Code 2011, is
27 amended to read as follows:
28 2. *a.* Except as provided in sections 490.1005, 490.1007,
29 and 490.1008, after adopting the proposed amendment, the board
30 of directors must submit the amendment to the shareholders for
31 their approval. The board of directors must also transmit to
32 the shareholders a recommendation that the shareholders approve
33 the amendment, unless any of the following apply:
34 (1) The board of directors makes a determination that
35 because of conflicts of interest or other special circumstances

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1 it should not make such a recommendation~~, in which case the~~.
2 (2) Section 490.826 applies.
3 *b.* If paragraph *"a"*, subparagraph (1) or (2), applies, the
4 board ~~of directors~~ must transmit to the shareholders the basis
5 for ~~the determination~~ so proceeding.
6 Sec. 49. Section 490.1104, subsection 2, Code 2011, is
7 amended to read as follows:
8 2. *a.* Except as provided in subsection 7 and in section
9 490.1105, after adopting the plan of merger or share exchange
10 the board of directors must submit the plan to the shareholders
11 for their approval. The board of directors must also transmit
12 to the shareholders a recommendation that the shareholders
13 approve the plan, unless ~~the~~ any of the following apply:
14 (1) The board of directors makes a determination that
15 because of conflicts of interest or other special circumstances
16 it should not make such a recommendation~~, in which case~~.
17 (2) Section 490.826 applies.
18 *b.* If paragraph *"a"*, subparagraph (1) or (2), applies, the
19 board ~~of directors~~ must transmit to the shareholders the basis
20 for ~~that determination~~ so proceeding.
21 Sec. 50. Section 490.1106, subsection 1, unnumbered
22 paragraph 1, Code 2011, is amended to read as follows:
23 After a plan of merger or share exchange has been adopted
24 and approved as required by this chapter, articles of merger
25 or share exchange shall be ~~executed~~ signed on behalf of each
26 party to the merger or share exchange by any officer or other
27 duly authorized representative. The articles shall set forth
28 the following:
29 Sec. 51. Section 490.1108, subsection 2, Code 2011, is
30 amended to read as follows:
31 2. If a merger or share exchange is abandoned under
32 subsection 1 after articles of merger or share exchange have
33 been filed with the secretary of state but before the merger
34 or share exchange has become effective, a statement that the
35 merger or share exchange has been abandoned in accordance with

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1 this section, ~~executed~~ signed on behalf of a party to the
2 merger or share exchange by an officer or other duly authorized
3 representative, shall be delivered to the secretary of state
4 for filing prior to the effective date of the merger or share
5 exchange. Upon filing, the statement shall take effect and the
6 merger or share exchange shall be deemed abandoned and shall
7 not become effective.
8 Sec. 52. Section 490.1202, subsection 2, Code 2011, is
9 amended to read as follows:
10 2. *a.* A disposition that requires approval of the
11 shareholders under subsection 1 shall be initiated by
12 a resolution by the board of directors authorizing the
13 disposition. After adoption of such a resolution, the board
14 of directors shall submit the proposed disposition to the
15 shareholders for their approval. The board of directors shall
16 also transmit to the shareholders a recommendation that the
17 shareholders approve the proposed disposition, unless ~~the~~ any
18 of the following apply:
19 (1) The board of directors makes a determination that
20 because of conflicts of interest or other special circumstances
21 it should not make such a recommendation~~, in which case~~.
22 (2) Section 490.826 applies.
23 *b.* If paragraph *"a"*, subparagraph (1) or (2), applies, the
24 board ~~of directors~~ shall transmit to the shareholders the basis
25 for ~~that determination~~ so proceeding.
26 Sec. 53. Section 490.1301, Code 2011, is amended by adding
27 the following new subsection:
28 NEW SUBSECTION. 5A. *"Interested transaction"* means a
29 corporate action described in section 490.1302, subsection 1,
30 other than a merger pursuant to section 490.1105, involving an
31 interested person in which any of the shares or assets of the
32 corporation are being acquired or converted. As used in this
33 definition, all of the following apply:
34 *a.* *"Beneficial owner"* means any person who, directly
35 or indirectly, through any contract, arrangement, or

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1 understanding, other than a revocable proxy, has or shares the
2 power to vote, or to direct the voting of, shares; except that
3 a member of a national securities exchange is not deemed to be
4 a beneficial owner of securities held directly or indirectly
5 by it on behalf of another person solely because the member is
6 the record holder of the securities if the member is precluded
7 by the rules of the exchange from voting without instruction
8 on contested matters or matters that may affect substantially
9 the rights or privileges of the holders of the securities to
10 be voted. When two or more persons agree to act together for
11 the purpose of voting their shares of the corporation, each
12 member of the group formed thereby is deemed to have acquired
13 beneficial ownership, as of the date of the agreement, of all
14 voting shares of the corporation beneficially owned by any
15 member of the group.
16 *b. "Excluded shares"* means shares acquired pursuant to an
17 offer for all shares having voting power if the offer was made
18 within one year prior to the corporate action for consideration
19 of the same kind and of a value equal to or less than that paid
20 in connection with the corporate action.
21 *c. "Interested person"* means a person, or an affiliate of a
22 person, who at any time during the one-year period immediately
23 preceding approval by the board of directors of the corporate
24 action was or had any of the following:
25 (1) Was the beneficial owner of twenty percent or more of
26 the voting power of the corporation, other than as owner of
27 excluded shares.
28 (2) Had the power, contractually or otherwise, other than as
29 owner of excluded shares, to cause the appointment or election
30 of twenty-five percent or more of the directors to the board of
31 directors of the corporation.
32 (3) Was a senior executive or director of the corporation
33 or a senior executive of any affiliate thereof, and that
34 senior executive or director will receive, as a result of the
35 corporate action, a financial benefit not generally available

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1 to other shareholders as such, other than any of the following:
2 (a) Employment, consulting, retirement, or similar benefits
3 established separately and not as part of or in contemplation
4 of the corporate action.
5 (b) Employment, consulting, retirement, or similar benefits
6 established in contemplation of, or as part of, the corporate
7 action that are not more favorable than those existing before
8 the corporate action or, if more favorable, that have been
9 approved on behalf of the corporation in the same manner as is
10 provided in section 490.862.
11 (c) In the case of a director of the corporation who will,
12 in the corporate action, become a director of the acquiring
13 entity in the corporate action or one of its affiliates, rights
14 and benefits as a director that are provided on the same basis
15 as those afforded by the acquiring entity generally to other
16 directors of such entity or such affiliate.
17 Sec. 54. Section 490.1302, subsection 2, paragraph a, Code
18 2011, is amended by striking the paragraph and inserting in
19 lieu thereof the following:
20 *a.* Appraisal rights shall not be available for the holders
21 of shares of any class or series of shares which is any of the
22 following:
23 (1) A covered security under section 18(b)(1)(A) or (B) of
24 the federal Securities Act of 1933, as amended.
25 (2) Traded in an organized market and has at least two
26 thousand shareholders and a market value of at least twenty
27 million dollars, exclusive of the value of such shares held by
28 the corporation's subsidiaries, senior executives, directors,
29 and beneficial shareholders owning more than ten percent of
30 such shares.
31 (3) Issued by an open-end management investment company
32 registered with the United States securities and exchange
33 commission under the federal Investment Company Act of 1940 and
34 may be redeemed at the option of the holder at net asset value.
35 Sec. 55. Section 490.1302, subsection 2, paragraph b,

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1 subparagraph (1), Code 2011, is amended to read as follows:
2 (1) The record date fixed to determine the shareholders
3 entitled to receive notice of~~, and to vote at,~~ the meeting
4 of shareholders to act upon the corporate action requiring
5 appraisal rights.
6 Sec. 56. Section 490.1302, subsection 2, paragraph d, Code
7 2011, is amended by striking the paragraph and inserting in
8 lieu thereof the following:
9 *d.* Paragraph *"a"*, shall not be applicable and appraisal
10 rights shall be available pursuant to subsection 1 for the
11 holders of any class or series of shares where the corporate
12 action is an interested transaction.
13 Sec. 57. Section 490.1302, subsection 2, paragraph e, Code
14 2011, is amended by striking the paragraph.
15 Sec. 58. Section 490.1302, subsection 4, Code 2011, is
16 amended by striking the subsection.
17 Sec. 59. Section 490.1320, Code 2011, is amended to read as
18 follows:
19 **490.1320 Notice of appraisal rights.**
20 1. ~~If~~ Where any proposed corporate action ~~described~~
21 specified in section 490.1302, subsection 1, is to be submitted
22 to a vote at a shareholders' meeting, the meeting notice must
23 state that the corporation has concluded that the shareholders
24 are, are not, or may be entitled to assert appraisal rights
25 under this part. If the corporation concludes that appraisal
26 rights are or may be available, a copy of this part must
27 accompany the meeting notice sent to those record shareholders
28 entitled to exercise appraisal rights.
29 2. In a merger pursuant to section 490.1105, the parent
30 corporation must notify in writing all record shareholders of
31 the subsidiary who are entitled to assert appraisal rights
32 that the corporate action became effective. Such notice must
33 be sent within ten days after the corporate action became
34 effective and include the materials described in section
35 490.1322.

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1 3. Where any corporate action specified in section
2 490.1302, subsection 1, is to be approved by written consent
3 of the shareholders pursuant to section 490.704, all of the
4 following apply:
5 *a.* Written notice that appraisal rights are, are not, or may
6 be available must be sent to each record shareholder from whom
7 a consent is solicited at the time consent of such shareholder
8 is first solicited and, if the corporation has concluded that
9 appraisal rights are or may be available, must be accompanied
10 by a copy of this chapter.
11 *b.* Written notice that appraisal rights are, are not, or
12 may be available must be delivered together with the notice to
13 nonconsenting and nonvoting shareholders required by section
14 490.704, subsections 5 and 6, may include the materials
15 described in section 490.1322 and, if the corporation has
16 concluded that appraisal rights are or may be available, must
17 be accompanied by a copy of this chapter.
18 4. Where corporate action described in section 490.1302,
19 subsection 1, is proposed, or a merger pursuant to section
20 490.1105 is effected, the notice referred to in subsection 1
21 or 3, if the corporation concludes that appraisal rights are
22 or may be available, and in subsection 2 shall be accompanied
23 by all of the following:
24 *a.* The annual financial statements specified in section
25 490.1620, subsection 1, of the corporation that issued the
26 shares that may be subject to appraisal, which shall be as of
27 a date ending not more than sixteen months before the date of
28 the notice and shall comply with section 490.1620, subsection
29 2; provided that, if such annual financial statements are not
30 reasonably available, the corporation shall provide reasonably
31 equivalent financial information.
32 *b.* The latest available quarterly financial statements of
33 such corporation, if any.
34 5. The right to receive the information described in
35 subsection 4 may be waived in writing by a shareholder before

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1 or after the corporate action.
2 Sec. 60. Section 490.1321, Code 2011, is amended to read as
3 follows:
4 **490.1321 Notice of intent to demand payment.**
5 1. If ~~proposed~~ a corporate action ~~requiring appraisal~~
6 ~~rights under~~ specified in section 490.1302, subsection 1, is
7 submitted to a vote at a shareholders' meeting, a shareholder
8 who wishes to assert appraisal rights with respect to any class
9 or series of shares must do all of the following:
10 *a.* Deliver to the corporation before the vote is taken
11 written notice of the shareholder's intent to demand payment if
12 the proposed action is effectuated.
13 *b.* Not vote, or cause or permit to be voted, any shares of
14 such class or series in favor of the proposed action.
15 2. If a corporate action specified in section 490.1302,
16 subsection 1, is to be approved by less than unanimous written
17 consent, a shareholder who wishes to assert appraisal rights
18 with respect to any class or series of shares must not sign a
19 consent in favor of the proposed action with respect to that
20 class or series of shares.
21 3. A shareholder who ~~does not~~ fails to satisfy the
22 requirements of subsection 1 or 2, is not entitled to payment
23 under this part.
24 Sec. 61. Section 490.1322, subsection 1, Code 2011, is
25 amended to read as follows:
26 1. If proposed corporate action requiring appraisal rights
27 under section 490.1302, subsection 1, becomes effective, the
28 corporation must ~~deliver~~ send a written appraisal notice
29 and the form required by subsection 2, paragraph *"a"*, to
30 all shareholders who satisfied the requirements of section
31 490.1321, subsection 1, or section 490.1321, subsection 2. In
32 the case of a merger under section 490.1105, the parent must
33 deliver ~~a written~~ an appraisal notice and form to all record
34 shareholders who may be entitled to assert appraisal rights.
35 Sec. 62. Section 490.1322, subsection 2, unnumbered

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paragraph 1, Code 2011, is amended to read as follows:

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

Sec. 63. Section 490.1322, subsection 2, paragraph a, Code 2011, is amended to read as follows:

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

(1) Specifies the first date of any announcement to shareholders made prior to the date the corporate action became effective of the ~~first announcement to shareholders of the~~ principal terms of the proposed corporate action ~~and requires~~, if any.

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

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

Sec. 64. Section 490.1322, subsection 2, paragraph b, subparagraph (2), Code 2011, is amended to read as follows:

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

Sec. 65. Section 490.1323, subsections 1 and 3, Code 2011, are amended to read as follows:

1. A shareholder who receives notice pursuant to section

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

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

Sec. 66. Section 490.1324, subsection 2, paragraph a, Code 2011, is amended to read as follows:

a. (i) ~~Financial~~ The annual financial statements specified in section 490.1620, subsection 1, of the corporation that issued the shares to be appraised, ~~consisting of a balance sheet as of the end of a fiscal year~~ which shall be of a date

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1 ending not more than sixteen months before the date of payment~~,~~
2 ~~an income statement for that year, a statement of changes~~
3 ~~in shareholders' equity for that year,~~ and ~~the~~ shall comply
4 with section 490.1620, subsection 2; provided that, if such
5 annual financial statements are not reasonably available, the
6 corporation shall provide reasonably equivalent financial
7 information.
8 (ii) The latest available ~~interim~~ quarterly financial
9 statements of such corporation, if any.
10 Sec. 67. Section 490.1325, subsection 1, Code 2011, is
11 amended to read as follows:
12 1. A corporation may elect to withhold payment required
13 by section 490.1324 from any shareholder who was required to,
14 but did not certify that beneficial ownership of all of the
15 shareholder's shares for which appraisal rights are asserted
16 was acquired before the date set forth in the appraisal notice
17 sent pursuant to section 490.1322, subsection 2, paragraph *"a"*.
18 Sec. 68. Section 490.1331, Code 2011, is amended to read as
19 follows:
20 **490.1331 Court costs and ~~counsel fees~~ expenses.**
21 1. The court in an appraisal proceeding commenced under
22 section 490.1330 shall determine all court costs of the
23 proceeding, including the reasonable compensation and expenses
24 of appraisers appointed by the court. The court shall assess
25 the court costs against the corporation, except that the court
26 may assess court costs against all or some of the shareholders
27 demanding appraisal, in amounts the court finds equitable, to
28 the extent the court finds such shareholders acted arbitrarily,
29 vexatiously, or not in good faith with respect to the rights
30 provided by this division.
31 2. The court in an appraisal proceeding may also assess the
32 ~~fees and~~ expenses ~~of counsel and experts~~ for the respective
33 parties, in amounts the court finds equitable, for ~~either~~ any
34 of the following:
35 *a.* Against the corporation and in favor of any or all

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1 shareholders demanding appraisal if the court finds the
2 corporation did not substantially comply with the requirements
3 of section 490.1320, 490.1322, 490.1324, or 490.1325.
4 *b.* Against either the corporation or a shareholder demanding
5 appraisal, in favor of any other party, if the court finds that
6 the party against whom the ~~fees and~~ expenses are assessed acted
7 arbitrarily, vexatiously, or not in good faith with respect to
8 the rights provided by this chapter.
9 3. If the court in an appraisal proceeding finds that the
10 ~~services of counsel for~~ expenses incurred by any shareholder
11 were of substantial benefit to other shareholders similarly
12 situated, and that ~~the fees for those services~~ such expenses
13 should not be assessed against the corporation, the court may
14 ~~award to such counsel reasonable fees to~~ direct that such
15 expenses be paid out of the amounts awarded the shareholders
16 who were benefited.
17 4. To the extent the corporation fails to make a required
18 payment pursuant to section 490.1324, 490.1325, or 490.1326,
19 the shareholder may sue directly for the amount owed and, to
20 the extent successful, shall be entitled to recover from the
21 corporation ~~all costs and~~ expenses of the suit~~, including~~
22 ~~counsel fees~~.
23 Sec. 69. NEW SECTION. **490.1340 Other remedies limited.**
24 1. The legality of a proposed or completed corporate
25 action described in section 490.1302, subsection 1, shall not
26 be contested, nor may the corporate action be enjoined, set
27 aside, or rescinded, in a legal or equitable proceeding by a
28 shareholder after the shareholders have approved the corporate
29 action.
30 2. Subsection 1 does not apply to a corporate action that
31 meets any of the following conditions:
32 *a.* Was not authorized and approved in accordance with the
33 applicable provisions of any of the following:
34 (1) Division X, XI, or XII of this chapter.
35 (2) The articles of incorporation or bylaws.

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1 (3) The resolution of the board of directors authorizing the
2 corporate action.
3 *b.* Was procured as a result of fraud, a material
4 misrepresentation, or an omission of a material fact necessary
5 to make statements made, in light of the circumstances in which
6 they were made, not misleading.
7 *c.* Is an interested transaction, unless it has been
8 recommended by the board of directors in the same manner as
9 is provided in section 490.862 and has been approved by the
10 shareholders in the same manner as is provided in section
11 490.863 as if the interested transaction were a director's
12 conflicting interest transaction.
13 *d.* Is approved by less than unanimous consent of the
14 voting shareholders pursuant to section 490.704, if all of the
15 following apply:
16 (1) The challenge to the corporate action is brought by a
17 shareholder who did not consent and as to whom notice of the
18 approval of the corporate action was not effective at least ten
19 days before the corporate action was effected.
20 (2) The proceeding challenging the corporate action is
21 commenced within ten days after notice of the approval of the
22 corporate action is effective as to the shareholder bringing
23 the proceeding.
24 Sec. 70. Section 490.1402, subsection 2, paragraph a, Code
25 2011, is amended to read as follows:
26 *a.* (1) The board of directors must recommend dissolution to
27 the shareholders unless ~~the~~ any of the following apply:
28 (a) The board of directors determines that because of
29 conflict of interest or other special circumstances it should
30 make no recommendation ~~and communicates~~.
31 (b) Section 490.826 applies.
32 (2) If paragraph "*a*", subparagraph (1) or (2), applies,
33 it must communicate the basis for ~~its determination to the~~
34 ~~shareholders~~ so proceeding.
35 Sec. 71. Section 490.1430, Code 2011, is amended to read as

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1 follows:
2 **490.1430 Grounds for judicial dissolution.**
3 1. The district court may dissolve a corporation in any of
4 the following ways:
5 ~~1.~~ *a.* A proceeding by the attorney general, if it is
6 established that ~~either~~ any of the following apply:
7 ~~a.~~ (1) The corporation obtained its articles of
8 incorporation through fraud.
9 ~~b.~~ (2) The corporation has continued to exceed or abuse the
10 authority conferred upon it by law.
11 ~~2.~~ *b.* A proceeding by a shareholder if it is established
12 that any of the following conditions exist:
13 ~~a.~~ (1) The directors are deadlocked in the management of
14 the corporate affairs, the shareholders are unable to break the
15 deadlock, and either irreparable injury to the corporation is
16 threatened or being suffered, or the business and affairs of
17 the corporation can no longer be conducted to the advantage of
18 the shareholders generally, because of the deadlock.
19 ~~b.~~ (2) The directors or those in control of the corporation
20 have acted, are acting, or will act in a manner that is
21 illegal, oppressive, or fraudulent.
22 ~~c.~~ (3) The shareholders are deadlocked in voting power
23 and have failed, for a period that includes at least two
24 consecutive annual meeting dates, to elect successors to
25 directors whose terms have expired.
26 ~~d.~~ (4) The corporate assets are being misapplied or wasted.
27 ~~3.~~ *c.* A proceeding by a creditor if it is established that
28 ~~either~~ any of the following apply:
29 ~~a.~~ (1) The creditor's claim has been reduced to judgment,
30 the execution on the judgment returned unsatisfied, and the
31 corporation is insolvent.
32 ~~b.~~ (2) The corporation has admitted in writing that the
33 creditor's claim is due and owing and the corporation is
34 insolvent.
35 ~~4.~~ *d.* A proceeding by the corporation to have its voluntary

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1 dissolution continued under court supervision.
2 *e.* A proceeding by a shareholder if the corporation has
3 abandoned its business and has failed within a reasonable time
4 to liquidate and distribute its assets and dissolve.
5 2. Subsection 1, paragraph *"b"*, shall not apply in the
6 case of a corporation that, on the date of the filing of the
7 proceeding, has shares which are any of the following:
8 *a.* Listed on the New York stock exchange, the American stock
9 exchange, or on any exchange owned or operated by the NASDAQ
10 stock market, l.l.c., or listed or quoted on a system owned or
11 operated by the national association of securities dealers,
12 inc.
13 *b.* Not so listed or quoted, but are held by at least three
14 hundred shareholders and the shares outstanding have a market
15 value of at least twenty million dollars, exclusive of the
16 value of such shares held by the corporation's subsidiaries,
17 senior executives, directors, and beneficial shareholders
18 owning more than ten percent of such shares.
19 3. As used in this section, *"beneficial shareholder"* has the
20 meaning specified in section 490.1301, subsection 2.
21 Sec. 72. Section 490.1431, subsection 4, Code 2011, is
22 amended to read as follows:
23 4. Within ten days of the commencement of a proceeding
24 ~~under section 490.1430, subsection 2,~~ to dissolve a corporation
25 ~~that has no shares listed on a national securities exchange or~~
26 ~~regularly traded in a market maintained by one or more members~~
27 ~~of a national securities exchange~~ under section 490.1430,
28 subsection 1, paragraph *"b"*, the corporation must send to all
29 shareholders, other than the petitioner, a notice stating that
30 the shareholders are entitled to avoid the dissolution of the
31 corporation by electing to purchase the petitioner's shares
32 under section 490.1434, and a copy of section 490.1434.
33 Sec. 73. Section 490.1432, subsections 1 and 5, Code 2011,
34 are amended to read as follows:
35 1. ~~A~~ Unless an election to purchase has been filed under

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1 section 490.1434, a court in a judicial proceeding brought to
2 dissolve a corporation may appoint one or more receivers to
3 wind up and liquidate, or one or more custodians to manage,
4 the business and affairs of the corporation. The court shall
5 hold a hearing, after notifying all parties to the proceeding
6 and any interested persons designated by the court, before
7 appointing a receiver or custodian. The court appointing a
8 receiver or custodian has ~~exclusive~~ jurisdiction over the
9 corporation and all its property wherever located.
10 5. The court from time to time during the receivership
11 or custodianship may order compensation paid and ~~expense~~
12 ~~disbursements or reimbursements made~~ expenses paid or
13 reimbursed to the receiver or custodian ~~and the receiver's~~
14 ~~or custodian's counsel~~ from the assets of the corporation or
15 proceeds from the sale of the assets.
16 Sec. 74. Section 490.1434, subsections 1, 2, 4, and 5, Code
17 2011, are amended to read as follows:
18 1. In a proceeding under section 490.1430, subsection ~~2~~ 1,
19 paragraph *"b"*, to dissolve a corporation ~~that has no shares~~
20 ~~listed on a national securities exchange or regularly traded~~
21 ~~in a market maintained by one or more members of a national or~~
22 ~~affiliated securities association~~, the corporation may elect
23 or, if it fails to elect, one or more shareholders may elect to
24 purchase all shares owned by the petitioning shareholder at the
25 fair value of the shares. An election pursuant to this section
26 shall be irrevocable unless the court determines that it is
27 equitable to set aside or modify the election.
28 2. An election to purchase pursuant to this section may
29 be filed with the court at any time within ninety days after
30 the filing of the petition under section 490.1430, subsection
31 ~~2~~ 1, paragraph *"b"*, or at such later time as the court in its
32 discretion may allow. If the election to purchase is filed
33 by one or more shareholders, the corporation shall, within
34 ten days thereafter, give written notice to all shareholders,
35 other than the petitioner. The notice must state the name

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1 and number of shares owned by the petitioner and the name and
2 number of shares owned by each electing shareholder and must
3 advise the recipients of their right to join the election to
4 purchase shares in accordance with this section. Shareholders
5 who wish to participate must file notice of their intention
6 to join in the purchase no later than thirty days after
7 the effective date of the notice to them. All shareholders
8 who have filed an election or notice of their intention to
9 participate in the election to purchase thereby become parties
10 to the proceeding and shall participate in the purchase in
11 proportion to their ownership of shares as of the date the
12 first election was filed, unless they otherwise agree or the
13 court otherwise directs. After an election has been filed by
14 the corporation or one or more shareholders, the proceeding
15 under section 490.1430, subsection ~~2~~ 1, paragraph "b", shall
16 not be discontinued or settled, nor shall the petitioning
17 shareholder sell or otherwise dispose of the shareholder's
18 shares, unless the court determines that it would be equitable
19 to the corporation and the shareholders, other than the
20 petitioner, to permit such discontinuance, settlement, sale, or
21 other disposition.
22 4. If the parties are unable to reach an agreement as
23 provided for in subsection 3, the court, upon application of
24 any party, shall stay the section 490.1430, subsection ~~2~~ 1,
25 paragraph "b", proceedings and determine the fair value of the
26 petitioner's shares as of the day before the date on which the
27 petition under section 490.1430, subsection ~~2~~ 1, paragraph
28 "b", was filed or as of such other date as the court deems
29 appropriate under the circumstances.
30 5. Upon determining the fair value of the shares, the
31 court shall enter an order directing the purchase upon such
32 terms and conditions as the court deems appropriate, which may
33 include payment of the purchase price in installments, where
34 necessary in the interests of equity, provision for security
35 to assure payment of the purchase price and any additional

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costs, fees, and expenses as may have been awarded, and, if the shares are to be purchased by shareholders, the allocation of shares among them. In allocating petitioner's shares among holders of different classes of shares, the court shall attempt to preserve the existing distribution of voting rights among holders of different classes insofar as practicable and may direct that holders of a specific class or classes shall not participate in the purchase. Interest may be allowed at the rate and from the date determined by the court to be equitable, but if the court finds that the refusal of the petitioning shareholder to accept an offer of payment was arbitrary or otherwise not in good faith, no interest shall be allowed. If the court finds that the petitioning shareholder has probable grounds for relief under section 490.1430, subsection ~~2~~ 1, paragraph ~~"b" or "d"~~ "b", subparagraph (2) or (4), it may award to the petitioning shareholder reasonable fees and expenses of counsel and of any experts employed by the shareholder.

Sec. 75. Section 490.1508, subsection 2, Code 2011, is amended to read as follows:

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

Sec. 76. NEW SECTION. **490.1523 Transfer of authority.**

1. A foreign business corporation authorized to transact business in this state that converts to a foreign nonprofit corporation or to any form of foreign unincorporated entity that is required to obtain a certificate of authority or make a similar type of filing with the secretary of state if it transacts business in this state shall file with the secretary

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1 of state an application for transfer of authority signed by
2 any officer or other duly authorized representative. The
3 application shall set forth all of the following:
4 *a.* The name of the corporation.
5 *b.* The type of unincorporated entity to which it has been
6 converted and the jurisdiction whose laws govern its internal
7 affairs.
8 *c.* Any other information that would be required in a filing
9 under the laws of this state by an unincorporated entity of the
10 type the corporation has become seeking authority to transact
11 business in this state.
12 2. The application for transfer of authority shall be
13 delivered to the secretary of state for filing and shall take
14 effect at the effective time provided in section 490.123.
15 3. Upon the effectiveness of the application for transfer of
16 authority, the authority of the corporation under this chapter
17 to transact business in this state shall be transferred without
18 interruption to the converted entity which shall thereafter
19 hold such authority subject to the provisions of the laws of
20 this state applicable to that type of unincorporated entity.
21 Sec. 77. Section 490.1601, subsection 4, Code 2011, is
22 amended to read as follows:
23 4. A corporation shall maintain its records in ~~written~~
24 the form of a document, including an electronic record, or in
25 another form capable of conversion into ~~written~~ paper form
26 within a reasonable time.
27 Sec. 78. Section 490.1602, Code 2011, is amended to read as
28 follows:
29 **490.1602 Inspection of records by shareholders.**
30 1. A shareholder of a corporation is entitled to
31 inspect and copy, during regular business hours at the
32 corporation's principal office, any of the records of the
33 corporation described in section 490.1601, subsection 5, if the
34 shareholder gives the corporation signed written notice of the
35 shareholder's demand at least five business days before the

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date on which the shareholder wishes to inspect and copy.

2. For any meeting of shareholders for which the record date for determining shareholders entitled to vote at the meeting is different than the record date for notice of the meeting, any person who becomes a shareholder subsequent to the record date for notice of the meeting and is entitled to vote at the meeting is entitled to obtain from the corporation upon request the notice and any other information provided by the corporation to shareholders in connection with the meeting, unless the corporation has made such information generally available to shareholders by posting it on its website or by other generally recognized means. Failure of a corporation to provide such information does not affect the validity of action taken at the meeting.

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

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

b. Accounting records of the corporation.

c. The record of shareholders.

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

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

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a proper purpose.

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

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

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

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

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

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

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

Sec. 79. Section 490.1603, subsection 3, Code 2011, is amended to read as follows:

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

Sec. 80. Section 490.1604, subsection 2, Code 2011, is amended to read as follows:

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

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1 of an application under this subsection on an expedited basis.
2 Sec. 81. Section 490.1606, subsection 1, Code 2011, is
3 amended to read as follows:
4 1. Whenever notice ~~is~~ would otherwise be required to be
5 given under any provision of this chapter to ~~any~~ a shareholder,
6 such notice ~~shall~~ need not be ~~required to be~~ given if ~~either~~
7 any of the following ~~applies~~ apply:
8 *a.* ~~Notice~~ Notices to the shareholders of two consecutive
9 annual meetings, and all notices of meetings during the period
10 between such two consecutive annual meetings, have been sent to
11 such shareholder at such shareholder's address as shown on the
12 records of the corporation and have been returned undeliverable
13 or could not be delivered.
14 *b.* All, but not less than two, payments of dividends on
15 securities during a twelve-month period, or two consecutive
16 payments of dividends on securities during a period of more
17 than twelve months, have been sent to such shareholder at
18 such shareholder's address as shown on the records of the
19 corporation and have been returned undeliverable or could not
20 be delivered.
21 Sec. 82. Section 490.1620, Code 2011, is amended by striking
22 the section and inserting in lieu thereof the following:
23 **490.1620 Financial statements for shareholders.**
24 1. A corporation shall deliver to its shareholders
25 annual financial statements, which may be consolidated or
26 combined statements of the corporation and one or more of its
27 subsidiaries, as appropriate, that include a balance sheet as
28 of the end of the fiscal year, an income statement for that
29 year, and a statement of changes in shareholders' equity for
30 the year unless that information appears elsewhere in the
31 financial statements. If financial statements are prepared for
32 the corporation on the basis of generally accepted accounting
33 principles, the annual financial statements must also be
34 prepared on that basis.
35 2. If the annual financial statements are reported upon by a

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1 public accountant, the report must accompany them. If not, the
2 statements must be accompanied by a statement of the president
3 or the person responsible for the corporation's accounting
4 records which does all of the following:
5 *a.* States such person's reasonable belief whether the
6 statements were prepared on the basis of generally accepted
7 accounting principles and, if not, describing the basis of
8 preparation.
9 *b.* Describes any respects in which the statements were
10 not prepared on a basis of accounting consistent with the
11 statements prepared for the preceding year.
12 3. Within one hundred twenty days after the close of each
13 fiscal year, the corporation shall send the annual financial
14 statements to each shareholder. Thereafter, on written
15 request from a shareholder to whom the statements were not
16 sent, the corporation shall send the shareholder the latest
17 financial statements. A public corporation may fulfill its
18 responsibilities under this section by delivering the specified
19 financial statements, or otherwise making them available, in
20 any manner permitted by the applicable rules and regulations of
21 the United States securities and exchange commission.
22 Sec. 83. Section 490.1703, Code 2011, is amended by adding
23 the following new subsection:
24 NEW SUBSECTION. 3. In the event that any provision of this
25 chapter is deemed to modify, limit, or supersede the federal
26 Electronic Signatures in Global and National Commerce Act, 15
27 U.S.C. § 7001 et seq., the provisions of this chapter shall
28 control to the maximum extent permitted by section 102(a)(2) of
29 that federal Act.
30 Sec. 84. REPEAL. Section 490.832, Code 2011, is repealed.
31 Sec. 85. AMENDMENTS PREVAIL OVER REPEAL. The sections of
32 this division of this Act amending section 490.805, subsection
33 2, Code Supplement 2011, and section 490.805, subsection 2,
34 as amended by this Act, shall prevail over the repeal of the
35 enactment of and amendment to that provision by 2011 Iowa Acts,

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1 chapter 2, section 4, pursuant to 2011 Iowa Acts, chapter 2,
2 section 9, subsection 1.
3 Sec. 86. EFFECTIVE DATES.
4 1. Except as provided in subsection 2, this division of this
5 Act takes effect July 1, 2012.
6 2. The section of this division of this Act amending section
7 490.805, subsection 2, Code Supplement 2011, as amended by this
8 Act, takes effect December 31, 2014.
9 DIVISION II
10 FUTURE PROVISIONS
11 Sec. 87. Section 490.140, subsection 21A, Code Supplement
12 2011, is amended by striking the subsection and inserting in
13 lieu thereof the following:
14 21A. *"Public corporation"* means a corporation that has
15 shares listed on a national securities exchange or regularly
16 traded in a market maintained by one or more members of a
17 national securities association.
18 Sec. 88. Section 490.732, subsection 4, Code 2011, is
19 amended by striking the subsection and inserting in lieu
20 thereof the following:
21 4. An agreement authorized by this section shall cease to be
22 effective when the corporation becomes a public corporation.
23 If the agreement ceases to be effective for any reason, the
24 board of directors may, if the agreement is contained or
25 referred to in the corporation's articles of incorporation or
26 bylaws, adopt an amendment to the articles of incorporation or
27 bylaws, without shareholder action, to delete the agreement and
28 any references to it.
29 Sec. 89. EFFECTIVE DATE. This division of this Act takes
30 effect upon the repeal of 2011 Iowa Acts, chapter 2, as
31 provided in section 9, subsection 1, of that Act.
32 EXPLANATION
33 BACKGROUND. The "Iowa Business Corporation Act" (Code
34 chapter 490), a model Act adopted by the American Bar
35 Association, governs the requirements for the creation,

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1 organization, and operation of corporations and the
2 relationship between shareholders, directors, and officers of
3 the corporation. Generally, the Act's provisions establish
4 default requirements and procedures which may be modified by a
5 corporation's articles of incorporation or bylaws.
6 PUBLIC CORPORATIONS. A public corporation is a corporation
7 that has a class of voting stock that is listed on a national
8 securities exchange or held of record by more than 2,000
9 shareholders (Code section 490.140). The bill amends the
10 definition to eliminate the reference to a class of shares
11 or number of shareholders. It provides that a corporation
12 is public if traded in a market maintained by a member of
13 the national securities association. The bill also amends
14 a provision regulating shareholder agreements that govern a
15 corporation's corporate affairs including by eliminating or
16 restricting the powers of its board of directors (Code section
17 490.732). Specifically, the bill provides that a shareholder
18 agreement is automatically terminated when the corporation
19 becomes public. These provisions take effect January 1, 2015.
20 NOTICES, DOCUMENTS, AND COMMUNICATION. A notice must be
21 in writing unless oral notice is reasonable (Code section
22 490.141). The bill requires that notices be in English.
23 It provides for the electronic transmission and receipt
24 and acknowledgment of information. The bill replaces the
25 requirement that documents be executed with a requirement
26 that they be signed, including documents associated with
27 the adoption or abandonment of articles of merger or share
28 exchange (Code sections 490.1106 and 490.1108). The bill also
29 authorizes a corporation to keep its records in an electronic
30 form so long as it can be converted into a paper form (Code
31 section 490.1601). The corporation is required to deliver a
32 written notice, report, or statement to shareholders who share
33 a common address, complies with delivery requirements, by
34 delivering to that address, unless a shareholder makes a timely
35 objection (Code section 490.144).

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1 QUALIFIED DIRECTORS. In a number of circumstances a
2 director must be considered "disinterested" when taking an
3 action affecting the welfare of the corporation. The bill
4 eliminates the term "disinterested" and replaces it with
5 "qualified" (Code section 490.143; see Code sections 490.853
6 and 490.855). The bill requires a director to be qualified
7 under different circumstances which may involve board action
8 or court proceedings. For purposes of dismissing a derivative
9 proceeding by a court based on a good-faith determination of
10 directors (Code section 490.744), directors are qualified if
11 they do not have a material interest in the outcome of the
12 proceeding or a material relationship with a person who has
13 such an interest. For purposes of advancing expenses to a
14 board member before the disposition of a case (Code section
15 490.853) or later indemnifying a director (Code section
16 490.855), the authorization must be made by directors who are
17 qualified because they are not parties to the proceeding, do
18 not have a conflicting interest in the related transaction,
19 and do not have a material relationship with a director
20 who is a party or has a conflicting interest. For purposes
21 of voting to excuse a director from a conflicting interest
22 transaction (Code section 490.862), the vote must be taken
23 by directors who are qualified because they do not have a
24 conflict or have a material relationship with the director who
25 does have a conflict. For purposes of determining whether a
26 director may take advantage of a business opportunity because
27 other directors disclaimed the corporation's interest in the
28 opportunity (Code section 490.870), the directors are qualified
29 if the business opportunity was a conflicting interest
30 transaction for those directors.
31 DIRECTORS AND OFFICERS — FUNCTIONS AND DUTIES. Generally,
32 a corporation must have a board of directors, unless dispensed
33 with pursuant to a shareholder agreement (Code sections 490.801
34 and 490.732). The bill provides that the business affairs of a
35 corporation may be subject to the directors' oversight rather

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1 than direct management. It authorizes a corporate officer to
2 designate recipients of compensation awards (e.g., rights,
3 options, or warrants associated with shares) (Code section
4 490.624). The bill substitutes the term "functions" in lieu
5 of "duties" in some places when referring to an officer's
6 obligations (Code section 490.841).
7 SHAREHOLDER MEETINGS — WRITTEN CONSENT IN LIEU OF HOLDING
8 MEETINGS. Shareholders are allowed to act by written consent
9 without holding a meeting if the action is taken by unanimous
10 written consent (Code section 490.704). The bill provides
11 that a corporation's articles of incorporation may provide for
12 shareholder action by less than unanimous written consent,
13 if a written consent is signed by shareholders having the
14 minimum number of votes that would be required to authorize the
15 action at a shareholder meeting assuming that all shareholders
16 entitled to vote were present. It creates a corresponding
17 exception to the requirement that a corporation must hold at
18 least one annual shareholder meeting, presumably to elect
19 directors (Code sections 490.701 and 490.803), by providing
20 that the annual meeting is not necessary when directors are
21 elected by the written consent of shareholders. The bill
22 also provides a number of procedures for providing notice to
23 shareholders and tabulating written consents delivered to the
24 corporation.
25 SHAREHOLDER MEETING — RECORD DATE. A corporation
26 establishes procedures for providing notice to and voting by
27 shareholders at a meeting (or by written consent) according to
28 a record date. The record date determines both shareholders
29 who are entitled to notice of the meeting and to vote at
30 the meeting. The catch-all provision states that the record
31 date is the date before notice is mailed to a voting group or
32 shareholders (Code section 490.705), although a record date
33 may be established by court order (Code section 490.703) or
34 according to the corporation's bylaws or board of directors
35 (Code section 490.707). The bill provides that there may be

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1 more than one record date. According to the bill, the record
2 date for a shareholder meeting may be established by the
3 corporation's bylaws or by the board unless the board provides
4 a different date to determine shareholders entitled to vote at
5 the meeting (Code section 490.707). The bill provides that
6 the corporation may be required to provide a list of names of
7 shareholders entitled to vote at the meeting, to be available
8 for inspection (Code section 490.720). The record date is
9 also used to determine when appraisal rights of shareholders
10 apply (Code section 490.1302). The bill requires shareholders'
11 appraisal rights to be triggered on the record date by tying
12 it only to when a shareholder is entitled to receive notice
13 and not when entitled to vote on the matter. The bill also
14 provides that the board may fix a record date for determining
15 when a shareholder is entitled to vote that is different than
16 the record date for determining when a shareholder is entitled
17 to notice of the meeting. A person who becomes a shareholder
18 after the record date for the notice, and is otherwise entitled
19 to vote at the meeting, may obtain the notice and other
20 information provided to the shareholders in preparation for the
21 meeting (Code sections 490.1602 and 490.1606).
22 SHAREHOLDER MEETINGS —— REMOTE PARTICIPATION. The bill
23 authorizes shareholders to participate in a meeting of
24 shareholders by means of remote communication to the extent
25 approved by the board (Code section 490.709).
26 ELECTIONS AND VOTING —— CUMULATIVE VOTING. Generally,
27 directors are elected by a plurality of votes cast unless the
28 corporation's articles of incorporation provide for cumulative
29 voting allowing shareholders to cast all their votes for a
30 single candidate (Code section 490.728). The bill provides
31 that shareholders otherwise entitled to vote cumulatively
32 cannot so vote unless the meeting notice authorizes it, or a
33 shareholder who has that right gives notice to the corporation
34 before the meeting.
35 LEGAL PROCEEDING —— DERIVATIVE ACTIONS. As a result of a

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1 derivative action, the court may order a corporation to pay
2 the plaintiff's expenses (defined in Code section 490.140)
3 if the court determines that the proceeding has resulted in
4 substantial benefit to the corporation and alternatively may
5 order the plaintiff to pay the defendant's expenses if it
6 finds the proceeding was commenced without reasonable cause
7 or for an improper purpose (Code section 490.746). The bill
8 eliminates the court's statutory authority to order the payment
9 of attorney fees.
10 PROCEEDINGS — COURT APPOINTMENT OF A CUSTODIAN OR RECEIVER.
11 The bill provides that a shareholder may obtain relief from a
12 court, due to an injury suffered by the corporation due to the
13 action or inaction of the board (through deadlock or fraud) or
14 because the corporation is insolvent (Code section 490.748).
15 The custodian or receiver appointed by the court has all
16 authority to manage the corporation as provided by court order.
17 ELECTIONS AND VOTING. The bill provides for the directors'
18 terms of office including when the board's terms are staggered
19 (Code sections 490.806 and 490.806A). The bill provides that a
20 corporation's articles of incorporation may govern situations
21 in which a nominated director fails to receive the requisite
22 votes for election (Code sections 490.805, 490.806, 490.806A,
23 and 490.807). The bill also provides that in the case of a
24 director's vacancy, where a director was elected by a voting
25 group of shareholders, and the vacancy is to be filled by the
26 remaining directors, only directors elected by that voting
27 group may vote to fill the vacancy (Code section 490.810).
28 RIGHT OF SHAREHOLDERS TO VOTE. The bill provides that a
29 corporation may agree to submit a matter to a vote of its
30 shareholders even if the board determines not to recommend
31 the matter (Code section 490.826). It expressly authorizes
32 such vote on an amendment to the corporation's articles of
33 incorporation (Code section 490.1003), an action on a plan of
34 merger or share exchange (Code section 490.1104), the approval
35 of a plan of merger or share exchange (Code section 490.1106),

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1 and the dissolution of the corporation (Code section 490.1402).
2 DIRECTORS AND OFFICERS — STANDARDS OF CONDUCT. A director
3 must perform all required duties in good faith and in a
4 manner that the director reasonably believes to be in the
5 corporation's best interest (Code section 490.830) and an
6 officer has the same duty to act in good faith (Code section
7 490.842). The bill expressly obligates a director to disclose
8 relevant material regarding the corporation to the board. It
9 also provides that an officer has an obligation to inform a
10 superior officer or the board (or a committee of the board)
11 about the affairs of the corporation or a probable material
12 violation of law or a material breach of duty involving an
13 officer or other person connected to the corporation.
14 PROCEEDINGS — ADVANCING FUNDS TO A DIRECTOR OR INDEMNIFYING
15 A DIRECTOR FOR EXPENSES. A corporation may advance funds to a
16 director or indemnify the director for legal expenses incurred
17 in the course of a director's defense of an act or omission
18 (Code sections 490.850, 490.853, 490.855, and 490.858). The
19 bill provides that in the case of advances, writings required
20 to be submitted to the board (e.g., an affirmation that the
21 director acted in compliance with applicable standards of
22 conduct or a promise to repay advanced funds) must be in
23 writing (Code section 490.853). It also provides that when
24 the board authorizes an advance or indemnification, the voting
25 directors must be qualified rather than disinterested (Code
26 sections 490.853 and 490.854). Finally, the bill provides that
27 the defending director's right to an advance or indemnification
28 in effect prior to the director's act or omission cannot be
29 eliminated or impaired after the conduct occurred, unless that
30 right was expressly qualified in the authorization (i.e., in
31 the articles of incorporation, bylaws, or board's resolution)
32 (Code section 490.858).
33 DIRECTOR'S CONFLICT OF INTEREST — GENERAL. Generally, a
34 director is prohibited from taking action on a matter which
35 would be detrimental to the interests of the corporation. The

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

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1 some ethical rule of confidentiality (Code section 490.862).
2 The transaction is excused if the shareholders later ratify
3 the transaction according to specific procedural requirements
4 (Code section 490.863) after disclosure (but no provision for
5 limited disclosure). Finally, the transaction is excused if
6 the transaction is fair to the corporation, although neither
7 directors' nor shareholders' action was taken. The bill
8 provides that in any legal action attacking a director, the
9 plaintiff has the burden of proof (Code section 490.831).
10 DIRECTOR'S BUSINESS OPPORTUNITY (SAFE HARBOR EXCEPTION).
11 An analogous situation to a conflicting interest transaction
12 is when a director seeks a corporation's permission prior to
13 the director's action. The bill allows qualified directors
14 or shareholders to disclaim the corporation's interest before
15 the director proceeds in taking advantage of the business
16 opportunity (see Code section 490.870). Instead of making a
17 "required disclosure" as provided for conflicts (Code sections
18 490.860 and 490.862), the director must provide the corporation
19 material facts concerning the business opportunity then
20 known. The qualified directors or shareholders disclaiming
21 the corporation's interest must be done in the same manner
22 as if the matter concerned a director's conflicting interest
23 transaction (Code sections 490.862 and 490.863). However, a
24 director's decision not to use the procedures for disclaimer
25 does not create a negative inference or alter a burden of
26 proof in a subsequent action alleging an improper taking of a
27 corporate opportunity.
28 SHAREHOLDER APPRAISAL RIGHTS — GENERAL RULE. A number of
29 corporate actions may trigger the right of a shareholder to
30 obtain an appraisal of the corporation and obtain fair payment
31 of shares, including mergers, share exchanges, disposition
32 of assets, amendments to the articles of incorporation, and
33 conversion of the corporation to another entity (Code section
34 490.1302). A corporation must pay shareholders the amount the
35 corporation estimates to be the fair value of the shares plus

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

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1 or election of 25 percent or more of the directors, or was a
2 senior executive or director of the corporation entitled to
3 receive certain financial benefits (Code section 490.1301).
4 SHAREHOLDER APPRAISAL RIGHTS — NOTICE. A corporation must
5 notify shareholders of their appraisal rights when a corporate
6 action is submitted to a vote at a shareholder meeting (Code
7 section 490.1320). The bill provides for notice when approval
8 is performed by written consent in lieu of a meeting (Code
9 section 490.704). A shareholder must provide notice of an
10 intent to exercise appraisal rights before the corporate action
11 (vote) is taken (Code section 490.1321). In order to remain
12 eligible to exercise those rights, the shareholder must not
13 vote on the matter. A shareholder who plans on asserting
14 appraisal rights cannot likewise exercise rights after signing
15 a consent in favor of the proposal (Code section 490.1321).
16 If a corporate action requiring appraisal rights becomes
17 effective, the corporation must deliver a written appraisal
18 notice and form (Code section 490.1322). The bill provides for
19 the contents of the notice, including information regarding
20 an announcement to shareholders made prior to the date the
21 corporate action became effective and requires a shareholder
22 asserting appraisal rights to certify beneficial ownership.
23 The bill provides for perfecting shareholder appraisal rights
24 by signing and returning the form (Code section 490.1323). The
25 bill provides an estimated (prepaid) payment to shareholders
26 exercising their appraisal rights after the form's due date
27 (Code section 490.1324). The bill provides for a financial
28 statement required to accompany the payment (Code section
29 490.1620), and allows the corporation to substitute another
30 document in lieu of a financial statement if it is unavailable.
31 SHAREHOLDER APPRAISAL RIGHTS — COURT COSTS. As part of
32 a shareholder appraisal rights proceeding, the court must
33 determine the court costs of the proceeding, and may assess
34 such costs against the corporation or shareholders demanding
35 appraisal (Code section 490.1331). The bill amends the

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

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1 section 490.1302).
2 FOREIGN CORPORATIONS — TRANSFER OF AUTHORITY. The bill
3 provides for the conversion of a foreign business corporation
4 authorized to do business in this state into a domestic
5 corporation by applying to the secretary of state (Code section
6 490.1523).
7 REPLACEMENT OF FUTURE REPEALED PROVISIONS. In 2011, the
8 general assembly enacted SF 325 (2011 Iowa Acts, chapter
9 2) carving out a special provision which provided for the
10 staggered terms of directors of public corporations and
11 providing for the repeal of the Act on December 31, 2014. This
12 bill amends one of those provisions, Code section 490.805,
13 subsection 2, and consequently the bill provides that the
14 provision of this Act amending that Code section prevails over
15 the repeal. However, a reference to Code section 490.806A,
16 which is to be repealed by that Act, in the provision amended
17 in this bill, is also stricken by the bill effective December
18 31, 2014.
19 The bill provides that once the provisions in SF 325 are
20 repealed, provisions in the model Act referring to public
21 corporations are enacted.

House Study Bill 654 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
TRANSPORTATION BILL BY
CHAIRPERSON TJEPKES)

A BILL FOR

1 An Act relating to motorcycle dealer activities at motorcycle
2 rallies and to the definition of travel trailer for purposes
3 of travel trailer dealer requirements.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 6062HC (2) 84
dea/nh

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1 Section 1. Section 322.2, Code 2011, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 11A. *"Motorcycle"* means as defined in
4 section 321.1. *"Motorcycle"* does not include an all-terrain
5 vehicle as defined in section 321.1.
6 Sec. 2. Section 322.4, subsection 1, paragraph g, Code 2011,
7 is amended to read as follows:
8 *g.* Before the issuance of a motor vehicle dealer's license
9 to a dealer engaged in the sale of vehicles for which a
10 certificate of title is required under chapter 321, or the
11 issuance of a temporary permit under section 322.5, subsection
12 6, paragraph *"b"*, the applicant shall furnish a surety bond
13 executed by the applicant as principal and executed by a
14 corporate surety company, licensed and qualified to do business
15 within this state, which bond shall run to the state of Iowa,
16 be in the amount of fifty thousand dollars and be conditioned
17 upon the faithful compliance by the applicant as a dealer with
18 all of the statutes of this state regulating or applicable to
19 the business of a dealer in motor vehicles, and indemnifying
20 any person who buys a motor vehicle from the dealer from any
21 loss or damage occasioned by the failure of the dealer to
22 comply with any of the provisions of chapter 321 and this
23 chapter, including but not limited to the furnishing of a
24 proper and valid certificate of title to the motor vehicle
25 involved in a transaction. The bond shall also indemnify any
26 motor vehicle purchaser from any loss or damage caused by the
27 failure of the dealer to comply with the odometer requirements
28 in section 321.71, regardless of whether the motor vehicle was
29 purchased directly from the dealer. The bond shall be filed
30 with the department prior to the issuance of a license or
31 permit. The aggregate liability of the surety, however, shall
32 not exceed the amount of the bond.
33 Sec. 3. Section 322.5, Code 2011, is amended by adding the
34 following new subsection:
35 NEW SUBSECTION. 6. *a.* Upon application for and receipt

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1 of a temporary permit issued by the department under this
2 subsection, a motor vehicle dealer authorized to sell used
3 motorcycles may display, offer for sale, and negotiate sales of
4 used motorcycles at a motorcycle rally located in this state
5 that meets all of the following conditions:
6 (1) The sponsor of the rally conducts not more than one
7 rally annually in this state.
8 (2) The rally is conducted for a single period of not less
9 than three and not more than seven consecutive days.
10 (3) Attendance at the rally is restricted to persons who
11 have paid a nonrefundable admission fee to the sponsor of the
12 rally.
13 *b.* A person licensed as a motor vehicle dealer in another
14 state may apply for and be issued a temporary permit under this
15 subsection if the person meets all of the following conditions:
16 (1) The person presents the department with a current motor
17 vehicle dealer license valid for the sale of used motorcycles
18 at retail in the person's state of residence.
19 (2) The state in which the person is licensed as a motor
20 vehicle dealer allows a motor vehicle dealer licensed in Iowa
21 to be issued a permit substantially similar to the temporary
22 permit authorized under this section.
23 (3) The person furnishes to the department a surety bond
24 that meets the requirements of section 322.4, subsection 1,
25 paragraph *"g"*.
26 (4) The person presents any additional information the
27 department may require.
28 *c.* Application for a temporary permit under this subsection
29 shall be made on forms provided by the department accompanied
30 by a fee established by the department by rule.
31 *d.* A sale of a motorcycle at a motorcycle rally shall not be
32 completed and an agreement for the sale of a motorcycle shall
33 not be signed at a motorcycle rally. All such sales shall be
34 consummated at the motor vehicle dealer's principal place of
35 business.

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1 *e.* The department may issue a temporary permit under this
2 subsection for a period not to exceed seven consecutive days.
3 A motor vehicle dealer may not receive more than one temporary
4 permit issued under this subsection in a calendar year.
5 Sec. 4. Section 322C.2, subsection 10, Code 2011, is amended
6 to read as follows:
7 10. *"Travel trailer"* means a vehicle without motive power
8 used or so manufactured or constructed as to permit its being
9 used as a conveyance upon the public streets and highways and
10 designed to permit the vehicle to be used as a place of human
11 habitation by one or more persons. The vehicle may be up to
12 eight feet six inches in width and its overall length shall not
13 exceed forty feet. *"Travel trailer"* does not include a vehicle
14 that is so designed as to permit it to be towed exclusively by
15 a motorcycle.
16 EXPLANATION
17 This bill provides for the display of used motorcycles
18 offered for sale at motorcycle rallies, provided the sponsor of
19 the rally holds no more than one rally per year in this state,
20 the rally is conducted for not less than three and not more
21 than seven days, and attendance at the rally is restricted to
22 persons paying a nonrefundable admission fee.
23 Under the bill, a person licensed as a motor vehicle dealer
24 and authorized to sell used motorcycles may apply to the
25 department of transportation for a temporary permit to display,
26 offer for sale, and negotiate sales of used motorcycles at a
27 rally. The fee for the permit is to be established by the
28 department by rule. A temporary permit may be issued for a
29 period of not more than seven days, and a motor vehicle dealer
30 may not be issued more than one such permit in a calendar year.
31 A person licensed as a motor vehicle dealer in another
32 state may be issued a temporary permit to display, offer for
33 sale, and negotiate sales of used motorcycles at a rally in
34 this state if the dealer presents to the department a current
35 license valid for the sale of used motorcycles at retail in

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1 the person´s state of residence, provided that the dealer´s
2 home state extends similar privileges to a dealer licensed in
3 this state. A dealer from another state must furnish a surety
4 bond that meets current requirements for motor vehicle dealer
5 licensing.
6 A temporary permit issued under the bill does not allow
7 a dealer to complete the sale of a used motorcycle at a
8 motorcycle rally. The bill specifies that the sale shall not
9 be completed and a sales agreement shall not be signed at the
10 rally. The sale must be consummated at the motor vehicle
11 dealer´s principal place of business.
12 The bill amends the definition of "travel trailer" for
13 purposes of Code chapter 322C to exclude vehicles designed to
14 be towed exclusively by a motorcycle. As a result, sales of
15 motorcycle trailers are exempt from the travel trailer dealer
16 licensing requirements and from a specific provision in Code
17 section 322C.12 relating to finance charges under a travel
18 trailer retail installment contract.

House Study Bill 655 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON STATE GOVERNMENT BILL BY CHAIRPERSON COWNIE)

A BILL FOR

1 An Act relating to electrical and mechanical amusement devices
2 concerning liability for device distributors and penalties
3 for awarding cash prizes for the use of electrical or
4 mechanical amusement devices.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 6076YC (5) 84
ec/rj

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Section 1. Section 99B.10, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Notwithstanding any provision of this section to the contrary, a distributor shall not be liable for a violation of this section unless the distributor, or an employee of the distributor, intentionally violates a provision of this section.

Sec. 2. Section 99B.10B, subsection 2, Code 2011, is amended to read as follows:

2. *a.* ~~The department shall revoke a registration issued pursuant to section 99B.10 or 99B.10A, for a period of ten years if a person commits an offense of awarding a cash prize in violation of section 99B.10, subsection 1, paragraph "b", pursuant to rules adopted by the department.~~ A person who commits an offense of awarding a cash prize of twenty-five dollars or less in violation of section 99B.10, subsection 1, paragraph "*b*", pursuant to rules adopted by the department, shall be issued a warning letter by the department.

b. A person who commits, within two years, a second offense of awarding a cash prize of twenty-five dollars or less in violation of section 99B.10, subsection 1, paragraph "*b*", or a person who commits an offense of awarding a cash prize of more than twenty-five dollars in violation of section 99B.10, subsection 1, paragraph "*b*", pursuant to rules adopted by the department, shall be subject to revocation of the person's registration and the following:

(1) If the person whose registration is revoked under this ~~subsection who~~ paragraph "*b*", is a person for which a class "A", class "B", class "C", special class "C", or class "D" liquor control license has been issued pursuant to chapter 123, ~~shall have~~ the person's liquor control license shall be suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph "*a*". ~~A~~

(2) If the person whose registration is revoked under this ~~subsection who~~ paragraph "*b*", is a person for which only a

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class "B" or class "C" beer permit has been issued pursuant to chapter 123, ~~shall have~~ the person's class "B" or class "C" beer permit shall be suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph *"a"*.

~~*b.*~~ (3) If a person owning or employed by an establishment having a class "A", class "B", class "C", special class "C", or class "D" liquor control license issued pursuant to chapter 123 commits an offense ~~of awarding a cash prize in violation of section 99B.10, subsection 1, paragraph *"b"*, pursuant to rules adopted by the department~~ as provided in this paragraph *"b"*, the liquor control license of the establishment shall be suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph *"a"*.

(4) If a person owning or employed by an establishment having a class "B" or class "C" beer permit issued pursuant to chapter 123 ~~awards a cash prize in violation of section 99B.10, subsection 1, paragraph *"b"*, pursuant to rules adopted by the department~~ commits an offense as provided in this paragraph *"b"*, the beer permit of the establishment shall be suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph *"a"*.

EXPLANATION

This bill concerns electrical and mechanical amusement devices.

Code section 99B.10 is amended to provide that a distributor of a device shall not be liable for a violation of this Code section relative to amusement devices unless the distributor or an employee of the distributor intentionally violates the Code section.

This bill also concerns the penalties applicable to a person who awards a cash prize for the use of an electrical or mechanical amusement device in violation of Code section 99B.10(1)(b). The bill provides that if the cash prize awarded in violation of this provision is $25 or less, the penalty

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1 shall be a warning letter. Current penalties applicable to any
2 awarding of a cash prize in violation of this provision are
3 amended by the bill and made applicable to a second violation
4 of awarding a cash prize of $25 or less within two years or to
5 a violation of awarding a cash prize of more than $25. The
6 bill eliminates the 10-year revocation of the registration
7 authorizing an electrical or mechanical amusement device
8 penalty but retains the 14-day suspension of an applicable
9 liquor control license or beer permit penalty for a violation
10 of these provisions.

House Study Bill 656 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON STATE GOVERNMENT BILL BY CHAIRPERSON COWNIE)

A BILL FOR

1 An Act relating to radon control by requiring the state
2 building code commissioner to adopt statewide radon control
3 standards in residential construction, requiring that
4 radon testing, mitigation, or abatement be conducted in
5 schoolhouses and certain residential buildings, requiring
6 certain notifications, and providing an income tax credit,
7 and including retroactive applicability provisions.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. **103A.8D Residential construction**
2 **requirements and standards for radon control.**
3 The state building code commissioner shall adopt as a part
4 of the state building code construction requirements and
5 standards for radon control in new residential construction.
6 The requirements and standards adopted by the commissioner
7 shall, if possible, be based upon a nationally recognized
8 standard or code for radon control in residential construction.
9 Notwithstanding any other provision of this chapter to the
10 contrary, the construction requirements and standards for radon
11 control adopted by the commissioner and approved by the council
12 shall apply to new residential construction commenced on or
13 after January 1, 2014, and shall supersede and replace any
14 minimum requirements and standards for radon control in new
15 residential construction adopted or enacted by a governmental
16 subdivision prior to that date. The state building code
17 commissioner may provide training to builders, contractors, and
18 other interested persons on the construction requirements and
19 standards for radon control in residential construction.
20 Sec. 2. Section 103A.10, Code 2011, is amended by adding the
21 following new subsection:
22 NEW SUBSECTION. 6. Notwithstanding any other provision of
23 this chapter to the contrary, the construction requirements and
24 standards for radon control in new residential construction
25 adopted by the commissioner and approved by the council shall
26 apply to all new residential construction commenced on or after
27 January 1, 2014, and shall supersede and replace any minimum
28 requirements or standards for radon control in new residential
29 construction adopted or enacted by the governmental subdivision
30 prior to that date.
31 Sec. 3. Section 136B.2, subsection 1, paragraph b, Code
32 2011, is amended to read as follows:
33 *b.* ~~A~~ Except as otherwise provided in section 558A.4,
34 subsection 1, and section 562A.13, subsection 7, a person shall
35 not disclose to any other person, except to the department,

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1 the address or owner of a nonpublic building that the person
2 tested for the presence of radon gas and radon progeny, unless
3 the owner of the building waives, in writing, this right of
4 confidentiality. Any test results disclosed shall be results
5 of a test performed within the five years prior to the date of
6 the disclosure.
7 Sec. 4. Section 136B.2, subsection 2, Code 2011, is amended
8 to read as follows:
9 2. *a.* Notwithstanding the requirements of this section,
10 disclosure to any person of the results of a test performed
11 on a nonpublic building for the presence of radon gas and
12 radon progeny is not required if the results do not exceed the
13 currently established United States environmental protection
14 agency action guidelines, except as otherwise provided in
15 section 558A.4, subsection 1, and section 562A.13, subsection
16 7.
17 *b.* ~~A~~ Except as otherwise provided in section 558A.4,
18 subsection 1, and section 562A.13, subsection 7, a person
19 who tests a nonpublic building which the person owns is not
20 required to disclose to any person the results of a test for
21 the presence of radon gas or progeny if the test is performed
22 by the person who owns the nonpublic building.
23 Sec. 5. Section 136B.4, Code 2011, is amended to read as
24 follows:
25 **136B.4 Fees — rules.**
26 1. The department shall establish a fee schedule ~~to defray~~
27 ~~the costs of the~~ for the certification and credentialing
28 programs established pursuant to section 136B.1 and the testing
29 conducted and the written reports provided pursuant to section
30 136B.3. Moneys collected from such fees shall be deposited in
31 the radon education fund created in section 136B.7.
32 2. The department shall adopt rules, pursuant to chapter
33 17A, to implement this chapter.
34 Sec. 6. NEW SECTION. **136B.6 Residential construction**
35 **with the use of public funds — radon testing and abatement**

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1 **requirements.**
2 1. The owner of any residential building constructed with
3 public funds in this state shall upon completion of such
4 construction test the building for the presence of radon gas
5 and radon progeny. The test shall be conducted by a person
6 certified to conduct such testing pursuant to section 136B.1.
7 The cost of the test shall be paid by the owner of the building.
8 2. If the results of testing in such a building exceed the
9 currently established United States environmental protection
10 agency action guidelines, the owner of such a building is
11 required to retain a person credentialed pursuant to section
12 136B.1 to perform appropriate radon abatement measures.
13 3. This section shall only apply to an owner receiving
14 public funds after July 1, 2012, for the construction of a
15 residential building.
16 4. A person who violates this section shall not be subject
17 to the provisions of section 136B.5.
18 Sec. 7. NEW SECTION. **136B.7 Radon education fund.**
19 1. A radon education fund is created in the state treasury
20 to be administered by the department of public health. The
21 fund shall consist of all moneys deposited into the fund
22 pursuant to section 136B.4.
23 2. Moneys in the fund shall be used by the department to
24 provide radon program education.
25 3. Notwithstanding section 12C.7, subsection 2, interest or
26 earnings on moneys in the fund shall be credited to the fund.
27 Sec. 8. NEW SECTION. **297.7A Radon testing requirements.**
28 1. The board of each school district shall require that each
29 schoolhouse within the district be scheduled for testing and be
30 tested for radon gas and radon progeny pursuant to chapter 136B
31 at least once every ten years by a person certified to conduct
32 such testing pursuant to section 136B.1.
33 2. If the results of testing in a schoolhouse exceed the
34 currently established United States environmental protection
35 agency action guidelines, the school district is required to

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1 retain a person credentialed pursuant to section 136B.1 to
2 perform appropriate radon abatement measures.
3 Sec. 9. NEW SECTION. **422.11I Radon mitigation and abatement**
4 **tax credit.**
5 1. The taxes imposed under this division, less the credits
6 allowed under section 422.12, shall be reduced by a radon
7 mitigation and abatement tax credit equal to the lesser of the
8 qualified radon mitigation or abatement costs incurred by the
9 owner of an owner-occupied residence or five hundred dollars.
10 Any credit in excess of the tax liability shall be refunded.
11 2. *a.* In order for costs of a radon mitigation or abatement
12 project to qualify for a tax credit under this section, the
13 radon mitigation or abatement project must receive approval
14 from a person credentialed under section 136B.1 in abating the
15 level of radon in buildings.
16 *b.* Approval certifications of mitigation or abatement
17 by a credentialed person shall be on forms approved by the
18 department of public health and shall contain information as
19 required by the department of public health. The information
20 shall, at a minimum, include the approximate date of the start
21 of mitigation or abatement, the approximate date of completion
22 of mitigation or abatement, and the cost of mitigation or
23 abatement.
24 *c.* The department of public health shall adopt rules
25 identifying costs that qualify as radon mitigation or abatement
26 costs.
27 3. *a.* Upon completion of the radon mitigation or abatement
28 project, a certification of completion must be obtained from
29 the department of public health. A completion certificate
30 shall identify the person claiming the tax credit under this
31 section and the qualified radon mitigation or abatement costs
32 incurred during the radon mitigation or abatement project.
33 *b.* The combined amount of qualified radon mitigation or
34 abatement costs certified by the department under subsection 4
35 to receive as tax credits shall not exceed five million dollars

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1 for a fiscal year.
2 4. After verifying the eligibility for the tax credit, the
3 department of public health shall issue a radon mitigation and
4 abatement tax credit certificate to be attached to the person's
5 tax return. Pursuant to the limitation on the amount of tax
6 credit certificates that may be issued for a fiscal year, the
7 tax credit certificates shall be issued on an earliest filed
8 basis. The tax credit certificate shall contain the taxpayer's
9 name, address, tax identification number, the date of project
10 completion, the amount of credit, and other information
11 required by the department of revenue.
12 5. A radon mitigation or abatement project that does not
13 meet the requirements of this section is subject to revocation,
14 repayment, or recapture of tax credits claimed pursuant to this
15 section.
16 Sec. 10. Section 558A.4, subsection 1, paragraph a, Code
17 Supplement 2011, is amended to read as follows:
18 *a.* (1) The disclosure statement shall include information
19 relating to the condition and important characteristics of the
20 property and structures located on the property, including
21 significant defects in the structural integrity of the
22 structure, as provided in rules which shall be adopted by the
23 real estate commission pursuant to section 543B.9. The rules
24 may require the disclosure to include information relating
25 to the property's zoning classification; the condition of
26 plumbing, heating, or electrical systems; or the presence of
27 pests.
28 (2) The rules shall require that testing for radon gas
29 and radon progeny be conducted pursuant to chapter 136B on
30 residential structures containing four or fewer dwelling units
31 prior to the sale of the property, and shall require the
32 disclosure of such test results to prospective buyers of the
33 property.
34 Sec. 11. Section 562A.13, Code 2011, is amended by adding
35 the following new subsection:

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1 NEW SUBSECTION. 7. The landlord or a person authorized to
2 enter into a rental agreement on behalf of the landlord shall
3 disclose to each tenant in writing before the commencement of
4 the tenancy the results of radon testing conducted pursuant
5 to section 562A.15, subsection 1, paragraph *"g"*, along with
6 information on the health risks posed by radon gas and radon
7 progeny published by the department of public health. The
8 landlord or a person authorized to enter into a rental
9 agreement on behalf of the landlord shall also disclose this
10 information to current tenants immediately upon receiving the
11 results of such tests.
12 Sec. 12. Section 562A.15, subsection 1, Code 2011, is
13 amended by adding the following new paragraph:
14 NEW PARAGRAPH. *g.* By January 1, 2014, and every ten years
15 thereafter, test for the presence of radon gas and radon
16 progeny. A test required pursuant to this paragraph shall
17 be conducted by a person certified to conduct such testing
18 pursuant to section 136B.1.
19 Sec. 13. RETROACTIVE APPLICABILITY. The following
20 provision or provisions of this Act apply retroactively to
21 January 1, 2012, for tax years beginning on or after that date:
22 1. The section of this Act enacting section 422.11I.
23 EXPLANATION
24 This bill relates to radon control standards in residential
25 construction, establishes certain radon testing or abatement to
26 be conducted in schoolhouses and certain residential buildings,
27 and provides an income tax credit for certain radon mitigation
28 and abatement costs.
29 The bill requires that the building code commissioner, with
30 the approval of the building code advisory council, adopt
31 requirements and standards for radon control in new residential
32 construction. The bill provides that the standards shall
33 supersede and replace any minimum radon control requirements
34 and standards for new residential construction adopted by
35 governmental subdivisions in Iowa. The bill requires that the

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1 requirements and standards be mandatory for all new residential
2 construction beginning on or after January 1, 2014.
3 The bill creates a radon education fund to be administered by
4 the department of public health to be used by the department
5 to provide radon program education. The bill provides that
6 certain fees collected by the department be deposited into this
7 fund.
8 The bill requires the owner of any residential building
9 constructed with public funds to test the building for the
10 presence of radon gas and radon progeny upon completion of
11 such construction. The bill requires that an owner of such
12 a building perform appropriate abatement measures if the
13 testing results exceed the currently established United States
14 environmental protection agency action guidelines. These
15 requirements shall apply to owners receiving public funds after
16 July 1, 2012, for the construction of residential buildings.
17 The bill requires that the school board of each school
18 district require each schoolhouse within the district be
19 scheduled for testing and be tested for radon gas and radon
20 progeny at least once every 10 years. The bill requires that
21 a district perform appropriate abatement measures if the
22 testing results exceed the currently established United States
23 environmental protection agency action guidelines.
24 The bill requires that the real estate commission adopt
25 rules requiring testing for radon gas and radon progeny of
26 residential buildings containing four or fewer dwelling units
27 prior to the sale of such property and requires that such
28 results be disclosed to potential buyers of the property.
29 The bill provides that residential landlords shall by
30 January 1, 2014, and every 10 years thereafter, test for
31 the presence of radon gas and radon progeny. The bill also
32 requires that such landlords disclose the results of such tests
33 to new tenants and disclose the results to current tenants
34 immediately upon receiving the results.
35 The bill also provides for a radon mitigation and abatement

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1 individual income tax credit of up to $500 for qualified radon
2 mitigation or abatement costs conducted on an owner-occupied
3 residence. The credit is refundable. The combined tax credits
4 awarded shall not exceed $5 million in any given fiscal year.
5 The tax credit applies retroactively to January 1, 2012, for
6 tax years beginning on or after that date.

House Study Bill 657 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON LOCAL GOVERNMENT BILL BY CHAIRPERSON WAGNER)

A BILL FOR

1 An Act to legalize and validate the proceedings preliminary to
2 and in connection with a special election held to authorize
3 the imposition of a local option sales and services tax
4 within the City of Adel, Iowa under Iowa Code Chapter 423B,
5 declaring the validity of said proceedings and the legality
6 of the local option sales and services tax authorized by the
7 special election, and providing an effective date and for
8 retroactive applicability.
9 WHEREAS, according to Iowa Code chapter 423B, a local option
10 sales and services tax election shall be submitted to the
11 voters upon the filing of motion or motions of governing bodies
12 of cities within the county or of the county representing at
13 least one half of the population of the county, or upon the
14 submission of a petition signed by eligible electors of the
15 county equal in number to five percent of the persons in the
16 whole county who voted in the last preceding state general
17 election; and
18 WHEREAS, on April 26, 2010, the City Council of Adel passed
19 Resolution No. 10-21 requesting a special election on the
20 question of imposition of a local sales and services tax in the
21 City of Adel; and
22 WHEREAS, upon receipt of said resolution, the Dallas County
23 Commissioner of Elections prepared a ballot for, published
24 notice of, and otherwise conducted a special election on August
25 3, 2010 upon the question of imposition of a local sales and
26 services tax in the City of Adel, to be effective January 1,
27 2011, although the City of Adel does not in and of itself
28 represent at least one half of the population of the county;
29 and

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30 WHEREAS, at the election a majority of those voting approved
31 of the imposition of the local option sales and services tax,
32 and on August 10, 2010, the Dallas County Board of Supervisors
33 duly canvassed the results of the special election and
34 confirmed that 394 votes were cast in favor of the measure and
35 340 votes were cast against the measure; and
36 WHEREAS, on August 31, 2010, the Dallas County Code of
37 Ordinances, chapter 6A, was updated to reflect the imposition
38 of a one percent (1%) local sales and services tax in the
39 City of Adel, to be effective January 1, 2011, and thereafter
40 forwarded to the Iowa Department of Revenue; and
41 WHEREAS, the local option sales and services tax has been
42 imposed and collected in the City of Adel since January 1,
43 2011, and the City now desires to issue bonds under Chapter
44 423B payable from the proceeds of the local option sales and
45 services tax; and
46 WHEREAS, the rights of citizens in other communities in
47 Dallas County to seek imposition of a local option sales
48 and services tax in addition to the City of Adel´s are not
49 jeopardized by the legalization of the City of Adel´s election;
50 and
51 WHEREAS, doubts have arisen concerning the validity
52 and legal sufficiency of the proceedings preliminary to
53 the foregoing special election and the validity and legal
54 sufficiency of such election and of the local option sales and
55 services tax authorized by said election, and it is deemed
56 advisable to put such doubts and all others that may arise
57 concerning the same forever at rest; NOW THEREFORE,
58 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. All acts and proceedings heretofore taken by the
2 city council of the City of Adel and the board of supervisors
3 and commissioner of elections of Dallas County preliminary to
4 and in connection with the special election held in the City
5 of Adel on August 3, 2010 on the imposition of a local option
6 sales and services tax within the City of Adel, and the said
7 special election and the local option sales and services tax
8 approved by the voters at said special election, are hereby
9 legalized, validated and confirmed, and the proceeds of such
10 local option sales and services tax may be lawfully pledged by
11 the City of the Adel to the payment of bonds as provided under
12 the provisions of Iowa Code Chapter 423B.
13 Sec. 2. This Act, being deemed of immediate importance,
14 takes effect upon enactment and is retroactively applicable to
15 August 3, 2010.
16 EXPLANATION
17 This bill relates to a resolution approved by the Adel city
18 council to place a question on the ballot for the imposition
19 of a local sales and services tax within the city. The city
20 submitted the question to the Dallas county commissioner of
21 elections who placed the question on the ballot. However, such
22 question is required to be submitted to the registered voters
23 of the incorporated and unincorporated areas of a county, and
24 not only to the city adopting the resolution, and only if
25 the city represents at least one half of the population of
26 the county (Code section 423B.1(4)). The bill legalizes the
27 acts and proceedings taken by the city council, the board of
28 supervisors, and commissioner of elections of Dallas county,
29 the election imposing the local option sales and services tax,
30 and the local option sales and services tax approved by the
31 city's voters.

House Study Bill 658 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON LABOR BILL BY CHAIRPERSON HORBACH)

A BILL FOR

1 An Act establishing a workplace safety improvement program and
2 fund administered by the labor commissioner and making an
3 appropriation.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 DIVISION I
2 WORKPLACE SAFETY IMPROVEMENT PROGRAM AND FUND
3 Section 1. NEW SECTION. **88C.1 Definitions.**
4 For purposes of this chapter:
5 1. *"Commissioner"* means the labor commissioner appointed
6 pursuant to section 91.2.
7 2. *"Consultant"* means a consultant from the division of
8 labor services of the department of workforce development.
9 3. *"Employer"* means a private person engaged in a business
10 who has one or more employees.
11 Sec. 2. NEW SECTION. **88C.2 Workplace safety improvement**
12 **program established — purpose — grants and loans.**
13 1. A workplace safety improvement program is established
14 for the purpose of awarding grants and loans to employers in
15 this state to promote improvements in workplace safety. The
16 program shall be administered by the commissioner.
17 2. An employer is eligible to apply for a grant or loan from
18 the workplace safety improvement program if the employer meets
19 the following criteria:
20 *a.* A consultant has conducted an on-site consultation visit
21 of the employer's work site.
22 *b.* The consultant recommends to the employer specific safety
23 practices or equipment designed to reduce the risk of illness
24 or injury to employees.
25 3. The commissioner shall make grants or loans to employers
26 for the cost of implementing safety recommendations made by a
27 consultant. An employer shall use funds received from a grant
28 or loan made pursuant to this chapter solely for the purpose of
29 implementing safety recommendations made by a consultant.
30 Sec. 3. NEW SECTION. **88C.3 Workplace safety improvement**
31 **fund established.**
32 A workplace safety improvement fund is established as a
33 separate and distinct fund in the state treasury under the
34 control of the commissioner. Moneys deposited or paid into
35 the fund are appropriated to the commissioner for the purposes

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1 of the workplace safety improvement program. Notwithstanding
2 section 8.33, moneys in the fund at the end of a fiscal year
3 shall not revert to the general fund of the state.
4 Sec. 4. NEW SECTION. **88C.4 Rules.**
5 The commissioner shall adopt rules pursuant to chapter 17A
6 necessary to administer this chapter.
7 DIVISION II
8 CIVIL PENALTIES COLLECTED BY DEPARTMENT OF WORKFORCE
9 DEVELOPMENT — DEPOSIT IN WORKPLACE SAFETY IMPROVEMENT FUND
10 Sec. 5. Section 73A.21, subsection 8, Code Supplement 2011,
11 is amended to read as follows:
12 8. Any person or entity that violates the provisions of
13 this section is subject to a civil penalty in an amount not to
14 exceed one thousand dollars for each violation found in a first
15 investigation by the division, not to exceed five thousand
16 dollars for each violation found in a second investigation
17 by the division, and not to exceed fifteen thousand dollars
18 for a third or subsequent violation found in any subsequent
19 investigation by the division. Each violation of this section
20 for each worker and for each day the violation continues
21 constitutes a separate and distinct violation. In determining
22 the amount of the penalty, the division shall consider the
23 appropriateness of the penalty to the person or entity charged,
24 upon determination of the gravity of the violations. Any civil
25 penalties collected by the department shall be deposited in
26 the workplace safety improvement fund established by section
27 88C.3. The collection of these penalties shall be enforced in
28 a civil action brought by the attorney general on behalf of the
29 division.
30 Sec. 6. Section 84C.5, subsection 2, Code 2011, is amended
31 to read as follows:
32 2. An employer who violates the provisions of section 84C.3
33 with respect to the department shall be subject to a civil
34 penalty of not more than one hundred dollars for each day of
35 the violation. Any civil penalties collected by the department

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1 shall be ~~forwarded to the treasurer of state and~~ deposited in
2 the ~~general~~ workplace safety improvement fund ~~of the state~~
3 established by section 88C.3.
4 Sec. 7. Section 88.14, subsection 12, Code 2011, is amended
5 to read as follows:
6 12. *Collection of penalties.* Civil penalties owed under
7 this chapter shall be paid to the commissioner for deposit
8 ~~with the treasurer of state and shall accrue to the state~~ in
9 the workplace safety improvement fund established by section
10 88C.3 and may be recovered in a civil action in the name of the
11 state brought in the district court of the county where the
12 violation is alleged to have occurred or where the employer has
13 its principal office.
14 Sec. 8. Section 88A.10, subsection 3, Code 2011, is amended
15 to read as follows:
16 3. A person who fails to obey a safety related requirement
17 listed on a sign displayed at an amusement ride pursuant to
18 section 88A.16, subsection 2, is subject to a civil penalty
19 of one hundred dollars. Any civil penalties collected by the
20 division shall be deposited in the workplace safety improvement
21 fund established by section 88C.3.
22 Sec. 9. Section 88B.12, Code 2011, is amended by adding the
23 following new subsection:
24 NEW SUBSECTION. 3. Any civil penalties collected by
25 the department shall be deposited in the workplace safety
26 improvement fund established by section 88C.3.
27 Sec. 10. Section 89.13, Code 2011, is amended to read as
28 follows:
29 **89.13 Civil penalty allowed.**
30 If upon notice and hearing the commissioner determines that
31 an owner has operated a facility in violation of a safety
32 order, the commissioner may assess a civil penalty against
33 the owner in an amount not exceeding five hundred dollars, as
34 determined by the commissioner. An order assessing a civil
35 penalty is subject to appeal to the employment appeal board and

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1 to judicial review. The commissioner may commence an action
2 in the district court to enforce payment of a civil penalty.
3 Revenue from the penalty provided in this section shall be
4 ~~remitted to the treasurer of state for deposit~~ deposited in
5 the ~~general~~ workplace safety improvement fund ~~of the state~~
6 established by section 88C.3.
7 Sec. 11. Section 89A.18, Code 2011, is amended to read as
8 follows:
9 **89A.18 Civil penalty.**
10 If upon notice and hearing the commissioner determines
11 that an owner has operated a conveyance after an order of the
12 commissioner that suspends, revokes, or refuses to issue an
13 operating permit for the conveyance has become final under
14 section 89A.10, subsection 2, the commissioner may assess a
15 civil penalty against the owner in an amount not exceeding five
16 hundred dollars, as determined by the commissioner. An order
17 assessing a civil penalty is subject to appeal under section
18 89A.10, subsection 2, in the same manner and to the same extent
19 as decisions referred to in that subsection. The commissioner
20 may commence an action in the district court to enforce payment
21 of the civil penalty. A record of assessment against or
22 payment of a civil penalty by any person for a violation of
23 this section shall not be admissible as evidence in any court
24 in any civil action. Revenue from the penalty provided in this
25 section shall be ~~remitted to the treasurer of state for deposit~~
26 deposited in the ~~state general~~ workplace safety improvement
27 fund established by section 88C.3.
28 Sec. 12. Section 90A.11, subsection 3, paragraph e, Code
29 Supplement 2011, is amended to read as follows:
30 *e.* Civil penalties recovered pursuant to this subsection
31 shall be ~~remitted by the commissioner to the treasurer of~~
32 ~~state for deposit~~ deposited in the ~~general~~ workplace safety
33 improvement fund ~~of the state~~ established by section 88C.3.
34 Sec. 13. Section 91A.12, subsections 1 and 4, Code 2011, are
35 amended to read as follows:

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1. Any employer who violates the provisions of this chapter or the rules promulgated under it shall be subject to a civil money penalty of not more than five hundred dollars per pay period for each violation. The commissioner may recover such civil money penalty according to the provisions of subsections 2 to 5. Any civil money penalty recovered shall be deposited in the ~~general~~ workplace safety improvement fund ~~of the state~~ established by section 88C.3.

4. An employer may seek judicial review of any assessment rendered under subsection 3 by instituting proceedings for judicial review pursuant to chapter 17A. However, such proceedings must be instituted in the district court of the county in which the violation or one of the violations occurred and within thirty days of the day on which the employer was notified that an assessment has been rendered. Also, an employer may be required, at the discretion of the district court and upon instituting such proceedings, to deposit the amount assessed with the clerk of the district court. Any moneys so deposited shall either be returned to the employer or be forwarded to the commissioner for deposit in the ~~general~~ workplace safety improvement fund ~~of the state~~ established by section 88C.3, depending on the outcome of the judicial review, including any appeal to the supreme court.

Sec. 14. Section 91C.8, subsection 5, Code 2011, is amended to read as follows:

5. The administrative penalties which may be imposed under this section shall be not more than five hundred dollars in the case of a first violation and not more than five thousand dollars for each violation in the case of a second or subsequent violation. All administrative penalties collected pursuant to this chapter shall be deposited in the ~~general~~ workplace safety improvement fund ~~of the state~~ established by section 88C.3.

Sec. 15. Section 91E.4, subsection 1, Code 2011, is amended to read as follows:

H.F. _____

1 1. An employer who violates section 91E.3 is subject to
2 a civil penalty of up to one thousand dollars. Any civil
3 penalty recovered shall be deposited in the workplace safety
4 improvement fund established by section 88C.3.
5 Sec. 16. Section 92.22, subsection 5, Code 2011, is amended
6 to read as follows:
7 5. Any civil penalties recovered pursuant to this section
8 shall be ~~remitted by the commissioner to the treasurer of~~
9 ~~state for deposit~~ deposited in the ~~general~~ workplace safety
10 improvement fund ~~of the state~~ established by section 88C.3.
11 Sec. 17. Section 94A.6, subsection 2, Code 2011, is amended
12 to read as follows:
13 2. If a person violates a provision of this chapter
14 or refuses the commissioner access to records, books, and
15 papers pursuant to an examination under section 94A.5, the
16 commissioner shall assess a civil penalty against the person
17 in an amount not greater than two thousand dollars. Any civil
18 penalty recovered shall be deposited in the workplace safety
19 improvement fund established by section 88C.3.
20 EXPLANATION
21 Division I of this bill establishes a workplace safety
22 improvement program for the purpose of awarding grants and
23 loans to employers in this state to promote improvements in
24 workplace safety. The bill provides that the program shall be
25 administered by the labor commissioner.
26 The bill provides that an employer is eligible to apply for a
27 grant or loan from the workplace safety improvement program if
28 the employer has had an on-site consultation visit conducted by
29 a consultant from the bureau of consultation and education of
30 the division of labor services of the department of workforce
31 development, and the consultant recommends to the employer
32 specific safety practices or equipment designed to reduce the
33 risk of illness or injury to employees. The bill provides that
34 the labor commissioner shall make grants or loans to employers
35 for the cost of implementing such safety recommendations,

H.F. _____

1 and employers shall use such funds solely for the purpose of
2 implementing those recommendations.
3 The bill establishes a workplace safety improvement fund
4 under the control of the labor commissioner and appropriates
5 moneys deposited or paid into the fund to the commissioner for
6 the purposes of the workplace safety improvement program.
7 The bill provides that the labor commissioner shall adopt
8 rules necessary to administer the bill.
9 Division II of the bill provides that various civil
10 penalties collected by the department of workforce development
11 are to be deposited in the workplace safety improvement fund.
12 Such moneys are currently deposited in the general fund of the
13 state.

House Study Bill 659 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON ECONOMIC GROWTH/REBUILD IOWA BILL BY CHAIRPERSON GRASSLEY)

A BILL FOR

1 An Act establishing a lifelong learning accounts program in
2 the department of workforce development, creating an income
3 tax credit, and including effective date and retroactive
4 applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5353YC (2) 84
je/sc

H.F. _____

1 Section 1. NEW SECTION. **84A.12 Lifelong learning accounts**
2 **program — tax credit.**
3 1. For purposes of this section, unless the context
4 otherwise requires:
5 *a. "Administrator"* means a nonprofit organization or other
6 business contracted with by the department to administer and
7 implement the lifelong learning accounts program.
8 *b. "Approved institution"* means an institution of higher
9 learning under the control of the state board of regents, a
10 community college established under chapter 260C, an accredited
11 private institution as defined in section 261.9, or other
12 entity providing career training and education in targeted
13 industries, which has been approved by the department for
14 participation in the program.
15 *c. "Department"* means the department of workforce
16 development.
17 *d. "Lifelong learning account"* means an account held on
18 behalf of an individual by a trustee, custodian, or fiduciary
19 approved by the department to be used for the deposit of
20 funds to pay for the individual's qualified expenses relating
21 to career training and education in targeted industries at
22 approved institutions.
23 *e. "Targeted industries"* means industries designated by
24 the department which the department, in consultation with the
25 workforce development board, the regional advisory boards, and
26 the economic development authority, finds most necessary to
27 promote growth in established regional economies in this state.
28 2. The department shall establish a lifelong learning
29 accounts program to encourage employed individuals to seek
30 further career training and education in targeted industries.
31 The program shall facilitate the establishment of lifelong
32 learning accounts in accordance with this section. The
33 department shall contract with an administrator to administer
34 and implement the program. The administrator shall be
35 qualified to carry out the requirements of this section, as

H.F. _____

1 determined by the department.
2 3. The administrator, in consultation with the department,
3 shall provide education and career advising and other support
4 services available to individuals participating in the
5 program in accordance with the purpose of encouraging employed
6 individuals to seek further career training and education in
7 targeted industries.
8 4. *a.* An individual may establish a lifelong learning
9 account upon application to the department, approval by
10 the administrator, and entering into an agreement with the
11 department to comply with the requirements of this section.
12 *b.* An individual is allowed an income tax credit for the
13 individual's contributions to a lifelong learning account.
14 The amount of the credit shall not exceed the lesser of the
15 individual's total contributions to the lifelong learning
16 account during the tax year or five hundred dollars. Any
17 credit in excess of the individual's tax liability is
18 refundable.
19 5. The department shall by December 31 each year conduct
20 a regional skills gap analysis for the purpose of determining
21 targeted industries for the following year.
22 6. The department shall seek out additional local, state,
23 federal, and private resources to incorporate into the lifelong
24 learning accounts program to further the purpose of encouraging
25 employed individuals to seek further career training and
26 education in targeted industries.
27 7. The department shall submit a report to the governor and
28 the general assembly, annually by January 15, regarding the
29 lifelong learning accounts program, including recommendations
30 for improving the program to further the purpose of encouraging
31 employed individuals to seek further career training and
32 education in targeted industries.
33 8. The department, in consultation with the administrator
34 after the department has contracted with an administrator,
35 shall adopt rules necessary to carry out this section.

H.F. _____

1 Sec. 2. NEW SECTION. **422.12A Lifelong learning account tax**
2 **credit.**
3 The taxes imposed by this division, less the credits allowed
4 under section 422.12, shall be reduced by a lifelong learning
5 account tax credit allowed under section 84A.12.
6 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
7 immediate importance, takes effect upon enactment.
8 Sec. 4. RETROACTIVE APPLICABILITY. The following provision
9 or provisions of this Act apply retroactively to January 1,
10 2012, for tax years beginning on or after that date:
11 1. The section of this Act enacting section 422.12A.
12 EXPLANATION
13 This bill directs the department of workforce development
14 to establish a lifelong learning accounts program to encourage
15 employed individuals to seek further career training and
16 education in targeted industries. The program shall facilitate
17 the establishment of lifelong learning accounts. A "lifelong
18 learning account" is defined as an account held on behalf of an
19 individual by a trustee, custodian, or fiduciary approved by
20 the department to be used for the deposit of funds to pay for
21 the individual's qualified expenses relating to career training
22 and education in targeted industries at approved institutions.
23 "Targeted industries" are defined as industries designated by
24 the department which the department, in consultation with the
25 workforce development board, the regional advisory boards, and
26 the economic development authority, finds most necessary to
27 promote growth in established regional economies in the state.
28 An "approved institution" is defined as a regents institution,
29 a community college, an accredited private institution, or
30 another entity providing career training and education in
31 targeted industries, which has been approved by the department
32 for participation in the program.
33 The bill directs the department to contract with a qualified
34 administrator to administer and implement the lifelong learning
35 accounts program. The bill directs the administrator, in

H.F. _____

1 consultation with the department of workforce development,
2 to provide education and career advising and other support
3 services available to individuals participating in the program.
4 An "administrator" is defined as a nonprofit organization or
5 other business contracted with by the department to administer
6 and implement the lifelong learning accounts program.
7 The bill provides that an individual may establish a
8 lifelong learning account upon application to the department
9 of workforce development, approval by the administrator, and
10 entering into an agreement with the department to comply with
11 the requirements of the bill. An individual is allowed a
12 refundable income tax credit in an amount up to $500 per tax
13 year for the individual's contributions to a lifelong learning
14 account.
15 The bill directs the department of workforce development
16 to conduct a regional skills gap analysis by December 31 each
17 year for the purpose of determining targeted industries for
18 the following year. The bill directs the department to seek
19 out additional local, state, federal, and private resources
20 to incorporate into the lifelong learning accounts program to
21 further the purpose of encouraging employed individuals to seek
22 further career training and education in targeted industries.
23 The bill directs the department to submit a report to the
24 governor and the general assembly, annually by January 15,
25 regarding the program, including recommendations for improving
26 the program to further the purpose of encouraging employed
27 individuals to seek further career training and education in
28 targeted industries. The bill directs the department, in
29 consultation with the administrator after the department has
30 contracted with an administrator, to adopt rules necessary to
31 carry out the bill.
32 The bill takes effect upon enactment and the income tax
33 credit applies retroactively to January 1, 2012, for tax years
34 beginning on or after that date.

Senate File 2236 - Introduced

SENATE FILE 2236
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 3077)

A BILL FOR

1 An Act relating to the procedures and duties of the Iowa ethics
2 and campaign disclosure board relating to campaign finance
3 and to county redistricting and making penalties applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5319SV (1) 84
jr/sc

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1 Section 1. Section 8.7, Code Supplement 2011, is amended to
2 read as follows:
3 **8.7 Reporting of gifts and bequests received.**
4 All gifts and bequests received by a department or accepted
5 by the governor on behalf of the state shall be reported in an
6 electronic format to the Iowa ethics and campaign disclosure
7 board and the general assembly's standing committees on
8 government oversight. The reports shall be filed no later than
9 the tenth day of the month for all gifts and bequests received
10 in the previous month. The ethics and campaign disclosure
11 board shall, by January 31 of each year, submit to the fiscal
12 services division of the legislative services agency a written
13 report listing all gifts and bequests received during the
14 previous calendar year with a value over one thousand dollars
15 and the purpose for each such gift or bequest. The submission
16 shall also include a listing of all gifts and bequests received
17 by a department from a person if the cumulative value of all
18 gifts and bequests received by the department from the person
19 during the previous calendar year exceeds one thousand dollars,
20 and the ethics and campaign disclosure board shall include, if
21 available, the purpose for each such gift or bequest. However,
22 the reports on gifts or bequests filed by the state board of
23 regents and the Iowa state fair board pursuant to section 8.44
24 shall be deemed sufficient to comply with the requirements of
25 this section.
26 Sec. 2. Section 68A.102, Code 2011, is amended by adding the
27 following new subsection:
28 NEW SUBSECTION. 5A. *"Charitable organization"* means an
29 organization that is described in section 501(c)(3) of the
30 Internal Revenue Code that is exempt from taxation under
31 section 501(a) of the Internal Revenue Code.
32 Sec. 3. Section 68A.201, subsection 1, Code 2011, is amended
33 to read as follows:
34 1. *a.* Every committee, as defined in this chapter, shall
35 file a statement of organization within ten days from the date

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of its organization. Unless formal organization has previously occurred, a committee is deemed to have organized as of the date that committee transactions exceed the financial activity threshold established in section 68A.102, subsection 5 or 18. If committee transactions exceed the financial activity threshold prior to the due date for filing a disclosure report as established under section 68A.402, the committee shall file a disclosure report whether or not a statement of organization has been filed by the committee.

b. A person that makes one or more independent expenditures and files all statements and reports required by section 68A.404 shall not be required to organize a committee or file the statement of organization required under this section.

Sec. 4. Section 68A.401A, subsection 1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

~~A political organization that is required to file reports with the internal revenue service, pursuant to 26 U.S.C. § 527,~~ Any person, other than a committee filing reports under section 68A.402 or a person making an independent expenditure under section 68A.404, shall file, in electronic format, a report with the board if that ~~organization~~ person does both of the following:

Sec. 5. Section 68A.401A, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. The name and address, and, in the case of an individual, the occupation and name of employer of such individual, of all contributors which contributed an aggregate amount of two hundred dollars or more to the ~~organization~~ person making or disseminating the communication during the calendar year and the amount and date of the contribution.

Sec. 6. Section 68A.401A, subsection 4, Code 2011, is amended to read as follows:

4. The term *"issue advocacy"* means any print, radio, televised, telephonic, or electronic communication in any form or content, which is disseminated to the general public

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or a segment of the general public, that refers to a clearly identified candidate ~~for the general assembly or statewide office~~.

Sec. 7. Section 68A.404, subsection 2, paragraph a, Code 2011, is amended to read as follows:

a. ~~An entity~~ A person, other than an individual or individuals, shall not make an independent expenditure or disburse funds from its treasury to pay for, in whole or in part, an independent expenditure made by another person without the authorization of a majority of the ~~entity's~~ person's board of directors, executive council, or similar organizational leadership body of the use of treasury funds for an independent expenditure involving a candidate or ballot issue committee. Such authorization must occur in the same calendar year in which the independent expenditure is incurred.

Sec. 8. Section 68A.404, subsection 3, paragraphs a and b, Code 2011, are amended to read as follows:

a. Subject to paragraph *"b"*, the person filing the independent expenditure statement shall file reports under sections 68A.402 and 68A.402A. An initial report shall be filed at the same time as the independent expenditure statement. Subsequent reports shall be filed according to the same schedule as the office or election to which the independent expenditure was directed.

(1) A supplemental report shall be filed on the same dates as in section 68A.402, subsection 2, paragraph *"b"*, if the person making the independent expenditure either raises or expends more than one thousand dollars.

(2) A report filed as a result of this paragraph *"a"* shall ~~not require the identification of individual members who pay dues to a labor union, organization, or association, or individual stockholders of a business corporation. A report filed as a result of this paragraph "a" shall not require the disclosure of any donor or other source of funding to the person making the independent expenditure except when the~~

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1 ~~donation or source of funding, or a portion of the donation or~~
2 ~~source of funding, was provided for the purpose of furthering~~
3 ~~the independent expenditure~~ include the name and address of
4 each person who has made one or more contributions to the
5 person making the independent expenditure when the aggregate
6 amount in a calendar year is two hundred dollars or more, and
7 the amount and date of each contribution.
8 *b.* This section does not apply to a candidate, candidate's
9 committee, state statutory political committee, county
10 statutory political committee, or a political committee.
11 This section does not apply to a federal committee or an
12 out-of-state committee that makes an independent expenditure.
13 A person that makes one or more independent expenditures and
14 files all statements and reports required by this section shall
15 not be required to organize a committee or file the statement
16 of organization required under section 68A.201.
17 Sec. 9. Section 68A.404, subsection 5, paragraph g, Code
18 2011, is amended to read as follows:
19 *g.* A certification by an officer ~~of the corporation~~
20 representing the person, if the person is other than an
21 individual or individuals, that the board of directors,
22 executive council, or similar organizational leadership body
23 expressly authorized the independent expenditure or use of
24 treasury funds for the independent expenditure by resolution
25 or other affirmative action within the calendar year when the
26 independent expenditure was incurred.
27 Sec. 10. Section 68A.405, subsection 1, paragraph a,
28 subparagraph (3), Code 2011, is amended to read as follows:
29 (3) *"Published material"* means any newspaper, magazine,
30 shopper, outdoor advertising facility, poster, direct mailing,
31 brochure, internet website, campaign sign, or any other form
32 of printed general public political advertising. *"Published*
33 *material"* includes television, radio, video, or motion picture
34 advertising, or automated or live telephone calls.
35 Sec. 11. Section 68A.405, subsection 2, paragraph a, Code

S.F. 2236

1 2011, is amended to read as follows:
2 *a.* The editorials or news articles of a newspaper, magazine,
3 television station, radio station, or other print or electronic
4 media that are not paid political advertisements.
5 Sec. 12. Section 68A.405, subsection 3, Code 2011, is
6 amended to read as follows:
7 3. For television, video, or motion picture advertising,
8 the attribution statement shall be displayed on the screen
9 in a clearly readable manner for at least four seconds. For
10 radio advertising or automated or live telephone calls, the
11 attribution statement shall be clearly enunciated.
12 Sec. 13. NEW SECTION. **68B.22A Reporting of gifts from**
13 **restricted donors.**
14 1. All officials and employees of the executive branch of
15 the state of Iowa shall report to the board in an electronic
16 format any gift or series of gifts from a restricted donor that
17 exceed one hundred dollars in the aggregate in a calendar year.
18 2. The report shall be filed no later than the tenth day
19 of the month for gifts received by the official or employee or
20 that person's immediate family member in the previous month.
21 3. The report shall include the name of the official or
22 employee, the person's position or title with the executive
23 branch, the name and address of the restricted donor, a
24 description of the gift, the estimated value of the gift, and
25 the exception in section 68B.22, subsection 4, that allows the
26 official or employee to accept, directly or indirectly, the
27 gift.
28 4. The report shall include the name of any open candidate's
29 committee established for the person. Campaign contributions
30 shall not be included in the report if such contributions are
31 disclosed on the candidate's committee's disclosure reports.
32 Sec. 14. Section 331.210A, subsection 2, paragraph e, Code
33 2011, is amended by adding the following new subparagraph:
34 NEW SUBPARAGRAPH. (4) Members of the temporary county
35 redistricting commission shall retain all of their work

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1 product relating to the redistricting process or plan until the
2 state commissioner of elections has approved the plan and any
3 complaint alleging the plan was drawn for improper political
4 reasons has been resolved. Work product includes but is not
5 limited to any written or electronic communication with any
6 person regarding the redistricting process or plan.
7 EXPLANATION
8 This bill relates to the duties of the Iowa ethics and
9 campaign disclosure board.
10 The bill requires that reporting of all gifts and bequests
11 received by a state department or the governor on behalf of the
12 state must be reported in an electronic format. Currently, the
13 reports are required to be made to the board and the general
14 assembly's standing committees on government oversight. The
15 bill also provides that these reports shall be filed no later
16 than the tenth day of the month for all gifts and bequests
17 received in the previous month.
18 The bill defines "charitable organization", for purposes of
19 campaign finance, to be an organization that is described in
20 section 501(c)(3) of the Internal Revenue Code and is exempt
21 from taxation under section 501(a) of the Internal Revenue
22 Code.
23 The bill provides that a person that makes independent
24 campaign expenditures and files all required statements and
25 reports is not required to organize a committee or file a
26 statement of organization.
27 The bill requires that any person, other than a political
28 committee filing under Code section 68A.402 or a person making
29 an independent expenditure under Code section 68A.404, must
30 file a report with the board if that organization engages in
31 issue advocacy, and receives or expects to receive $25,000.
32 The bill revises current provisions relating to reporting
33 independent expenditures. The bill requires that reports be
34 filed electronically and must include the name and address
35 of each person who has made one or more contributions to the

S.F. 2236

1 person making the independent expenditure when the aggregate
2 amount in a calendar year is $200 or more, and the amount and
3 date of each contribution.
4 Current law requires that corporate officials must certify
5 that the governing body authorized an independent expenditure;
6 the bill expands this requirement to other entities, but not
7 individuals.
8 The bill amends the definition of "published material" to
9 include radio advertising or automated or live telephone calls.
10 The bill requires audio attribution statements for radio
11 advertising or automated or live telephone calls and requires
12 the statements to be clearly enunciated.
13 The bill enacts new Code section 68B.22A, which provides
14 that all officials and employees of the executive branch, or
15 that person's immediate family members, report to the board any
16 gift or series of gifts from a restricted donor that exceed
17 $100 in the aggregate in a calendar year. That report must
18 include estimated value of the gift and the exception in Code
19 section 68B.22 that allows the official or employee or family
20 member to accept the gift. The bill provides that the report
21 shall include the name of any open candidate's committee
22 established for the person and provides that contributions
23 shall not be included if the contributions are disclosed on the
24 candidate's committee's disclosure reports.
25 Relating to the review of county redistricting plans, the
26 bill requires that a temporary county redistricting commission
27 retain all of its work product relating to the redistricting
28 process or plan until the state commissioner of elections has
29 approved the plan and any complaint alleging the plan was drawn
30 for improper political reasons has been resolved.
31 As provided in Code section 68A.701, a willful violation of
32 any provision of the campaign finance Code chapter is a serious
33 misdemeanor punishable by confinement for up to one year and
34 a fine of at least $315 but not more than $1,875. A variety
35 of civil remedies are also available in Code section 68B.32D

S.F. 2236

1 for a violation of Code chapter 68A or rules of the ethics and
2 campaign disclosure board, ranging from a reprimand to a civil
3 penalty of not more than $2,000.

Senate File 2237 - Introduced

SENATE FILE 2237
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 3017)

A BILL FOR

1 An Act concerning the frequency of reporting and distribution
2 of proceeds requirements for certain qualified organizations
3 licensed to conduct social and charitable gambling.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5280SV (1) 84
ec/nh

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1 Section 1. Section 99B.2, subsection 4, Code 2011, is
2 amended to read as follows:
3 4. A licensee required by subsection 2 to maintain records
4 shall submit an annual report to the department on forms
5 furnished by the department. The annual report shall be due
6 thirty days following the end of each state fiscal year. The
7 annual report shall contain a compilation of the information
8 required to be recorded by subsection 2, and shall include
9 all of the transactions occurring during the previous state
10 fiscal year for which the report is submitted. Failure to
11 submit the annual report is grounds for revocation of the
12 license. Willful failure to submit the annual report is a
13 serious misdemeanor. A person who intentionally files a false
14 or fraudulent report or application with the department commits
15 a fraudulent practice.
16 Sec. 2. Section 99B.7, subsection 3, paragraph c, Code
17 Supplement 2011, is amended to read as follows:
18 *c.* (1) A qualified organization shall distribute amounts
19 awarded as prizes on the day they are won. A qualified
20 organization shall dedicate and distribute the balance of the
21 net receipts received within a ~~quarter~~ state fiscal year and
22 remaining after deduction of reasonable expenses, charges,
23 fees, taxes, and deductions allowed by this chapter, before the
24 ~~quarterly~~ annual report required for that ~~quarter~~ state fiscal
25 year under section 99B.2, subsection 4, is due. The amount
26 dedicated and distributed must equal at least seventy-five
27 percent of the net receipts. A person desiring to hold the
28 net receipts for a period longer than permitted under this
29 paragraph shall apply to the department for special permission
30 and upon good cause shown the department may grant the request.
31 (2) If permission is granted to hold the net receipts, the
32 person shall, as a part of the ~~quarterly~~ annual report required
33 by section 99B.2, report the amount of money currently being
34 held and all expenditures of the funds. This report shall be
35 filed even if the person no longer holds a gambling license.

S.F. 2237

1 Sec. 3. Section 99B.7B, subsection 3, paragraphs b and c,
2 Code 2011, are amended to read as follows:
3 *b.* Each qualified organization representing veterans shall
4 withhold that portion of the gross receipts subject to taxation
5 pursuant to section 423.2, subsection 4, which shall be kept
6 in a separate account and sent to the state along with the
7 organization's ~~quarterly~~ annual report required by section
8 99B.2.
9 *c.* A qualified organization representing veterans licensed
10 to conduct card game tournaments is allowed to withhold no
11 more than five percent of the gross receipts from each card
12 game tournament for qualified expenses. Qualified expenses
13 include but are not limited to the purchase of supplies and
14 materials used in conducting card games. Any money collected
15 for expenses and not used by the end of the ~~calendar~~ state
16 fiscal year shall be donated for educational, civic, public,
17 charitable, patriotic, or religious uses as described in
18 section 99B.7, subsection 3, paragraph "*b*". The qualified
19 organization representing veterans shall attach a receipt for
20 any donation made to the ~~fourth quarter quarterly~~ annual report
21 required to be submitted pursuant to section 99B.2.
22 EXPLANATION
23 This bill relates to the annual report required by
24 Code section 99B.2(4) to be submitted to the department of
25 inspections and appeals for licensees authorized to conduct
26 certain social and charitable gambling under Code chapter 99B.
27 Code section 99B.2 is amended to reflect that the fiscal
28 year subject to the annual report is the state fiscal year.
29 In addition, Code sections 99B.7, concerning games conducted
30 by qualified organizations, and 99.7B, concerning card game
31 tournaments conducted by qualified organizations representing
32 veterans, are amended to reflect that the report required
33 to be submitted to the department is an annual, and not a
34 quarterly, report. In addition, Code sections 99B.7 and 99B.7B
35 are amended to provide that moneys collected by qualified

S.F. 2237

1 organizations conducting gambling and not used for prizes and
2 expenses shall be donated, unless permission is otherwise
3 granted, by the end of the state fiscal year and noted on
4 the annual report. Current law requires distribution of
5 these moneys by the end of the calendar year for qualified
6 organizations representing veterans conducting card game
7 tournaments and by the end of each quarter year for other
8 qualified organizations.

Senate File 2238 - Introduced

SENATE FILE 2238
BY SENG

A BILL FOR

1 An Act concerning financing of the municipal fire and police
2 retirement system and providing for an appropriation.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5765SS (4) 84
ec/sc

S.F. 2238

1 Section 1. Section 411.8, subsection 1, paragraph f, Code
2 2011, is amended by adding the following new subparagraph:
3 NEW SUBPARAGRAPH. (9) Beginning July 1, 2012, and each
4 fiscal year thereafter, for members whose membership in
5 the system first commenced on or after July 1, 2012, an
6 amount equal to the member's contribution rate times each
7 member's compensation shall be paid to the fund from the
8 earnable compensation of the member. For the purposes of this
9 subparagraph, the member's contribution rate shall be ten and
10 four-tenths percent. However, the system shall increase the
11 member's contribution rate as necessary to cover any increase
12 in cost to the system resulting from statutory changes which
13 are enacted by any session of the general assembly meeting
14 after January 1, 1991, if the increase cannot be absorbed
15 within the contribution rates otherwise established pursuant to
16 this paragraph, but subject to a maximum employee contribution
17 rate of eleven and thirty-five hundredths percent. The
18 contribution rate increases specified in 1994 Iowa Acts, ch.
19 1183, pursuant to this chapter and chapter 97A shall be the
20 only member contribution rate increases for these systems
21 resulting from the statutory changes enacted in 1994 Iowa
22 Acts, ch. 1183, and shall apply only to the fiscal periods
23 specified in 1994 Iowa Acts, ch. 1183. After the employee
24 contribution reaches eleven and thirty-five hundredths percent,
25 sixty percent of the additional cost of such statutory changes
26 shall be paid by employers under paragraph "c" and forty percent
27 of the additional cost shall be paid by employees under this
28 paragraph.
29 Sec. 2. NEW SECTION. **411.20 State appropriation.**
30 1. There is appropriated from the general fund of the
31 state for each fiscal year an amount to be distributed to the
32 statewide fire and police retirement system equal to three
33 and nine-tenths percent of the earnable compensation of all
34 members. The percentage shall be the normal contribution rate,
35 as determined by section 411.8, reduced by the percentage

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1 rate payable by the participating cities. The method of
2 distribution shall be determined by the board of trustees
3 based on information provided by the actuary of the statewide
4 retirement system.
5 2. Moneys appropriated by the state shall not be used
6 to reduce the normal rate of contribution of any city below
7 seventeen percent.
8 EXPLANATION
9 This bill concerns the financing of the statewide municipal
10 fire and police retirement system.
11 Code section 411.8(1)(f), concerning the contribution rate
12 payable by members of the system, is amended to provide that
13 members whose membership in the system first commenced on
14 or after July 1, 2012, shall pay 10.4 percent of earnable
15 compensation to the system. All other members of the system
16 shall continue to pay 9.4 percent. Current law that provides
17 for an increase in the employee contribution rate under certain
18 circumstances remains unchanged and is made applicable to the
19 members paying the increased 10.4 percent rate.
20 New Code section 411.20 provides that the state shall pay an
21 amount equal to 3.9 percent of the earnable compensation of all
22 members. In 2010, an annual state contribution to the system
23 was repealed and replaced with a set state appropriation to the
24 system for only fiscal years 2010-2011 and 2011-2012.

Senate File 2239 - Introduced

SENATE FILE 2239
BY SENG

A BILL FOR

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

TLSB 5822SS (2) 84
rn/rj

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

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

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

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1 in lieu of alternate and renewable energy rates otherwise
2 determined by the board pursuant to Code section 476.43,
3 and that an unsuccessful applicant, or an alternate energy
4 production facility with larger than 20 megawatts of nameplate
5 generating capacity, shall be governed by the Code section
6 476.43 rates.
7 The bill requires the board to submit a report to the general
8 assembly by January 1 annually regarding program participation
9 levels and results.

Senate File 2240 - Introduced

SENATE FILE 2240
BY COMMITTEE ON LOCAL
GOVERNMENT

(SUCCESSOR TO SSB 3138)

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, and modifying certain tax
6 payment provisions following a tax sale.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5734SV (2) 84
md/sc

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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

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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

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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

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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

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1 2, partial payments collected pursuant to section 435.24,
2 subsection 6, paragraph "a", and partial payments collected and
3 not yet designated by the county treasurer for apportionment
4 pursuant to section 435.24, subsection 6, paragraph "b", among
5 the several funds to which they belong according to the amount
6 levied for each fund, and shall apportion the interest, fees,
7 and costs on the taxes to the general fund, and shall enter
8 those amounts upon the treasurer's cash account, and report the
9 amounts to the county auditor.
10 Sec. 13. Section 446.32, Code 2011, is amended to read as
11 follows:
12 **446.32 Payment of subsequent taxes by purchaser.**
13 The county treasurer shall provide to the purchaser of a
14 parcel sold at tax sale a receipt for the total amount paid
15 by the purchaser after the date of purchase for a subsequent
16 year. Taxes for a subsequent year may be paid by the purchaser
17 beginning one month and fourteen days following the date
18 from which an installment becomes delinquent as provided in
19 section 445.37. Notwithstanding any provision to the contrary,
20 a subsequent payment must be received and recorded by the
21 treasurer in the county system no later than ~~five~~ 5:00 p.m. on
22 the last business day of the month for interest for that month
23 to accrue and be added to the amount due under section 447.1.
24 However, the treasurer may establish a deadline for receipt of
25 subsequent payments that is other than ~~five~~ 5:00 p.m. on the
26 last business day of the month to allow for timely processing
27 of the subsequent payments. Late interest shall be calculated
28 through the date that the subsequent payment is recorded by
29 the treasurer in the county system. In no instance shall the
30 date of postmark of a subsequent payment be used by a treasurer
31 either to calculate interest or to determine whether interest
32 shall accrue on the subsequent payment.
33 Sec. 14. Section 468.57, subsection 1, Code Supplement
34 2011, is amended to read as follows:
35 1. If the owner of any land against which a levy exceeding

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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

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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 EXPLANATION
30 This bill makes several changes to the powers and duties of
31 county treasurers relating to real property.
32 The bill amends Code section 161A.35, relating to
33 installment payments on amounts levied against property for
34 watershed protection and flood prevention improvements, by
35 increasing from $100 to $500 the amount levied against a

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1 property in order to allow installment payments.
2 The bill amends Code section 311.17, relating to secondary
3 road assessment payments, by increasing from more than $100
4 to more than $500 the amount owed by the taxpayer before the
5 amount may be paid in installments. The bill also specifies
6 that such assessments of $500 or less are due and payable from
7 the date of levy by the board of supervisors, or in the case of
8 any appeal, from the date of final confirmation of the levy by
9 the court.
10 The bill amends Code sections 331.384 and 364.13, relating
11 to special assessments on property for the abatement of
12 specified public health and safety hazards, by increasing
13 from more than $100 to more than $500 the amount owed by the
14 taxpayer before the amount may be paid in installments.
15 The bill amends Code section 357.20 to increase from $100 or
16 more to $500 or more the amount owed by a taxpayer in a water
17 district before the amount may be paid in installments.
18 The bill amends Code section 358.16 to increase from $100 or
19 more to $500 or more the amount owed by a taxpayer in a sanitary
20 district before the amount may be paid in installments.
21 The bill amends Code chapter 384, relating to city special
22 assessments, to increase from $100 or more to $500 or more the
23 amount owed by a taxpayer for a city special assessment before
24 the amount may be paid in installments.
25 Current Code sections 435.24(6)(b) and 445.36A(2) allow
26 for the partial payment of taxes which are delinquent to the
27 county treasurer. Current Code section 445.57 provides that
28 such partial payments are to be apportioned monthly to the
29 various local taxing entities. The bill amends Code sections
30 435.24(6)(b) and 445.36A(2) to allow the county treasurer to
31 apportion such partial payments to the various local taxing
32 entities either on a monthly basis after such amounts are
33 collected or following the due date of the next semiannual tax
34 installment.
35 Current Code section 446.32 allows the purchaser of a

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1 parcel sold at tax sale to pay taxes on the parcel for a
2 subsequent year beginning 14 days following the date from which
3 a subsequent year's installment becomes delinquent as provided
4 in Code section 445.37. The bill changes the period of time
5 for when the purchaser may begin paying taxes for a subsequent
6 year to one month and 14 days following the date from which an
7 installment becomes delinquent.

Senate Resolution 109 - Introduced

SENATE RESOLUTION NO. 109

BY QUIRMBACH, BACON, ANDERSON, BARTZ, BEALL, BEHN, BERTRAND, BLACK, BOETTGER, BOLKCOM, BOWMAN, CHELGREN, COURTNEY, DANIELSON, DEARDEN, DIX, DOTZLER, DVORSKY, ERNST, FEENSTRA, FRAISE, GREINER, GRONSTAL, HAHN, HAMERLINCK, HANCOCK, HATCH, HOGG, HORN, HOUSER, JOCHUM, JOHNSON, KAPUCIAN, KETTERING, KIBBIE, MATHIS, McCOY, McKINLEY, RAGAN, RIELLY, SCHOENJAHN, SENG, SEYMOUR, SMITH, SODDERS, SORENSON, WARD, WHITVER, WILHELM, and ZAUN

A Resolution recognizing Dr. Dan Shechtman of the Iowa State University College of Engineering, the United States Department of Energy´s Ames Laboratory, and Technion-Israel Institute of Technology on his receipt of the 2011 Nobel Prize in Chemistry.

WHEREAS, Dr. Shechtman serves as a professor of materials science and engineering at Iowa State University; research scientist at the United States Department of Energy´s Ames Laboratory; and distinguished professor at Technion-Israel Institute of Technology in Haifa, Israel; and

WHEREAS, on the morning of April 8, 1982, Dr. Shechtman discovered the existence of quasicrystals, a new atomic structure for solid materials; and

WHEREAS, this structure was previously thought to be impossible by the scientific and engineering community; and

WHEREAS, Dr. Shechtman endured significant skepticism and criticism from professional peers but stood firm in his convictions and in the accuracy and

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1 import of this discovery; and
2 WHEREAS, Dr. Shechtman's findings were independently
3 confirmed by other researchers around the world,
4 including scientists at the United States Department of
5 Energy's Ames Laboratory and Iowa State University; and
6 WHEREAS, the discovery of quasicrystals resulted in
7 textbooks being rewritten; and
8 WHEREAS, the discovery of quasicrystals has
9 increased knowledge and the fundamental understanding
10 of solid materials; and
11 WHEREAS, in 2004, Dr. Shechtman joined Iowa State
12 University as a professor of materials science and
13 engineering in the College of Engineering and the
14 United States Department of Energy's Ames Laboratory,
15 as a research scientist; and
16 WHEREAS, he continues to teach students and conduct
17 research in Iowa; and
18 WHEREAS, in recognition of his groundbreaking
19 scientific achievements, the Royal Swedish Academy of
20 Sciences awarded Dr. Shechtman the 2011 Nobel Prize in
21 Chemistry; NOW THEREFORE,
22 BE IT RESOLVED BY THE SENATE, That the Senate honors
23 Dr. Dan Shechtman for his groundbreaking discovery of
24 quasicrystals, his perseverance, and his contributions
25 to teaching and research at Iowa State University and
26 the Ames Laboratory, which culminated in his receipt of
27 the 2011 Nobel Prize in Chemistry.

Senate Resolution 110 - Introduced

SENATE RESOLUTION NO. 110
BY HANCOCK, BEALL, KIBBIE, DANIELSON, ERNST, KAPUCIAN, SEYMOUR, and BARTZ

1 A Resolution urging Congress and the President of the
2 United States to protect America's national guard
3 units from additional budget cuts.
4 WHEREAS, state militias, now known as the national
5 guard, have been a bulwark of this nation's military
6 defense system since 1776; and
7 WHEREAS, now in the 21st century America relies on
8 the citizen-soldiers of the guard like never before,
9 from providing cybersecurity to piloting Predator and
10 Reaper unmanned drones, while still providing the
11 traditional role as "boots on the ground"; and
12 WHEREAS, defense budget cuts ranging from $450
13 billion up to $1 trillion over the next decade will
14 force each branch of the military service to reexamine
15 its balance of forces in the active duty, guard, and
16 reserve branches; and
17 WHEREAS, these cuts threaten to reverse progress
18 made over the past 10 years in which guard units have
19 completed multiple deployments and upgraded both skills
20 and equipment; NOW THEREFORE,
21 BE IT RESOLVED BY THE SENATE, That the Senate urges
22 the President of the United States, the United States
23 Congress, and the United States Secretary of Defense to
24 protect the national guard from any future reductions
25 or other budget cuts; and
26 BE IT FURTHER RESOLVED, That an official copy of
27 this resolution be transmitted to the President of the

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1 United States, the United States Secretary of Defense,
2 and to members of the Iowa congressional delegation.

Senate Resolution 111 - Introduced

SENATE RESOLUTION NO. 111
BY DIX, GREINER, WARD, KAPUCIAN, SMITH, BACON, BOETTGER, HAHN, KETTERING, ERNST, ZAUN, BEHN, SEYMOUR, WHITVER, CHELGREN, FEENSTRA, SORENSON, HAMERLINCK, BARTZ, BERTRAND, HOUSER, ANDERSON, and JOHNSON

1 A Resolution requesting the United States Congress to
2 make permanent the federal tax reductions provided
3 to all Iowans.
4 WHEREAS, in the first decade of the twenty-first
5 century a series of historic tax reductions were
6 enacted, benefitting Iowans in all walks of life; and
7 WHEREAS, those tax reductions were provided in three
8 federal Acts: the Economic Growth and Tax Relief
9 Reconciliation Act of 2001 and the Jobs and Growth
10 Tax Relief Reconciliation Act of 2003, as amended by
11 the Tax Increase Prevention and Reconciliation Act of
12 2005; and
13 WHEREAS, the tax reductions are essential to assist
14 Iowans in making ends meet during difficult economic
15 times; and
16 WHEREAS, an increase in taxes on hard-working Iowans
17 will result in decreased economic spending and greater
18 individual financial hardship; and
19 WHEREAS, Iowans deserve an efficient, effective
20 government that is fiscally responsible with the
21 taxpayers' money; and
22 WHEREAS, the expiration of the tax reductions will
23 have a harmful effect on Iowans and lead to a $376
24 million decrease in revenues for the state of Iowa over

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1 the next four years; and
2 WHEREAS, the tax reductions have had a positive
3 impact on Iowa's taxpayers, economy, and job
4 growth; NOW THEREFORE,
5 BE IT RESOLVED BY THE SENATE, That the Senate
6 formally requests the Iowa congressional delegation to
7 support legislation making permanent the tax reductions
8 provided to Iowans and the American people in the
9 Economic Growth and Tax Relief Reconciliation Act of
10 2001 and the Jobs and Growth Tax Relief Reconciliation
11 Act of 2003, as amended by the Tax Increase Prevention
12 and Reconciliation Act of 2005.

Senate Study Bill 3179 - Introduced

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

A BILL FOR

1 An Act relating to fire protection and emergency medical
2 services, including tax credits, service charges, and
3 applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 6020SC (3) 84
ec/sc

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1 DIVISION I
2 EMERGENCY MEDICAL SERVICES TRAINING
3 Section 1. 2011 Iowa Acts, chapter 129, section 114,
4 subsection 1, paragraph a, is amended by adding the following
5 new subparagraph:
6 NEW SUBPARAGRAPH. (3) Of the funds allocated in
7 this paragraph "a", $750,000 shall be transferred to the
8 appropriation to the department of public health in this Act
9 for public protection to be used for emergency medical services
10 training for communities with populations under 9,000.
11 DIVISION II
12 STATEWIDE INTEROPERABLE COMMUNICATIONS SYSTEM BOARD
13 Sec. 2. Section 80.28, subsection 2, paragraph b, Code 2011,
14 is amended by adding the following new subparagraph:
15 NEW SUBPARAGRAPH. (05) One member who is an emergency
16 manager and a representative of the Iowa emergency management
17 association.
18 Sec. 3. Section 80.28, subsection 4, Code 2011, is amended
19 to read as follows:
20 4. The voting members of the board shall be appointed in
21 compliance with sections 69.16 and 69.16A. Members shall elect
22 a chairperson and vice chairperson from the board membership,
23 who shall serve two-year terms. Members representing state
24 agencies and appointed by the governor shall be employees of
25 the agency, department, or office represented. The members
26 appointed by the governor shall be appointed to three-year
27 staggered terms and the terms shall commence and end as
28 provided by section 69.19. If a vacancy occurs among the
29 voting members, a successor shall be appointed to serve the
30 unexpired term. A successor shall be appointed in the same
31 manner and subject to the same qualifications as the original
32 appointment to serve the unexpired term. The voting members
33 of the board are entitled to receive reimbursement for actual
34 expenses incurred while engaged in the performance of official
35 duties from funds appropriated to the department of public

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1 safety and the state department of transportation for that
2 purpose. The departments shall enter into an agreement to
3 provide administrative assistance and support to the board.
4 DIVISION III
5 PUBLIC SAFETY COMMUNICATIONS
6 Sec. 4. NEW SECTION. **34A.11 Communications — single point**
7 **of contact.**
8 A public or private safety agency that determines that a
9 need, issue, or concern exists or has arisen in connection
10 with the provision of public safety communications within an
11 enhanced 911 service area shall file, register, or otherwise
12 convey the need, issue, or concern to the joint E911 service
13 board maintained within the area, or an alternative legal
14 entity created pursuant to chapter 28E as provided in
15 section 34A.3, subsection 3. The joint E911 service board
16 or alternative legal entity shall serve as the single point
17 of contact with regard to the receipt of public safety
18 communications needs, issues, or concerns, and shall take such
19 action with regard to the disposition of the need, issue, or
20 concern as the board or entity in its discretion determines
21 appropriate.
22 DIVISION IV
23 VOLUNTEER FIRE FIGHTER AND EMERGENCY MEDICAL SERVICES TAX
24 CREDIT
25 Sec. 5. Section 8.57E, Code Supplement 2011, is amended to
26 read as follows:
27 **8.57E Taxpayers trust fund.**
28 1. A taxpayers trust fund is created. The fund shall be
29 separate from the general fund of the state and the balance in
30 the fund shall not be considered part of the balance of the
31 general fund of the state. The moneys credited to the fund
32 are not subject to section 8.33 and shall not be transferred,
33 used, obligated, appropriated, or otherwise encumbered except
34 as provided in this section.
35 2. Moneys in the taxpayers trust fund shall only be used

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1 pursuant to appropriations made by the general assembly for tax
2 relief.
3 3. *a.* There is appropriated from the taxpayers trust fund
4 to the general fund, for the fiscal year beginning July 1,
5 2014, and subsequent fiscal years, an amount of moneys equal
6 to the credits claimed under the volunteer fire fighter and
7 volunteer emergency medical services personnel income tax
8 credit in section 422.12 for the calendar year preceding the
9 fiscal year for which the appropriation is made. The maximum
10 annual appropriation under this paragraph shall not exceed
11 sixty million dollars.
12 *b.* ~~Moneys~~ The moneys remaining in the taxpayers trust fund
13 after the appropriation in paragraph *"a"* may be used for cash
14 flow purposes during a fiscal year provided that any moneys so
15 allocated are returned to the fund by the end of that fiscal
16 year.
17 ~~*b.*~~ 4. Except as provided in section 8.58, the taxpayers
18 trust fund shall be considered a special account for the
19 purposes of section 8.53 in determining the cash position
20 of the general fund of the state for the payment of state
21 obligations.
22 ~~4.~~ 5. Notwithstanding section 12C.7, subsection 2,
23 interest or earnings on moneys deposited in the taxpayers trust
24 fund shall be credited to the fund.
25 Sec. 6. Section 422.12, subsection 1, Code 2011, is amended
26 by adding the following new paragraphs:
27 NEW PARAGRAPH. *0b. "Emergency medical services personnel"*
28 means an emergency medical care provider, as defined in section
29 147A.1, who is certified as a first responder pursuant to
30 chapter 147A.
31 NEW PARAGRAPH. *d. "Volunteer fire fighter"* means a
32 volunteer fire fighter as defined in section 85.61 who has met
33 the minimum training standards established by the fire service
34 training bureau pursuant to chapter 100B.
35 Sec. 7. Section 422.12, subsection 2, Code 2011, is amended

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1 by adding the following new paragraph:
2 NEW PARAGRAPH. *c.* (1) A volunteer fire fighter and
3 volunteer emergency medical services personnel credit equal
4 to five hundred dollars to compensate the taxpayer for the
5 voluntary services if the volunteer served for the entire tax
6 year.
7 If the taxpayer is not a volunteer fire fighter or volunteer
8 emergency medical services personnel for the entire tax
9 year, the maximum amount of the credit shall be prorated
10 and the amount of credit for the taxpayer shall equal the
11 maximum amount of credit for the tax year, divided by twelve,
12 multiplied by the number of months in the tax year the taxpayer
13 was a volunteer. The credit shall be rounded to the nearest
14 dollar. If the taxpayer is a volunteer during any part of a
15 month, the taxpayer shall be considered a volunteer for the
16 entire month. If the taxpayer is a volunteer fire fighter and
17 a volunteer emergency medical services personnel during the
18 same month, a credit may be claimed for only one volunteer
19 position for that month.
20 (2) The taxpayer is required to have a written statement
21 from the fire chief or other appropriate supervisor verifying
22 that the taxpayer was a volunteer fire fighter or volunteer
23 emergency medical services personnel for the months for which
24 the credit under this subsection is claimed.
25 Sec. 8. APPLICABILITY. This division of this Act applies to
26 tax years beginning on or after January 1, 2013.
27 DIVISION V
28 PUBLIC SAFETY EMPLOYEE SURVIVOR BENEFITS
29 Sec. 9. Section 260C.14, Code 2011, is amended by adding the
30 following new subsection:
31 NEW SUBSECTION. 23. Adopt rules to waive tuition and
32 mandatory fee charges for any student in good standing who is
33 a resident of Iowa; is under the age of twenty-six, or under
34 the age of thirty if the student is a qualified veteran as
35 defined in subsection 14; is not a convicted felon as defined

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1 in section 910.15; and is the child of an individual who died
2 in the line of duty as determined by section 97A.6, subsection
3 16, section 97B.52, subsection 2, section 100B.31, or section
4 411.6, subsection 15.
5 Sec. 10. Section 262.9, Code Supplement 2011, is amended by
6 adding the following new subsection:
7 NEW SUBSECTION. 36. Adopt rules that require the
8 institutions of higher education under its control to waive
9 tuition and mandatory fee charges for any undergraduate student
10 in good standing who is a resident of Iowa; is under the age
11 of twenty-six, or under the age of thirty if the student is
12 a qualified veteran as defined in subsection 17; is not a
13 convicted felon as defined in section 910.15; and is the child
14 of an individual who died in the line of duty as determined by
15 section 97A.6, subsection 16, section 97B.52, subsection 2,
16 section 100B.31, or section 411.6, subsection 15.
17 Sec. 11. Section 509A.13, Code 2011, is amended to read as
18 follows:
19 **509A.13 Continuation of group insurance.**
20 1. If a governing body, a county board of supervisors, or a
21 city council has procured for its employees accident, health,
22 or hospitalization insurance, or a medical service plan, or has
23 contracted with a health maintenance organization authorized
24 to do business in this state, the governing body, county board
25 of supervisors, or city council shall ~~allow~~ do all of the
26 following:
27 *a.* Allow its employees who retired before attaining
28 sixty-five years of age to continue participation in the group
29 plan or under the group contract at the employee's own expense
30 until the employee attains sixty-five years of age.
31 *b.* Allow any child of an eligible deceased employee to
32 continue participation in the group plan or under the group
33 contract at the employer's expense until the child attains
34 twenty-six years of age. For purposes of this paragraph,
35 *"eligible deceased employee"* means an employee who died in

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1 the line of duty as determined by section 97A.6, subsection
2 16, section 97B.52, subsection 2, section 100B.31, or section
3 411.6, subsection 15.
4 2. This section applies to employees who retired on or
5 after January 1, 1981, and to children of an eligible deceased
6 employee who died on or after July 1, 2012.
7 Sec. 12. IMPLEMENTATION OF ACT. Section 25B.2, subsection
8 3, shall not apply to this division of this Act.
9 DIVISION VI
10 EMERGENCY MANAGEMENT COMMISSIONS — FINANCING
11 Sec. 13. Section 29C.9, subsection 2, Code Supplement 2011,
12 is amended to read as follows:
13 2. The commission shall be composed of a member of the
14 board of supervisors ~~or its appointed representative~~, the
15 sheriff ~~or the sheriff's representative~~, and the mayor ~~or the~~
16 ~~mayor's representative~~ from each city within the county. ~~The~~
17 ~~commission members shall be the operations liaison officers~~
18 ~~between their jurisdiction and the commission.~~ A commission
19 member may designate an alternate to represent the designated
20 entity. For any activity relating to section 29C.17,
21 subsection 2, or chapter 24, participation shall only be by a
22 commission member or a designated alternate that is an elected
23 official from the same designated entity.
24 Sec. 14. Section 29C.17, subsections 2 and 5, Code
25 Supplement 2011, are amended to read as follows:
26 2. For the purposes consistent with this chapter, the local
27 emergency management agency's approved budget ~~may~~ shall be
28 funded by one or any combination of the following options, as
29 determined by the commission:
30 *a.* A countywide special levy ~~approved by the board of~~
31 ~~supervisors~~ pursuant to section 331.424, subsection 1, to the
32 extent the county's basic levy is insufficient.
33 *b.* Per capita allocation funded from city and county general
34 funds or by a combination of city and county special levies
35 which may be apportioned among the member jurisdictions.

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c. An allocation computed as each jurisdiction's relative share of the total assessed valuation within the county.

d. A voluntary share allocation.

e. Other funding sources allowed by law.

5. Subject to chapter 24, the commission shall adopt, certify, and ~~submit~~ provide a budget, on or before February 28 of each year, to the ~~county board of supervisors and the cities for the ensuing fiscal year which will include an itemized list of the number of emergency management personnel, their salaries and cost of personnel benefits, travel and transportation costs, fixed costs of operation, and all other anticipated emergency management expenses. The salaries and compensation of agency personnel coming under the merit system as determined by the commission will include salary schedules for classes in which the salary of a class is based on merit qualifications for the positions~~ funding entities determined pursuant to subsection 2. The form of the budget shall be as prescribed by the department of management. Any portion of a tax levied by a county or city to support the local emergency management agency may be identified separately on tax statements issued by the county treasurer.

Sec. 15. Section 29C.17, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. Joint emergency response communication services under section 29C.9, subsection 6, shall be funded as provided for in the agreement entered into pursuant to chapter 28E.

DIVISION VII

IOWACARE AMBULANCE TRANSPORTATION COVERAGE

Sec. 16. IOWACARE — AMBULANCE TRANSPORTATION AS A COVERED SERVICE. The department of human services shall adopt rules for the IowaCare program created pursuant to chapter 249J to include ambulance transportation to and from a participating provider as specified in section 249J.7 as a covered service under section 249J.6. The department of human services shall

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1 amend applicable medical assistance program state plan and
2 waiver provisions as necessary to implement this section.
3 DIVISION VIII
4 EMERGENCY MEDICAL SERVICES REPORTS
5 Sec. 17. Section 100B.2, Code 2011, is amended by adding the
6 following new subsection:
7 NEW SUBSECTION. 9. Consult with and provide
8 recommendations to the state fire marshal and director
9 of the department of public health concerning efficient and
10 cost-effective methods of providing reports required of fire
11 service and emergency services personnel.
12 DIVISION IX
13 FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES CHARGES
14 Sec. 18. Section 331.385, subsection 5, paragraph a, Code
15 2011, is amended to read as follows:
16 *a.* Notwithstanding subsection 1, if as of July 1, 2006, a
17 township has in force an agreement entered into pursuant to
18 chapter 28E for a city or another township to provide fire
19 protection service or fire protection service and emergency
20 medical service for the township, or if a township is otherwise
21 contracting with a city or another township for provision to
22 the township of fire protection service or fire protection
23 service and emergency medical service, the county board of
24 supervisors shall, for the fiscal year beginning July 1, 2007,
25 and subsequent fiscal years, negotiate for and enter into an
26 agreement pursuant to chapter 28E providing for continued fire
27 protection service, or fire protection service and emergency
28 medical service, to the township, and shall certify taxes
29 for levy in the township or impose service charges, or both,
30 pursuant to section 331.424C, in amounts sufficient to meet the
31 financial obligations pertaining to the agreement.
32 Sec. 19. Section 331.424C, Code 2011, is amended to read as
33 follows:
34 **331.424C Emergency services fund.**
35 A county that is providing fire protection service or

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1 emergency medical service to a township pursuant to section
2 331.385 shall establish an emergency services fund and may
3 certify taxes for levy in the township or may impose service
4 charges for such services, or both. The taxes levied or
5 charges imposed shall not ~~to~~ exceed the amounts authorized in
6 section 359.43. The county has the authority to use a portion
7 of the taxes levied or charges imposed and deposited in the
8 fund for the purpose of accumulating moneys to carry out the
9 purposes of section 359.43, subsection 4.
10 Sec. 20. Section 357J.17, Code 2011, is amended to read as
11 follows:
12 **357J.17 Transition — township tax and service charges**
13 **discontinued.**
14 When the boundary lines of the district include all or a
15 portion of a township and the district has certified a tax levy
16 within the township for the purpose of fire protection service
17 and emergency medical service, the township trustees shall no
18 longer levy the tax or impose the service charges provided
19 by section 359.43 in that portion of the township provided
20 services by the district. Any indebtedness incurred for the
21 purposes of sections 359.42 through 359.45 for a service now
22 provided by the district shall be assumed by the district.
23 Such township shall not be responsible for providing fire
24 protection service and emergency medical service as provided
25 in section 359.42 for the portion of the township within the
26 district, and shall have no liability for the method, manner,
27 or means by which the district provides the fire protection
28 service and emergency medical service.
29 Sec. 21. Section 359.43, Code 2011, is amended by adding the
30 following new subsection:
31 NEW SUBSECTION. 6. *a.* In addition to or in lieu of the
32 property tax levies authorized in this section, the trustees
33 may authorize the collection of any of the following:
34 (1) A service charge for fire protection service from the
35 property owner where the fire protection service was provided.

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1 (2) A service charge for emergency medical service from the
2 recipient of the emergency medical service or from the parent
3 of the recipient if the recipient is a minor. For purposes
4 of this subsection, *"minor"* means an individual who is under
5 eighteen years of age and is not considered by law to be an
6 adult, and *"parent"* means one biological or adoptive parent, a
7 stepparent, or a legal guardian or custodian of the minor.
8 *b.* A service charge collected under this section for fire
9 protection service or emergency medical service shall not
10 exceed an amount equal to the actual expense incurred by the
11 township to provide the service.
12 *c.* The state fire service and emergency response council
13 established in section 100B.1 shall develop guidelines for
14 townships to follow when authorizing the collection of service
15 charges for fire protection service or emergency medical
16 service.
17 *d.* If the trustees contract with a public or private agency
18 under chapter 28E for the purpose of providing fire protection
19 service or emergency medical service, the public or private
20 agency may collect the service charges authorized under this
21 subsection if the types and amounts of such service charges are
22 specified in the chapter 28E agreement.
23 *e.* (1) If a service charge for fire protection service
24 imposed under this subsection remains unpaid six months
25 after the property owner was notified of the service charge,
26 the unpaid amount shall constitute a lien upon the property
27 where such service was provided. The lien shall have equal
28 precedence with ordinary taxes, may be certified to the county
29 treasurer and collected in the same manner as ordinary taxes,
30 and is not divested by a judicial sale.
31 (2) If a service charge for emergency medical service
32 imposed under this subsection remains unpaid six months after
33 the recipient of the service, or the parent of the recipient if
34 the recipient is a minor, was notified of the service charge,
35 the trustees may bring a civil action in order to collect the

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amount due. The civil action may be heard by the district court sitting in small claims as provided in chapter 631 unless the amount due exceeds the jurisdictional amount for small claims set forth in section 631.1.

Sec. 22. Section 359.45, Code 2011, is amended to read as follows:

359.45 Anticipatory bonds.

Townships may anticipate the collection of taxes or service charges authorized by section 359.43 and for such purposes may direct the county board of supervisors to issue bonds under sections 331.441 to 331.449 relating to essential county purpose bonds except that the bonds are payable only from tax levies on property subject to the levy under section 359.43 or from service charges collected under section 359.43.

DIVISION X

EMERGENCY SERVICES — TRAFFIC VIOLATIONS

Sec. 23. Section 321.1, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 20C. *"Emergency services zone"* means the portion of a highway which is within five hundred feet of a stationary authorized emergency vehicle that is on the highway and displaying flashing yellow, amber, white, red, or red and blue lights.

Sec. 24. Section 805.8A, subsection 14, paragraph i, Code Supplement 2011, is amended to read as follows:

i. Road work zone and emergency services zone violations. The scheduled fine for any moving traffic violation under chapter 321, as provided in this section, shall be doubled if the violation occurs within any road work zone or emergency services zone, both as defined in section 321.1. However, notwithstanding subsection 5, the scheduled fine for violating the speed limit in a road work zone or emergency services zone is as follows:

(1) One hundred fifty dollars for speed not more than ten miles per hour over the posted speed limit.

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1 (2) Three hundred dollars for speed greater than ten but not
2 more than twenty miles per hour over the posted speed limit.
3 (3) Five hundred dollars for speed greater than twenty but
4 not more than twenty-five miles per hour over the posted speed
5 limit.
6 (4) One thousand dollars for speed greater than twenty-five
7 miles per hour over the posted speed limit.
8 EXPLANATION
9 This bill concerns fire protection and emergency medical
10 services.
11 DIVISION I —— EMERGENCY MEDICAL SERVICES TRAINING. This
12 division of the bill transfers $750,000 from the allocation to
13 the department of public health for the tobacco use prevention
14 and control initiative to the appropriation to the department
15 of public health for public protection to be used for emergency
16 medical services training for communities with populations
17 under 9,000 for FY 2012-2013.
18 DIVISION II —— STATEWIDE INTEROPERABLE COMMUNICATIONS SYSTEM
19 BOARD. This division of the bill relates to the membership of
20 the statewide interoperable communications system board.
21 The division adds an emergency manager who is a
22 representative of the Iowa emergency management association to
23 the board.
24 The division provides that the governor shall solicit
25 and consider recommendations from professional or volunteer
26 organizations prior to making the appointment to the board.
27 Code section 80.28(4) specifies the representative of the
28 Iowa emergency management association appointed to the board
29 shall serve a three-year term.
30 The division also provides that members of the board shall
31 be an employee of the state agency, department, or office the
32 member is representing.
33 DIVISION III —— PUBLIC SAFETY COMMUNICATIONS. This division
34 of the bill provides that if a public or private safety agency
35 has a need, issue, or concern in connection with the provision

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1 of public safety communications within an enhanced 911 service
2 area, the agency shall file, register, or otherwise convey
3 the need, issue, or concern to the joint E911 service board
4 maintained within the area, or an alternative legal entity
5 established as provided in Code section 34A.3, subsection
6 3. The division directs the applicable joint E911 service
7 board or alternative legal entity to serve as the single
8 point of contact with regard to the receipt of public safety
9 communications needs, issues, or concerns, and authorizes
10 the board or entity to take such action with regard to the
11 disposition of the need, issue, or concern as the board or
12 entity in its discretion determines appropriate.
13 DIVISION IV —— VOLUNTEER FIRE FIGHTER AND EMERGENCY MEDICAL
14 SERVICES TAX CREDIT. This division of the bill provides a
15 nonrefundable individual income tax credit for an individual
16 who was a volunteer fire fighter who has met the minimum
17 training standards or certified volunteer emergency medical
18 services personnel for the entire tax year. The credit is to
19 compensate the individual for the volunteer services. The
20 amount of the credit equals $500. If the individual was not
21 a volunteer for the entire tax year, the amount of credit is
22 prorated based upon the months of volunteer service. A credit
23 may be claimed for only one volunteer position per month.
24 The division provides an annual appropriation from the
25 taxpayers relief fund to the general fund for an amount equal
26 to the credits claimed for a tax year, not to exceed $60
27 million.
28 The division applies to tax years beginning on or after
29 January 1, 2013.
30 DIVISION V —— PUBLIC SAFETY EMPLOYEE SURVIVOR BENEFITS.
31 This division of the bill provides health care and tuition
32 benefits to children of public safety employees who died in the
33 line of duty.
34 Code section 260C.14, concerning community colleges,
35 is amended to provide that the board of directors of each

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1 community college shall adopt rules to waive tuition and
2 mandatory fee charges for any student in good standing who is a
3 resident of Iowa who is under the age of 26, or under the age
4 of 30 if the student is a qualified veteran, is not a convicted
5 felon, and is the child of an individual who died in the line
6 of duty as determined by Code section 97A.6(16), Code section
7 97B.52(2), Code section 100B.31, or Code section 411.6(15).
8 Code section 262.9, concerning the board of regents, is
9 amended to provide that the board of regents shall adopt
10 rules providing that institutions of higher education under
11 its control waive tuition and mandatory fee charges for any
12 undergraduate student in good standing who is a resident of
13 Iowa, who is under the age of 26 or under the age of 30 if the
14 student is a qualified veteran, is not a convicted felon, and
15 is the child of an individual who died in the line of duty as
16 determined by Code section 97A.6(16), Code section 97B.52(2),
17 Code section 100B.31, or Code section 411.6(15).
18 Code section 509A.13, concerning continuation of group
19 insurance for public employees, is amended to provide that
20 any child of an employee who died in the line of duty on or
21 after July 1, 2012, as determined by Code section 97A.6(16),
22 Code section 97B.52(2), Code section 100B.31, or Code section
23 411.6(15), shall be entitled to continue participation in that
24 group insurance, at the employer's expense, until the child
25 attains 26 years of age.
26 The division may include a state mandate as defined in
27 Code section 25B.3. The division makes inapplicable Code
28 section 25B.2, subsection 3, which would relieve a political
29 subdivision from complying with a state mandate if funding for
30 the cost of the state mandate is not provided or specified.
31 Therefore, political subdivisions are required to comply with
32 any state mandate included in the division.
33 DIVISION VI —— EMERGENCY MANAGEMENT COMMISSIONS ——
34 FINANCING. This division of the bill relates to financial
35 responsibilities of local emergency management commissions.

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1 The division provides that local emergency management
2 commission members may designate an alternate to represent the
3 designated entity. The division provides that for any activity
4 relating to Code section 29C.17, subsection 2, or Code chapter
5 24, relating to the budget, participation shall only be by a
6 commission member or a designated alternate that is an elected
7 official from the same designated entity.
8 Currently, a local emergency management agency's approved
9 budget may be funded by one or more of four specific methods.
10 The division requires the budgets to be funded by one or more
11 of the four specific methods and specifies that the countywide
12 special levy may be levied from the supplemental fund of the
13 county if the basic levy is insufficient.
14 The division provides that joint emergency response
15 communication services must be funded as provided for in an
16 agreement entered into pursuant to Code chapter 28E.
17 The division provides that agency budgets must be provided
18 to funding entities in a form prescribed by the department
19 of management. The division provides that a portion of
20 any tax levied by a county or city to support the local
21 emergency management agency may be identified separately on tax
22 statements issued by the county treasurer.
23 DIVISION VII — IOWACARE AMBULANCE TRANSPORTATION COVERAGE.
24 This division of the bill requires the department of human
25 services to adopt rules for the IowaCare program to include
26 ambulance transportation to and from a participating provider
27 as a covered service.
28 DIVISION VIII — EMERGENCY MEDICAL SERVICES REPORTS.
29 This division of the bill requires the state fire service
30 and emergency response council to consult with and provide
31 recommendations to the state fire marshal and director of
32 the department of public health concerning efficient and
33 cost-effective methods of providing reports.
34 DIVISION IX — FIRE PROTECTION AND EMERGENCY MEDICAL
35 SERVICES CHARGES. Current Code section 359.43 authorizes

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1 townships to levy property taxes for providing fire protection
2 service and emergency medical service. This division of the
3 bill authorizes townships to collect a service charge for
4 providing fire protection service or emergency medical service,
5 in addition to or in lieu of such property taxes.
6 The division provides that a service charge for fire
7 protection service is charged to the property owner where such
8 service was provided and that a service charge for emergency
9 medical service is charged to the recipient of the emergency
10 medical service or to the parent of the recipient if the
11 recipient is a minor. The division prohibits the township from
12 imposing a service charge that exceeds an amount equal to the
13 actual expense incurred by the township to provide the service.
14 The division also directs the state fire service and emergency
15 response council to develop guidelines for townships to follow
16 when authorizing the collection of service charges for fire
17 protection service or emergency medical service.
18 If a township contracts with a public or private agency under
19 Code chapter 28E for the purpose of providing fire protection
20 service or emergency medical service, the public or private
21 agency may collect the service charges authorized in the
22 division if the types and amounts of such service charges are
23 specified in the Code chapter 28E agreement.
24 The division provides that if a service charge for fire
25 protection service remains unpaid six months after the property
26 owner was notified of the service charge, the unpaid amount
27 constitutes a lien upon the property where such service was
28 provided and may be collected in the same manner as ordinary
29 taxes. The division also provides that if a service charge for
30 emergency medical service remains unpaid six months after the
31 recipient of the service or the parent of the recipient, if
32 applicable, was notified of the service charge, the trustees
33 may bring a civil action in order to collect the amount due.
34 The division includes the fire protection and emergency
35 medical service charges authorized in the division among the

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1 revenues under which the township may direct the issuance of
2 anticipatory revenue bonds.
3 For a county that is providing fire protection service
4 or emergency medical service to a township pursuant to Code
5 section 331.385, the division allows that county to impose the
6 service charges that the division authorizes for townships.
7 DIVISION X — EMERGENCY SERVICES — TRAFFIC VIOLATIONS.
8 This division of the bill provides that the scheduled fine for
9 any moving traffic violations occurring within an emergency
10 services zone shall be doubled. The division defines
11 "emergency services zone" as the portion of a highway which is
12 within five hundred feet of a stationary authorized emergency
13 vehicle that is on the highway and displaying flashing yellow,
14 amber, white, red, or red and blue lights.

Senate Study Bill 3180 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
LOCAL GOVERNMENT BILL BY
CHAIRPERSON WILHELM)

A BILL FOR

1 An Act to legalize the proceedings of the City Council
2 of Ankeny, Iowa, including all legal notices given,
3 in connection with the making of a contract for the
4 construction of certain improvements to the NE 7th
5 Street Sanitary Sewer Improvement Project with Pirc-Tobin
6 Construction, Inc. of Alburnett, Iowa, in connection with,
7 and to legalize said contract, and authorize its performance
8 by said Council and the financing including project notes
9 issued thereof.
10 WHEREAS, on August 15, 2011, the City Council passed a
11 resolution ordering the construction of certain improvements
12 to the NE 7th Street Sanitary Sewer Improvement Project of
13 said City, and directed publication of a Notice of Hearing and
14 Letting, pursuant to the provisions of Chapters 26 and 384 of
15 the Code of Iowa, 2011; and
16 WHEREAS, on September 19, 2011, said City entered into a
17 contract for the construction of said improvements, covered by
18 the resolution ordering construction hereinabove mentioned,
19 with Pirc-Tobin Construction, Inc., which company thereafter
20 filed its performance and maintenance bond with the City; and
21 WHEREAS, said construction work has now been commenced and a
22 portion completed by said contractor, and said contractor has
23 been partially paid for such work from available bond proceeds
24 of said City; and
25 WHEREAS, doubts have arisen concerning the legality of the
26 construction contract due to the omission of the publication
27 of Notice of Hearing and Letting as required by Section 26.3
28 of the Iowa Code, and further due to said omission, doubts
29 have arisen concerning the power of the Council to order

TLSB 6031SC (5) 84
da/rj

Senate Study Bill 3180 - Introduced

30 disbursement of additional funds to the contractor and to
31 issue and sell bonds to pay for the remaining cost of said
32 improvements, and it is deemed advisable to put such doubts
33 forever at rest; NOW THEREFORE,
34 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. All proceedings heretofore taken by the City
2 Council of Ankeny, Iowa, including all legal notices given,
3 in connection with and pertaining to the execution of the
4 contract with Pirc-Tobin Construction, Inc. of Alburnett,
5 Iowa, on September 19, 2011, for the construction of certain
6 improvements to the NE 7th Street Sanitary Sewer Improvement
7 Project of said City and said contract itself, are hereby
8 legalized, validated and confirmed, and shall constitute full
9 authority for the said City Council to order the disbursement
10 of the funds, including notes and bond funds, of said City to
11 said contractor, and to issue and sell general obligations
12 bonds, in the manner prescribed by law, to pay for the costs
13 of said improvements, and said bonds when so issued, shall be
14 valid, legal and binding obligations of said City.
15 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
16 immediate importance, shall be in full force and effect upon
17 enactment.
18 EXPLANATION
19 This bill legalizes the action of the city of Ankeny which
20 executed a contract relating to the construction of public
21 improvements pursuant to a contract executed by the city
22 without first publishing an advertisement for sealed bids in
23 the manner required pursuant to Code section 26.3. The bill
24 takes effect upon enactment.

Senate Study Bill 3181 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON APPROPRIATIONS BILL BY SENATE APPROPRIATIONS SUBCOMMITTEE ON TRANSPORTATION, INFRASTRUCTURE, AND CAPITALS)

A BILL FOR

1 An Act relating to and making appropriations to state
2 departments and agencies from the rebuild Iowa
3 infrastructure fund, the technology reinvestment fund, and
4 the FY 2009 prison bonding fund, providing for related
5 matters, and including effective date and retroactive
6 applicability provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 DIVISION I
2 REBUILD IOWA INFRASTRUCTURE FUND
3 Section 1. There is appropriated from the rebuild Iowa
4 infrastructure fund to the following departments and agencies
5 for the following fiscal years the following amounts, or so
6 much thereof as is necessary, to be used for the purposes
7 designated:
8 1. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP
9 a. For deposit in the agricultural drainage well water
10 quality assistance fund created in section 460.303 to be used
11 for purposes of supporting the agricultural drainage well water
12 quality assistance program as provided in section 460.304,
13 notwithstanding section 8.57, subsection 6, paragraph "c":
14 FY 2012-2013..... $ 500,000
15 b. Not more than 10 percent of the moneys appropriated
16 in paragraph "a" may be used for costs of administration and
17 implementation of soil and water conservation practices.
18 2. DEPARTMENT OF CORRECTIONS:
19 a. For the provision of a statewide public safety radio
20 network and the purchase of compatible radio communications
21 equipment with the goal of achieving compliance with the
22 federal communications commission's narrowbanding mandate
23 deadline, and for achieving "interoperability", as defined in
24 section 80.28, notwithstanding section 8.57, subsection 6,
25 paragraph "c":
26 FY 2012-2013..... $ 3,500,000
27 If the department of public safety enters into a
28 public-private partnership, through a competitive bidding
29 process, for the provision of the statewide network and the
30 purchase of compatible equipment, the department of corrections
31 may join that effort.
32 As a condition of this appropriation, all land mobile
33 radio communications equipment purchased by the department of
34 corrections shall be compliant with the federal communication
35 commission's narrowbanding mandate and shall provide the

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1 maximum amount of statewide coverage and interoperability,
2 throughout all phases of migration, to the department of public
3 safety's future statewide digital radio network utilizing P-25
4 standards.
5 b. For repairs and renovation of the hot water loop system
6 at the Newton correctional facility:
7 FY 2013-2014..... $ 258,000
8 The department may use any funds appropriated to the
9 department in the fiscal year beginning July 1, 2008, and
10 succeeding fiscal years for any prison repairs, construction,
11 and related improvements for the purposes of this lettered
12 paragraph, if necessary.
13 3. DEPARTMENT OF CULTURAL AFFAIRS
14 a. For exterior and interior repairs and related
15 improvements to the state historical building, including the
16 addition of a visitor center:
17 FY 2012-2013..... $ 2,000,000
18 b. For deposit into the Iowa great places program fund
19 created in section 303.3D for Iowa great places program
20 projects that meet the definition of the term "vertical
21 infrastructure" in section 8.57, subsection 6, paragraph "c":
22 FY 2012-2013..... $ 500,000
23 4. DEPARTMENT OF HUMAN SERVICES
24 For the renovation and construction of certain nursing
25 facilities, consistent with the provisions of chapter 249K:
26 FY 2012-2013..... $ 250,000
27 5. DEPARTMENT OF NATURAL RESOURCES
28 a. For implementation of lake projects that have
29 established watershed improvement initiatives and community
30 support in accordance with the department's annual lake
31 restoration plan and report, notwithstanding section 8.57,
32 subsection 6, paragraph "c":
33 FY 2012-2013..... $ 4,459,000
34 b. For the restoration and reconstruction of a dam in
35 a county with a population between 17,700 and 17,800 as

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1 determined by the 2010 federal decennial census, for a lake
2 with public access that has the support of a benefited lake
3 district:
4 FY 2012-2013..... $ 2,500,000
5 FY 2013-2014..... $ 2,500,000
6 6. DEPARTMENT OF PUBLIC DEFENSE
7 For major maintenance projects at national guard armories
8 and facilities:
9 FY 2012-2013..... $ 2,000,000
10 7. BOARD OF REGENTS
11 a. For allocation by the state board of regents to the
12 state university of Iowa, the Iowa state university of
13 science and technology, and the university of northern Iowa to
14 reimburse the institutions for deficiencies in the operating
15 funds resulting from the pledging of tuition, student fees
16 and charges, and institutional income to finance the cost of
17 providing academic and administrative buildings and facilities
18 and utility services at the institutions:
19 FY 2012-2013..... $ 25,130,412
20 b. To Iowa state university of science and technology for
21 renovations and related improvements to modernize the animal
22 care facilities at the blank park zoo as part of a cooperative
23 effort of blank park zoo and the college of veterinary
24 medicine:
25 FY 2012-2013..... $ 225,000
26 FY 2013-2014..... $ 100,000
27 8. DEPARTMENT OF TRANSPORTATION
28 a. For acquiring, constructing, and improving recreational
29 trails within the state:
30 FY 2012-2013..... $ 3,000,000
31 b. For deposit into the public transit infrastructure
32 grant fund created in section 324A.6A, for projects that meet
33 the definition of "vertical infrastructure" in section 8.57,
34 subsection 6, paragraph "c":
35 FY 2012-2013..... $ 1,500,000

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c. For infrastructure improvements at the commercial service airports within the state:
FY 2012-2013..... $ 1,000,000
d. For infrastructure improvements at general aviation airports within the state:
FY 2012-2013..... $ 750,000
e. For deposit into the railroad revolving loan and grant fund created in section 327H.20A, notwithstanding section 8.57, subsection 6, paragraph "c":
FY 2012-2013..... $ 1,500,000
9. ECONOMIC DEVELOPMENT AUTHORITY
a. For equal distribution to regional sports authority districts certified by the department pursuant to section 15E.321, notwithstanding section 8.57, subsection 6, paragraph "c":
FY 2012-2013..... $ 500,000
b. For administration and support of the world food prize including the Borlaug/Ruan scholar program, notwithstanding section 8.57, subsection 6, paragraph "c":
FY 2012-2013..... $ 100,000
c. For the purchase or lease of a historic firehouse, and related improvements, for a nonprofit social organization that promotes the arts to create community engagement in a city with a population between 200,000 and 205,000 as determined by the 2010 federal decennial census:
FY 2012-2013..... $ 150,000
d. For roof repairs, restoration of the chapel, and improvements and interior renovation to develop a collections room at the museum at Fort Des Moines:
FY 2012-2013..... $ 100,000
10. STATE FAIR AUTHORITY
For renovations and improvements including but not limited to the cultural center at the state fair:
FY 2012-2013..... $ 250,000
FY 2013-2014..... $ 250,000

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1 11. TREASURER OF STATE
2 For distribution in accordance with chapter 174 to qualified
3 fairs which belong to the association of Iowa fairs for county
4 fair infrastructure improvements:
5 FY 2012-2013..... $ 1,060,000
6 Sec. 2. REVERSION. For purposes of section 8.33, unless
7 specifically provided otherwise, unencumbered or unobligated
8 moneys made from an appropriation in this division of this Act
9 shall not revert but shall remain available for expenditure for
10 the purposes designated until the close of the fiscal year that
11 ends three years after the end of the fiscal year for which the
12 appropriation is made. However, if the project or projects for
13 which such appropriation was made are completed in an earlier
14 fiscal year, unencumbered or unobligated moneys shall revert at
15 the close of that same fiscal year.
16 DIVISION II
17 TECHNOLOGY REINVESTMENT FUND
18 Sec. 3. There is appropriated from the technology
19 reinvestment fund created in section 8.57C to the following
20 departments and agencies for the fiscal year beginning July
21 1, 2012, and ending June 30, 2013, the following amounts, or
22 so much thereof as is necessary, to be used for the purposes
23 designated:
24 1. DEPARTMENT OF CORRECTIONS
25 For costs associated with the Iowa corrections offender
26 network data system:
27 ..... $ 500,000
28 2. DEPARTMENT OF EDUCATION
29 a. For maintenance and lease costs associated with
30 connections for part III of the Iowa communications network:
31 ..... $ 2,727,000
32 b. For the continued development and implementation of an
33 educational data warehouse that will be utilized by teachers,
34 parents, school district administrators, area education agency
35 staff, department of education staff, and policymakers:

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1 ..... $ 600,000
2 The department may use a portion of the moneys appropriated
3 in this lettered paragraph for an e-transcript data system
4 capable of tracking students throughout their education via
5 interconnectivity with multiple schools.
6 c. To the public broadcasting division for the purchase of
7 eight high-powered transmitting tubes:
8 ..... $ 320,000
9 3. DEPARTMENT OF HUMAN RIGHTS
10 For the cost of equipment and computer software for the
11 continued development and implementation of Iowa's criminal
12 justice information system and for salaries and administrative
13 support, notwithstanding section 8.57C, subsection 2:
14 ..... $ 1,714,307
15 4. IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION
16 For replacement of equipment for the Iowa communications
17 network:
18 ..... $ 2,248,653
19 The commission may continue to enter into contracts pursuant
20 to section 8D.13 for the replacement of equipment and for
21 operations and maintenance costs of the network.
22 In addition to moneys appropriated in this subsection,
23 the commission may use a financing agreement entered into by
24 the treasurer of state in accordance with section 12.28 for
25 the replacement of equipment for the network. For purposes
26 of this subsection, the treasurer of state is not subject to
27 the maximum principal limitation contained in section 12.28,
28 subsection 6. Repayment of any amounts financed shall be made
29 from receipts associated with fees charged for use of the
30 network.
31 5. DEPARTMENT OF MANAGEMENT
32 For the continued development and implementation of a
33 searchable database that can be placed on the internet for
34 budget and financial information:
35 ..... $ 45,000

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1 6. BOARD OF REGENTS
2 To Iowa state university of science and technology to
3 purchase equipment and for related improvements to modernize
4 the animal care facilities at the blank park zoo as part of
5 a cooperative effort of blank park zoo and the college of
6 veterinary medicine, notwithstanding section 8.57C, subsection
7 2:
8 ..... $ 175,000
9 Sec. 4. REVERSION. For purposes of section 8.33, unless
10 specifically provided otherwise, unencumbered or unobligated
11 moneys made from an appropriation in this division of this Act
12 shall not revert but shall remain available for expenditure for
13 the purposes designated until the close of the fiscal year that
14 ends three years after the end of the fiscal year for which the
15 appropriation was made. However, if the project or projects
16 for which such appropriation was made are completed in an
17 earlier fiscal year, unencumbered or unobligated moneys shall
18 revert at the close of that same fiscal year.
19 DIVISION III
20 PRISON BONDING
21 Sec. 5. There is appropriated from the FY 2009 prison
22 bonding fund created pursuant to section 12.79 to the
23 department of corrections for the fiscal year beginning July
24 1, 2012, and ending June 30, 2013, the following amount, or
25 so much thereof as is necessary, to be used for the purpose
26 designated:
27 To the department of corrections for repairs and renovation
28 of the hot water loop system at the Newton correctional
29 facility:
30 ..... $ 167,000
31 Sec. 6. REVERSION. For purposes of section 8.33, unless
32 specifically provided otherwise, unencumbered or unobligated
33 moneys made from an appropriation in this division of this Act
34 shall not revert but shall remain available for expenditure for
35 the purposes designated until the close of the fiscal year that

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1 ends three years after the end of the fiscal year for which the
2 appropriation was made. However, if the project or projects
3 for which such appropriation was made are completed in an
4 earlier fiscal year, unencumbered or unobligated moneys shall
5 revert at the close of that same fiscal year.
6 DIVISION IV
7 ECONOMIC DEVELOPMENT AUTHORITY — CONTINGENT APPROPRIATION
8 Sec. 7. ECONOMIC DEVELOPMENT AUTHORITY — APPROPRIATION.
9 1. For the fiscal year beginning July 1, 2013, and ending
10 June 30, 2014, there is appropriated from the rebuild Iowa
11 infrastructure fund to the economic development authority
12 $2,000,000 for the Des Moines area regional transit authority
13 (DART) to develop a bus rapid transit service including
14 the acquisition of specialty hybrid buses, construction of
15 electronic infrastructure, construction of bus stations, and
16 related improvements to develop a rapid transit service,
17 notwithstanding section 8.57, subsection 6, paragraph "c".
18 2. This appropriation is contingent upon the authority's
19 receipt of local funds and the receipt of a federal grant, by
20 December 31, 2013, in an amount sufficient to complete the
21 project. The authority shall notify the legislative services
22 agency and the department of management if such funds are
23 received no later than January 15, 2014.
24 Sec. 8. REVERSION. For purposes of section 8.33, unless
25 specifically provided otherwise, unencumbered or unobligated
26 moneys made from an appropriation in this division of this Act
27 shall not revert but shall remain available for expenditure for
28 the purposes designated until the close of the fiscal year that
29 ends three years after the end of the fiscal year for which the
30 appropriation is made. However, if the project or projects for
31 which such appropriation was made are completed in an earlier
32 fiscal year, unencumbered or unobligated moneys shall revert at
33 the close of that same fiscal year.
34 DIVISION V
35 DEPARTMENT OF TRANSPORTATION — RADIOS

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1 Sec. 9. DEPARTMENT OF TRANSPORTATION — RADIOS. All
2 land mobile radio communications equipment purchased by the
3 department of transportation shall be compliant with the
4 federal communication commission's narrowbanding mandate and
5 shall provide the maximum amount of statewide coverage and
6 interoperability, throughout all phases of migration, to the
7 department of public safety's future statewide digital radio
8 network utilizing P-25 standards.
9 Sec. 10. EFFECTIVE UPON ENACTMENT. This division of this
10 Act, being deemed of immediate importance, takes effect upon
11 enactment.
12 Sec. 11. RETROACTIVE APPLICABILITY. This division of this
13 Act applies retroactively to July 1, 2011.
14 DIVISION VI
15 CHANGES TO PRIOR APPROPRIATIONS
16 Sec. 12. 2011 Iowa Acts, chapter 128, section 19, subsection
17 2, is amended to read as follows:
18 2. a. The mobile radios purchased by the department of
19 natural resources pursuant to subsection 1 shall be compatible
20 with a statewide public safety radio network~~, if~~ created in
21 ~~legislation enacted by the 2011 regular session of the General~~
22 ~~Assembly, which may include provisions in 2011 Iowa Acts,~~
23 ~~Senate File 541, if enacted~~ 2011 Iowa Acts, ch. 133, section 3,
24 subsection 8, paragraph a. The department shall purchase the
25 mobile radios after conducting a competitive bidding process.
26 b. As a condition of this appropriation, all land mobile
27 radio communications equipment purchased by the department
28 of natural resources shall be compliant with the federal
29 communication commission's narrowbanding mandate and
30 shall provide the maximum amount of statewide coverage and
31 interoperability, throughout all phases of migration, to the
32 department of public safety's future statewide digital radio
33 network utilizing P-25 standards.
34 Sec. 13. 2011 Iowa Acts, chapter 133, section 1, subsection
35 3, paragraph b, is amended to read as follows:

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1 b. For the construction project and one-time furniture,
2 fixture, and equipment costs at the Iowa correctional facility
3 for women at Mitchellville:
4 FY 2011-2012..... $ 3,061,556
5 FY 2012-2013..... $ ~~5,391,062~~
6 3,191,062
7 FY 2013-2014..... $ ~~26,769,040~~
8 28,969,040
9 Sec. 14. 2011 Iowa Acts, chapter 133, section 1, subsection
10 10, paragraphs c through f, are amended to read as follows:
11 c. For projects for immediate fire safety needs and for
12 compliance with the federal Americans with Disabilities Act, at
13 the regents institutions:
14 FY 2011-2012..... $ 2,000,000
15 FY 2012-2013..... $ 2,000,000
16 Of the amounts appropriated in this lettered paragraph,
17 up to $2,000,000 may be used to fund deductibles on property
18 insurance and to provide the necessary match for funds which
19 may be available from the federal emergency management agency
20 for the cleanup, repair, and restoration of facilities at
21 the state school for the deaf and the Iowa braille and sight
22 saving school due to storm damage in the calendar year 2011,
23 notwithstanding section 8.57, subsection 6, paragraph "c".
24 d. For construction, renovation, and related improvements
25 for phase II of the agricultural and biosystems engineering
26 complex, including classrooms, laboratories, and offices at
27 Iowa state university of science and technology:
28 FY 2011-2012..... $ 1,000,000
29 FY 2012-2013..... $ ~~20,800,000~~
30 19,050,000
31 FY 2013-2014..... $ ~~20,000,000~~
32 21,750,000
33 FY 2014-2015..... $ 18,600,000
34 e. For the renovation and related improvements to the dental
35 science building at the state university of Iowa including but

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not limited to renovation of clinical spaces and development of a multidisciplinary clinical area:

FY 2011-2012..... $ 1,000,000
FY 2012-2013..... $ ~~12,000,000~~
10,250,000
FY 2013-2014..... $ ~~8,000,000~~
9,750,000
FY 2014-2015..... $ 8,000,000

f. For renovation and related improvements for Bartlett hall at the university of northern Iowa including providing faculty offices, seminar rooms, and laboratories in the building and the associated demolition of Baker hall:

FY 2011-2012..... $ 1,000,000
FY 2012-2013..... $ ~~8,286,000~~
7,786,000
FY 2013-2014..... $ ~~9,767,000~~
10,267,000
FY 2014-2015..... $ 1,947,000

Sec. 15. 2011 Iowa Acts, chapter 133, section 1, subsection 13, paragraph b, is amended to read as follows:

b. For the Iowa veterans home to upgrade generator emissions controls to meet required stack emissions for four generators and ~~related improvements~~ for the construction of a building that secures vehicles during nonuse and inclement weather:

FY 2011-2012..... $ 250,000

Sec. 16. 2011 Iowa Acts, chapter 133, section 3, subsection 4, is amended to read as follows:

4. DEPARTMENT OF HUMAN RIGHTS

For the cost of equipment and computer software for the implementation of Iowa's criminal justice information system and for salaries and administrative support, notwithstanding section 8.57C, subsection 2:

FY 2011-2012..... $ 1,689,307

Sec. 17. 2011 Iowa Acts, chapter 133, section 3, subsection 5, paragraph a, is amended to read as follows:

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1 a. To be used for medical contracts under the medical
2 assistance program for technology upgrades necessary to support
3 Medicaid claims and other health operations, worldwide HIPAA
4 claims transactions and coding requirements, and the Iowa
5 automated benefits calculation system:
6 FY 2011-2012..... $ 3,494,176
7 FY 2012-2013..... $ ~~4,667,600~~
8 4,167,600
9 FY 2013-2014..... $ ~~4,267,600~~
10 4,767,600
11 FY 2014-2015..... $ 1,945,684
12 Sec. 18. 2011 Iowa Acts, chapter 133, section 3, subsection
13 8, is amended to read as follows:
14 8. DEPARTMENT OF PUBLIC SAFETY
15 a. For the provision of a statewide public safety radio
16 network and the purchase of compatible radio communications
17 equipment with the goal of achieving compliance with the
18 federal communications commission's narrowbanding mandate
19 deadline, and for achieving "interoperability", as defined in
20 section 80.28:
21 FY 2011-2012..... $ 2,500,000
22 FY 2012-2013..... $ 2,500,000
23 FY 2013-2014..... $ 2,500,000
24 Of the amounts appropriated in this lettered paragraph, the
25 department of public safety may enter into a public-private
26 partnership, through a competitive bidding process, for
27 the provision of the statewide network and the purchase of
28 compatible equipment.
29 As a condition of this appropriation, all land mobile radio
30 communications equipment purchased by the department of public
31 safety shall be compliant with the federal communication
32 commission's narrowbanding mandate and shall provide the
33 maximum amount of statewide coverage and interoperability,
34 throughout all phases of migration, to the department of public
35 safety's future statewide digital radio network utilizing P-25

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1 standards.
2 On or before January 13, 2012, the department of public
3 safety shall provide a report to the legislative services
4 agency and the department of management. The report shall
5 detail the status of the funds appropriated in this subsection
6 and shall include the estimated needs of the departments of
7 public safety, corrections, and natural resources to achieve
8 interoperability and to meet the federal narrowbanding mandate,
9 any changes in estimated costs to meet those needs, and the
10 status of requests for proposals to develop a public-private
11 partnership.
12 b. For transfer to a firefighter association in a county
13 with a population between ninety thousand and ninety-five
14 thousand as determined by the 2010 federal decennial census
15 for a ~~driving simulator to enhance the association's emergency~~
16 ~~vehicle operations course~~ firearms training simulator:
17 FY 2011-2012..... $ 80,000
18 Sec. 19. 2011 Iowa Acts, chapter 133, section 5, subsection
19 1, is amended to read as follows:
20 1. DEPARTMENT OF CORRECTIONS
21 For the construction project and one-time furniture,
22 fixture, and equipment costs at the Iowa correctional facility
23 for women at Mitchellville:
24 ..... $ 4,430,952
25 Sec. 20. EFFECTIVE UPON ENACTMENT. This division of this
26 Act, being deemed of immediate importance, takes effect upon
27 enactment.
28 DIVISION VII
29 MISCELLANEOUS CODE CHANGES
30 Sec. 21. Section 8.57A, subsection 4, paragraph c, Code
31 Supplement 2011, is amended to read as follows:
32 *c.* There is appropriated from the rebuild Iowa
33 infrastructure fund for the fiscal year beginning July 1, 2012,
34 and ending June 30, 2013, the sum of ~~thirty-five~~ thirty-three
35 million dollars to the environment first fund, notwithstanding

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1 section 8.57, subsection 6, paragraph "c".
2 Sec. 22. Section 8.57C, subsection 3, paragraph a, Code
3 Supplement 2011, is amended to read as follows:
4 *a.* There is appropriated from the general fund of the state
5 for the fiscal year beginning July 1, ~~2012~~ 2013, and for each
6 subsequent fiscal year thereafter, the sum of seventeen million
7 five hundred thousand dollars to the technology reinvestment
8 fund.
9 Sec. 23. Section 8.57C, subsection 3, Code Supplement 2011,
10 is amended by adding the following new paragraph:
11 NEW PARAGRAPH. *e.* There is appropriated from the rebuild
12 Iowa infrastructure fund for the fiscal year beginning July
13 1, 2012, and ending June 30, 2013, the sum of fifteen million
14 dollars to the technology reinvestment fund, notwithstanding
15 section 8.57, subsection 6, paragraph "c".
16 DIVISION VIII
17 IOWA COMMUNICATIONS NETWORK — AUDIT
18 Sec. 24. IOWA COMMUNICATIONS NETWORK — AUDIT. Prior to
19 the sale or lease of the Iowa communications network, the Iowa
20 communications network shall conduct a comprehensive audit
21 to include a complete inventory and estimate of the value
22 of all the components included in the network including all
23 fiber, switching stations, end user equipment, and individual
24 components the state has purchased since the creation of the
25 network. The audit should be conducted by an independent
26 auditing firm not associated with the vendor selected through a
27 competitive bidding process. The auditing firm selected shall
28 be technology-based, have extensive industry experience in
29 telecommunications, and be associated with a certified public
30 accountant.
31 EXPLANATION
32 This bill relates to and makes appropriations to state
33 departments and agencies from the rebuild Iowa infrastructure
34 fund, the technology reinvestment fund, and the FY 2009 prison
35 bonding fund, provides for related matters, and includes an

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1 effective date provision. The bill is organized by divisions.
2 REBUILD IOWA INFRASTRUCTURE FUND. This division
3 appropriates project funding from the rebuild Iowa
4 infrastructure fund, including projects for FY 2012-2013
5 for the departments of agriculture and land stewardship,
6 corrections, cultural affairs, economic development authority,
7 human services, natural resources, public defense, and
8 transportation, and for the state fair authority, treasurer of
9 state, and the board of regents, and for FY 2013-2014 for the
10 departments of corrections and natural resources, and for the
11 state fair authority and the board of regents.
12 TECHNOLOGY REINVESTMENT FUND. This division appropriates
13 project funding for FY 2012-2013 from the technology
14 reinvestment fund, including projects for the departments of
15 corrections, education, human rights, and management, and for
16 the Iowa telecommunications and technology commission, and
17 board of regents.
18 FY 2009 PRISON BONDING FUND. This division appropriates
19 project funding for FY 2012-2013 from the FY 2009 prison
20 bonding fund for the department of corrections.
21 ECONOMIC DEVELOPMENT AUTHORITY — CONTINGENT APPROPRIATION.
22 This division appropriates project funding for FY 2013-2014
23 from the rebuild Iowa infrastructure fund to the economic
24 development authority for the Des Moines area regional transit
25 authority if the authority receives local funds as well as a
26 federal grant, by December 31, 2013, in an amount sufficient
27 to complete the project.
28 DEPARTMENT OF TRANSPORTATION — RADIOS. This division
29 requires all land mobile radio communications equipment
30 purchased by the department of transportation to be compliant
31 with the federal communication commission's narrowbanding
32 mandate and to provide the maximum amount of statewide coverage
33 and interoperability, throughout all phases of migration, to
34 the department of public safety's future statewide digital
35 radio network utilizing P-25 standards.

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1 This division takes effect upon enactment and applies
2 retroactively to July 1, 2011.
3 CHANGES TO PRIOR APPROPRIATIONS. This division makes
4 changes to prior appropriations from the state fish and game
5 protection fund for FY 2010-2011 to the department of natural
6 resources.
7 The division makes changes to prior appropriations from
8 the rebuild Iowa infrastructure fund for FY 2011-2012 to the
9 department of veterans affairs and for the board of regents,
10 for FY 2012-2013 to the department of corrections and board of
11 regents, and for FY 2013-2014 and 2013-2014 to the department
12 of corrections and board of regents.
13 The division makes changes to prior appropriations from the
14 technology reinvestment fund for FY 2011-2012 to the department
15 of human rights and public safety and for FY 2012-2013 and FY
16 2013-2014 to the department of human services.
17 The division makes changes to prior appropriations from the
18 revenue bonds capitals fund for FY 2011-2012 to the department
19 of corrections.
20 The division takes effect upon enactment.
21 MISCELLANEOUS CODE CHANGES. This division reduces the
22 standing appropriation from the rebuild Iowa infrastructure
23 fund for FY 2012-2013 to the environment first fund from $35
24 million to $33 million.
25 The division provides a standing general fund appropriation
26 of $17.5 million to the technology reinvestment fund beginning
27 in FY 2013-2014.
28 The division appropriates $15 million from the rebuild Iowa
29 infrastructure fund to the technology reinvestment fund for FY
30 2012-2013.
31 IOWA COMMUNICATIONS NETWORK — AUDIT. This division
32 requires the Iowa communications network, prior to the sale
33 or lease of the network, to conduct a comprehensive audit
34 to include a complete inventory and estimate of the value
35 of all the components included in the network including all

S.F. _____

1 fiber, switching stations, end user equipment, and individual
2 components the state has purchased since the creation of the
3 network. The audit should be conducted by an independent
4 auditing firm not associated with the vendor selected through a
5 competitive bidding process. The auditing firm selected shall
6 be technology-based, have extensive industry experience in
7 telecommunications, and be associated with a certified public
8 accountant.

Senate Study Bill 3182 - Introduced

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

A BILL FOR

1 An Act allowing political subdivisions of this state to
2 engage in partnerships to merge certain agency operations,
3 workforces, duties, or services and providing for the
4 assignment of employees and the elimination of positions in
5 such agencies.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 6061XC (9) 84
aw/nh

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1 Section 1. NEW SECTION. **28O.1 Purpose.**
2 The purpose of this chapter is to enable political
3 subdivisions in this state to consolidate the provision of
4 services or facilities with other political subdivisions in
5 this state and to cooperate in other ways of mutual advantage
6 pursuant to public agency partnerships. This chapter shall be
7 liberally construed to that end.
8 Sec. 2. NEW SECTION. **28O.2 Definitions.**
9 For the purposes of this chapter:
10 1. *"Assigning agency"* means an agency or department of a
11 public agency dissolved by agreement between public agencies to
12 merge operations, workforces, duties, or services into a merged
13 agency.
14 2. *"Merged agency"* means an agency or department of a public
15 agency expanding operations, workforces, duties, or services by
16 incorporation of an assigning agency pursuant to an agreement
17 between public agencies.
18 3. *"Public agency"* means any political subdivision of this
19 state.
20 Sec. 3. NEW SECTION. **28O.3 Agreement with other agencies**
21 **— contracts.**
22 1. A public agency may enter into an agreement with one
23 or more other public agencies to merge specified operations,
24 workforces, duties, or services pursuant to the provisions of
25 this chapter. Appropriate action by ordinance, resolution, or
26 other applicable law of the governing bodies involved shall be
27 necessary before any such agreement may enter into force.
28 2. Any one or more public agencies may contract with any
29 one or more other public agencies to perform any governmental
30 service, activity, or undertaking which any of the public
31 agencies entering into the contract is authorized by law to
32 perform, provided that such contract shall be authorized by the
33 governing body of each party to the contract. Such contract
34 shall set forth fully the purposes, powers, rights, objectives,
35 and responsibilities of the contracting parties.

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1 Sec. 4. NEW SECTION. **28O.4 Specifications.**
2 An agreement pursuant to this chapter shall specify the
3 following:
4 1. The duration of the agreement.
5 2. The purpose or purposes of the agreement, including the
6 specific operations, workforces, duties, or services to be
7 assigned from the assigning agency to the merged agency.
8 3. The manner of financing the merged agency's undertakings
9 and of establishing and maintaining a budget therefor,
10 including the provision of benefits to merged agency employees
11 pursuant to section 28O.9, subsections 6 and 7.
12 4. The permissible method or methods to be employed in
13 accomplishing the partial or complete termination of the
14 agreement and for disposing of property upon such partial or
15 complete termination.
16 5. The manner of acquiring, holding, and disposing of real
17 and personal property used in the merged agency's undertakings.
18 6. Any other necessary and proper matters.
19 Sec. 5. NEW SECTION. **28O.5 Additional provisions.**
20 1. An agreement pursuant to this chapter may also include
21 a provision for a joint board responsible for administering
22 the merged agency. In the case of a joint board, all public
23 agencies that are a party to the agreement shall be represented
24 on the joint board.
25 2. A joint board specified in the agreement shall be a
26 governmental body for purposes of chapter 21 and a government
27 body for purposes of chapter 22.
28 3. *a.* A summary of the proceedings of each regular,
29 adjourned, or special meeting of the joint board created in the
30 agreement, including the schedule of bills allowed, shall be
31 published after adjournment of the meeting in one newspaper
32 of general circulation within the geographic area served by
33 the joint board. The summary of the proceedings shall include
34 the date, time, and place the meeting was held, the members
35 present, and the actions taken at the meeting. The joint board

S.F. _____

1 shall furnish the summary of the proceedings to be submitted
2 for publication to the newspaper within twenty days following
3 adjournment of the meeting. The publication of the schedule
4 of bills allowed shall include a list of all salaries paid for
5 services performed, showing the name of the person or firm
6 performing the service and the amount paid. The publication
7 of the schedule of bills allowed may consolidate amounts paid
8 to the same claimant if the purpose of the individual bills is
9 the same. However, the names and gross salaries of persons
10 regularly employed by the joint board shall only be published
11 annually.
12 *b.* A joint board which had a cash balance, including
13 investments, of less than one hundred thousand dollars at
14 the end of the previous fiscal year and which had total
15 expenditures of less than one hundred thousand dollars during
16 the prior fiscal year is not required to publish as required in
17 paragraph *"a"*. However, such a joint board shall file without
18 charge, in an electronic format, the information described in
19 paragraph *"a"* with the office of the county recorder in the most
20 populous county served by the joint board. The county recorder
21 shall make the information submitted available to the public,
22 which information shall also include access to a copy of the
23 agreement creating the joint board.
24 4. A joint board that is responsible for the operation of
25 a public facility or a public improvement may undertake the
26 emergency repair of the facility or improvement in the manner
27 provided in section 384.103, subsection 2. If an emergency
28 repair is undertaken by the joint board, the chairperson, chief
29 officer, or chief official of the joint board shall perform
30 the duties assigned to the chief officer or official of the
31 governing body of the city under section 384.103, subsection 2.
32 Sec. 6. NEW SECTION. **28O.6 Obligations not excused.**
33 Except as provided in this chapter, no agreement made
34 pursuant to this chapter shall relieve any public agency of
35 any obligation or responsibility imposed upon it by law except

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1 that to the extent of actual and timely performance thereof
2 by merged agency or a joint board pursuant to an agreement
3 made under this chapter, such performance may be offered in
4 satisfaction of the obligation or responsibility.
5 Sec. 7. NEW SECTION. **28O.7 Filing with secretary of state.**
6 1. *a.* Before entry into force, an agreement made pursuant
7 to this chapter shall be filed, in an electronic format, with
8 the secretary of state in a manner specified by the secretary
9 of state.
10 *b.* Any amendment, modification, or notice of termination of
11 an agreement made pursuant to this chapter shall be filed, in
12 an electronic format, with the secretary of state within thirty
13 days of the effective date of the amendment, modification, or
14 termination, in a manner specified by the secretary of state.
15 2. *a.* In addition to subsection 1, each joint board
16 subject to section 28O.5, subsection 1, shall submit, in an
17 electronic format, an initial report to the secretary of state
18 as prescribed by the secretary of state. The report shall
19 include, as applicable, the board members of any joint board
20 created, whether the joint board is exempt from the publication
21 requirements of section 28O.5, subsection 3, a valid electronic
22 mail address, and any additional information the secretary of
23 state deems appropriate.
24 *b.* Following submission of an initial report pursuant to
25 paragraph *"a"*, each joint board shall submit, in an electronic
26 format, a biennial report to the secretary of state in a manner
27 prescribed by the secretary of state by April 1 of every
28 odd-numbered year.
29 Sec. 8. NEW SECTION. **28O.8 Agency to furnish aid.**
30 An assigning agency may appropriate funds and may sell,
31 lease, give, or otherwise supply the merged agency to combine
32 the operations, workforces, duties, or services of such public
33 agencies by providing such personnel or services therefor as
34 may be within its legal power to furnish.
35 Sec. 9. NEW SECTION. **28O.9 Authority to assign employees.**

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1. Any department, agency, or instrumentality of a public agency may participate in a program of assignment of employees with departments, agencies, or instrumentalities of any other public agency as an assigning agency or as a merged agency pursuant to an agreement entered into under this chapter.

2. The assigning agency and the merged agency shall agree to the assignment of employees. Such an agreement shall be for the permanent assignment of employees from the assigning agency to the merged agency unless such agreement is terminated pursuant to the terms of the agreement.

3. An assigning agency and a merged agency shall make reasonable efforts to place employees of an assigning agency in comparable employment upon dissolution of an assigning agency. No employee shall be assigned or detailed without the employee's expressed consent or by using undue coercion to obtain such consent.

4. Elected officials shall not be assigned from an assigning agency nor detailed to a merged agency.

5. An employee being permanently assigned to a merged agency shall not be subject to the provisions of section 400.8 if the employee meets minimum job qualifications for an open position to which the employee is being assigned at the merged agency.

6. An employee being permanently assigned to a merged agency shall:

a. Be placed on the payroll of the merged agency at a job classification determined by the merged agency, but shall, at a minimum, maintain the salary earned by the employee at the assigning agency at the time of being assigned to the merged agency.

b. Be allowed to maintain the rank or position earned by the employee at the assigning agency if a job of equivalent rank or position is available at the merged agency.

c. Upon assignment to a merged agency be assigned a seniority classification based upon the period of employment with the assigning agency.

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1 *d.* Upon assignment to a merged agency, be credited with any
2 unexpended benefit time, including but not limited to vacation,
3 holiday, and sick leave, accrued in the course of employment
4 with the assigning agency.
5 *e.* Except as otherwise provided in this section, upon
6 assignment to a merged agency, be subject to the personnel
7 policies and collective bargaining agreements of that merged
8 agency.
9 7. An employee being permanently assigned to a merged agency
10 shall, at the time of being assigned, either elect to maintain
11 participation in the benefit programs offered to employees of
12 the assigning agency until the time of the termination of the
13 employee's employment with the merged agency or elect to enroll
14 in the benefit programs offered to employees of the merged
15 agency.
16 8. *a.* An assigning agency or merged agency may eliminate
17 positions in order to merge operations, workforces, duties, or
18 services.
19 *b.* An assigning agency or a merged agency that eliminates a
20 position pursuant to this subsection may provide an employee
21 whose position is eliminated with severance payments not to
22 exceed eight weeks of salary. Such an agency may also provide
23 for the extension of health benefits for a period not to exceed
24 eight weeks. The provision of payments and benefits under this
25 paragraph shall be subject to negotiation with the employee or
26 with the employee's labor bargaining unit where appropriate.
27 *c.* The elimination of any position pursuant to this
28 subsection shall not constitute outsourcing or privatization.
29 9. Details relating to any matter subject to this section
30 shall be the subject of an agreement between the assigning and
31 merged agencies.
32 Sec. 10. NEW SECTION. **28O.10 Powers are additional to**
33 **others.**
34 The powers granted by this chapter shall be in addition
35 to any specific grant for intergovernmental agreements and

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1 contracts.
2 Sec. 11. NEW SECTION. **28O.11 No limitation on contract.**
3 Any contract or agreement authorized by this chapter shall
4 not be limited as to period of existence, except as may be
5 limited by the agreement or contract itself.
6 Sec. 12. Section 400.8, Code 2011, is amended by adding the
7 following new subsection:
8 NEW SUBSECTION. 4. This section shall not apply to the
9 assignment of employees conducted pursuant to section 28O.8.
10 EXPLANATION
11 This bill allows political subdivisions of this state to
12 engage in partnerships to merge certain agency operations,
13 workforces, duties, or services and provides for the assignment
14 of employees and the elimination of positions in such agencies.
15 The bill allows political subdivisions of this state to
16 enter into public agency agreements to merge operations,
17 workforces, duties, or services.
18 The bill provides that a public agency may enter into
19 contracts with any one or more other public agencies to perform
20 any governmental service, activity, or undertaking that the
21 public agency is authorized by law to perform.
22 The bill provides that "assigning agency" means an agency
23 or department of a political subdivision that is dissolved by
24 agreement to merge operations, workforces, duties, or services
25 into a merged agency. The bill provides that "merged agency"
26 means an agency or department of a political subdivision
27 that expands operations, workforces, duties, or services by
28 incorporation of an assigning agency.
29 The bill requires that the governing bodies of the political
30 subdivisions adopt such an agreement by appropriate legal
31 action before an agreement may enter into force.
32 The bill requires that such an agreement specify the
33 duration of the agreement, the purpose or purposes of the
34 agreement, the manner of financing, the means by which the
35 agreement may be partially or completely terminated, and the

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1 manner of acquiring, holding, and disposing of property along
2 with any other necessary and proper matters.
3 The bill allows the agreement to provide for the operation of
4 a joint administration board subject to certain open meeting
5 and public record requirements for the merged agency. The bill
6 also provides for certain emergency repairs authorized by a
7 joint board.
8 The bill requires that any such agreement be filed with
9 the secretary of state in an electronic format along with
10 any subsequent amendments, modifications, or notices of
11 termination. The bill provides for separate reporting
12 requirements to the secretary of state for independent merged
13 agencies and merged agencies with joint boards.
14 The bill provides that an assigning agency may appropriate
15 funds and may sell, lease, give, or otherwise supply the merged
16 agency.
17 The bill provides that any department, agency, or
18 instrumentality of a political subdivision of this state
19 is authorized to participate in a program of assignment of
20 employees with departments, agencies, or instrumentalities
21 of any other political subdivision of this state as an
22 assigning agency or as a merged agency. The bill requires
23 that an assigning agency and a merged agency agree to such
24 assignment of employees and that an employee give consent to
25 such assignment. The bill provides that an elected official
26 shall not be assigned from an assigning agency nor detailed
27 to a merged agency. The bill provides that an employee
28 permanently assigned to a merged agency who meets minimum job
29 qualifications for an open position shall not be subject to the
30 civil service examination and appointment requirements of Code
31 section 400.8.
32 The bill requires that an employee being permanently
33 assigned to a merged agency shall be placed on the payroll
34 of the new merged agency at a job classification determined
35 by the merged agency, but shall, at a minimum, maintain the

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1 salary earned by the employee at the assigning agency. The
2 bill requires that such an employee be allowed to maintain the
3 employee's rank or position if a job of equivalent rank or
4 position is available at the merged agency. The bill requires
5 that such an employee be assigned a seniority rank by the
6 merged agency based upon the employee's period of employment
7 with the assigning agency and credited with any unexpended
8 benefits accrued during employment with the assigning agency.
9 The bill also requires that, except as otherwise provided,
10 any such employee be subject to the personnel policies and
11 collective bargaining agreements of the merged agency. The
12 bill also requires such an employee to elect whether to
13 maintain participation in the benefits programs offered by the
14 assigning agency or elect to enroll in the benefits programs
15 offered to employees of the merged agency.
16 The bill allows an assigning agency or a merged agency to
17 eliminate positions in order to merge operations, workforces,
18 duties, or services. The bill also provides that an assigning
19 agency or merged agency may provide certain severance payments
20 or benefits to an employee whose position is eliminated. Such
21 severance shall be subject to negotiation with the employee or
22 with the employee's labor bargaining unit where appropriate.
23 The bill provides that any such elimination of a position shall
24 not constitute outsourcing or privatization.
25 The bill requires that details related to the assignment of
26 employees be subject to agreement between an assigning agency
27 and a merged agency.
28 The bill provides that the powers granted pursuant to the
29 bill are additional to any specific grant for intergovernmental
30 agreements and contracts.

Senate Study Bill 3183 - Introduced

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

A BILL FOR

1 An Act relating to county and multicounty juvenile detention
2 homes.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5574SC (1) 84
jp/nh

S.F. _____

1 Section 1. Section 232.142, Code Supplement 2011, is
2 amended to read as follows:
3 **232.142 Maintenance and cost of juvenile homes — fund.**
4 1. County boards of supervisors which singly or in
5 conjunction with one or more other counties provide and
6 maintain juvenile detention and juvenile shelter care homes are
7 subject to this section. For the purposes of this section,
8 unless the context otherwise requires, *"division"* means the
9 division of criminal and juvenile justice planning of the
10 department of human rights.
11 2. For the purpose of providing and maintaining a county or
12 multicounty home, the board of supervisors of any county may
13 issue general county purpose bonds in accordance with sections
14 331.441 to 331.449. Expenses for providing and maintaining a
15 multicounty home shall be paid by the counties participating in
16 a manner to be determined by the boards of supervisors.
17 3. A county or multicounty juvenile detention home approved
18 pursuant to this section shall receive financial aid from the
19 state in a manner approved by the ~~director~~ division. Aid
20 paid by the state shall be at least ten percent and not more
21 than fifty percent of the total cost of the establishment,
22 improvements, operation, and maintenance of the home that is
23 attributed to children under the jurisdiction of this state.
24 4. The director shall adopt minimal rules and standards for
25 the establishment, maintenance, and operation of such homes as
26 shall be necessary to effect the purposes of this chapter. The
27 rules shall apply the requirements of section 237.8, concerning
28 employment and evaluation of persons with direct responsibility
29 for a child or with access to a child when the child is
30 alone and persons residing in a child foster care facility,
31 to persons employed by, residing in, or volunteering for a
32 home approved under this section. The director shall, upon
33 request, give guidance and consultation in the establishment
34 and administration of the homes and programs for the homes.
35 5. The director shall approve annually all such homes

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established and maintained under the provisions of this chapter. A home shall not be approved unless it complies with minimal rules and standards adopted by the director and has been inspected by the department of inspections and appeals.

6. A juvenile detention home fund is created in the state treasury under the authority of the ~~department~~ division. The fund shall consist of moneys deposited in the fund pursuant to sections 321.218A and 321A.32A. The moneys in the fund shall be used for the costs of the establishment, improvement, operation, and maintenance of county or multicounty juvenile detention homes attributed to children under the jurisdiction of this state's courts in accordance with annual appropriations made by the general assembly from the fund for these purposes. The distribution formula for the moneys in the fund shall be determined by the administrator of the division pursuant to a recommendation provided by the criminal and juvenile justice planning advisory council to equitably distribute the available moneys to help support the financial needs of juvenile detention homes. The distribution formula shall be based upon a detention home's proportionate share of the statewide bed days utilized during the formula period by all detention homes eligible to receive moneys from the fund. The distribution formula shall include an allocation for the division's costs to administer the fund and shall specify a base amount for each detention home receiving an allocation under the formula.

EXPLANATION

This bill relates to county and multicounty juvenile detention homes under Code section 232.142. County and multicounty juvenile detention homes are subject to approval by the department of human services in accordance with rules and standards adopted by the department. Inspections are performed by the department of inspections and appeals. State funding for the detention homes is provided through the juvenile detention home fund administered by the department of human services.

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1 The fund receives civil penalties collected under Code
2 sections 321.218A and 321A.32A, when the department of
3 transportation suspends, revokes, or bars a person's driver's
4 license or nonresident operating privilege for a conviction
5 under Code chapter 321, relating to motor vehicle laws,
6 or Code chapter 321A, relating to motor vehicle financial
7 responsibility. The bill transfers the responsibility to
8 administer the fund from the department of human services to
9 the division of criminal and juvenile justice planning of the
10 department of human rights. The bill also restricts the use of
11 the fund to costs attributed to children under the jurisdiction
12 of this state's courts.
13 Current law provides for distribution of the moneys in the
14 fund in accordance with annual appropriations. For fiscal
15 year 2011-2012, under 2011 Iowa Acts, chapter 129, section
16 17, moneys in the fund are allocated among eligible detention
17 homes, prorated on the basis of an eligible detention home's
18 proportion of the costs of all eligible detention homes in the
19 previous fiscal year, as determined by the department of human
20 services based on the amount available to distribute. The bill
21 provides for the administrator of the division of criminal and
22 juvenile justice planning to determine the distribution formula
23 for the moneys in the fund pursuant to a recommendation made by
24 the criminal and juvenile justice planning advisory council.
25 The bill requires the distribution formula to be based upon a
26 juvenile detention home's proportionate share of the statewide
27 bed days utilized during the formula period by all juvenile
28 detention homes eligible to receive moneys from the fund. The
29 bill also requires the formula to include an allocation for the
30 division's costs to administer the fund and to specify a base
31 amount for each detention home receiving an allocation under
32 the formula.

Senate Study Bill 3184 - Introduced

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

A BILL FOR

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

TLSB 6046SC (4) 84
aw/sc

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1 Section 1. Section 384.4, subsection 1, Code 2011, is
2 amended by adding the following new paragraph:
3 NEW PARAGRAPH. *e.* Payments of principal and interest on
4 loans authorized for repayment by the council from the fund
5 entered into pursuant to section 384.24B.
6 Sec. 2. NEW SECTION. **384.24B General obligation loans**
7 **funded by the city.**
8 1. A city may authorize a loan, as defined in this section,
9 to borrow money for any public project in accordance with and
10 subject to the provisions of this section.
11 2. For purposes of this section, *"loan"* means the sum of
12 the transfers from one or more reserve accounts or funds of the
13 city which transfers are authorized for the purpose specified
14 in the loan authorization document. A transfer from a reserve
15 account or fund for the purposes of this section shall not
16 cause the balance of reserves in such account or fund at the
17 close of the fiscal year following the fiscal year in which the
18 transfer is made to fall below any minimum balance prescribed
19 by law for such account or fund.
20 3. A loan entered into by a city pursuant to this section
21 may contain provisions similar to those sometimes found in loan
22 agreements between private parties, including but not limited
23 to the issuance of notes to evidence its obligations.
24 4. A loan made pursuant to this section is payable from the
25 debt service fund of the city. The governing body shall follow
26 the same authorization procedure required for the issuance
27 of general obligation bonds issued for the same purpose to
28 authorize a loan made payable from the debt service fund.
29 5. A loan made pursuant to this section shall provide that a
30 portion of the payments be applied as interest at a rate set by
31 the council in the authorization for the loan. The council may
32 determine a rate of interest that shall not be below that set
33 for a certificate of deposit at a financial institution defined
34 in chapter 12C and that shall not exceed the lowest rate of
35 interest payable on a bond issuance, such rate being determined

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1 at the time the loan is authorized. Other laws relating to
2 interest rates do not apply.
3 6. Repayments of principal and interest shall be applied
4 to the reserve fund or account from which all or a portion of
5 the funds were advanced for the loan in the proportion that the
6 amount of the advance from the fund or account bears to the
7 entire amount of the loan.
8 7. The limitation in section 346.24 does not apply to a
9 transfer made pursuant to this section or to a loan authorized
10 pursuant to this section.
11 Sec. 3. Section 384.25, Code 2011, is amended to read as
12 follows:
13 **384.25 General obligation bonds or loans for essential**
14 **purposes.**
15 1. A city which proposes to carry out any essential
16 corporate purpose within or without its corporate limits, and
17 to contract indebtedness and issue general obligation bonds or
18 authorize a loan described in section 384.24B, to provide funds
19 to pay all or any part of the cost of a project must do so in
20 accordance with the provisions of this division.
21 2. Before the council may institute proceedings for the
22 issuance of bonds or authorization of a loan for an essential
23 corporate purpose, a notice of the proposed action, including
24 a statement of the amount and purposes of the bonds or loan,
25 and the time and place of the meeting at which the council
26 proposes to take action for the issuance of the bonds or
27 authorization of the loan, must be published as provided in
28 section 362.3. At the meeting, the council shall receive oral
29 or written objections from any resident or property owner
30 of the city. After all objections have been received and
31 considered, the council may, at that meeting or any adjournment
32 thereof, take additional action for the issuance of the bonds
33 or authorization of the loan or abandon the proposal to issue
34 the bonds or authorize the loan. Any resident or property
35 owner of the city may appeal the decision of the council to

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

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1 the loan. Notice of the election and its conduct shall be in
2 the manner provided in section 384.26.
3 *c.* If a petition is not filed, or if a petition is filed and
4 the proposition of issuing the bonds or authorizing the loan
5 is approved at an election, the council may proceed with the
6 authorization and issuance of the bonds or authorization of the
7 loan.
8 Sec. 4. Section 384.26, subsections 1, 2, 4, and 5, Code
9 2011, are amended to read as follows:
10 1. A city which proposes to carry out any general corporate
11 purpose within or without its corporate limits, and to contract
12 indebtedness and issue general obligation bonds or authorize a
13 loan described in section 384.24B, to provide funds to pay all
14 or any part of the costs of a project, must do so in accordance
15 with the provisions of this division.
16 2. Before the council may institute proceedings for the
17 issuance of bonds or authorization of a loan for a general
18 corporate purpose, it shall call a special city election to
19 vote upon the question of issuing the bonds or authorizing the
20 loan. At the election the proposition must be submitted in one
21 of the following ~~form~~ forms, as applicable:
22 Shall the ..... (insert the name of the city) issue
23 its bonds in an amount not exceeding the amount of $.... for
24 the purpose of .....?
25 Shall the ..... (insert the name of the city) authorize
26 a loan from its reserve funds in an amount not exceeding the
27 amount of $.... for the purpose of .....?
28 4. The proposition of issuing general corporate purpose
29 bonds or authorizing a general corporate purpose loan is not
30 carried or adopted unless the vote in favor of the proposition
31 is equal to at least sixty percent of the total vote cast
32 for and against the proposition at the election. If the
33 proposition of issuing the general corporate purpose bonds or
34 authorizing a general corporate purpose loan is approved by the
35 voters, the city may proceed with the issuance of the bonds or

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

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