Iowa General Assembly
Daily Bills, Amendments and Study Bills
February 13, 2013

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House File 160

H-1012

1 Amend the amendment, H-1010, to House File 160 as
2 follows:
3 1. By striking page 1, line 4, through page 2, line
4 35, and inserting:
5 <Section 1. MENTAL HEALTH AND DISABILITY SERVICES
6 REDESIGN TRANSITION FUND.
7 1. There is transferred from the general fund of
8 the state to the department of human services for the
9 fiscal year beginning July 1, 2012, and ending June 30,
10 2013, the following amount, or so much thereof as is
11 necessary, to be used for the purposes designated:
12 To be credited to the mental health and disability
13 services redesign transition fund created in 2012 Iowa
14 Acts, chapter 1120, section 23:
15 ..... $ 20,000,000
16 2. a. The moneys credited to the mental health and
17 disability services redesign transition fund pursuant
18 to subsection 1 are appropriated to the department
19 of human services for allocation as provided in this
20 lettered paragraph. The moneys shall be allocated to
21 those counties identified by the department in scenario
22 1 of the department's report on the transition fund
23 submitted to the general assembly on December 4, 2012,
24 pursuant to 2012 Iowa Acts, chapter 1120, section 23,
25 to be used to continue or restore services as provided
26 in the county applications in the award amounts
27 determined by the department and listed under scenario
28 1 in the report appendix. In addition, the moneys
29 shall be allocated to the identified counties and to
30 the other counties that applied for the transition
31 fund, in the amounts necessary for the counties to
32 carry forward from the fiscal year beginning July 1,
33 2012, to the succeeding fiscal year, an ending balance
34 of not less than 16.87 percent nor more than 25 percent
35 of the amount each of the counties levied for the
36 services fund created in section 331.424A for the
37 fiscal year beginning July 1, 2012.
38 b. The allocations under this subsection shall be
39 remitted to counties not later than two calendar weeks
40 following the effective date of this division of this
41 Act.
42 c. A county receiving an allocation under this
43 subsection and any other county with an obligation for
44 outstanding undisputed Medicaid billings from a prior
45 fiscal year shall either remit any unpaid portion of
46 the obligation to the state before the close of the
47 fiscal year beginning July 1, 2012, or have developed a
48 plan with the department for payment of the obligation
49 over a defined period of time.
50 3. Representatives of the department of human

1 services, Iowa state association of counties, and
2 legislative services agency shall continue to meet as
3 the redesign of mental health and disability services
4 proceeds in order to analyze and develop consensus
5 financial information concerning the revenues and
6 expenditures associated with the redesign. The
7 consensus information shall be provided to legislators,
8 executive branch officials, and other interested
9 parties as requested or to otherwise assist in decision
10 making.>
11 2. By renumbering as necessary.

_____
HEDDENS of Story

House File 160

H-1013

1 Amend the amendment, H-1010, to House File 160 as
2 follows:
3 1. By striking page 1, line 1, through page 3, line
4 1, and inserting:
5 <Amend House File 160 as follows:
6 1. By striking everything after the enacting clause
7 and inserting:
8 <Section 1. CHILDREN'S HEALTH INSURANCE PROGRAM
9 — CHILD ENROLLMENT CONTINGENCY FUND — MENTAL HEALTH
10 AND DISABILITY SERVICES REDESIGN TRANSITION FUND — FY
11 2012-2013.
12 1. Of the moneys received from the federal
13 government through the child enrollment contingency
14 fund established pursuant to section 103 of the federal
15 Children's Health Insurance Program Reauthorization Act
16 of 2009, Pub. L. No. 111-3, the following amount is
17 transferred from such moneys to the department of human
18 services for the fiscal year beginning July 1, 2012,
19 and ending June 30, 2013, to be credited as follows:
20 To be credited to the mental health and disability
21 services redesign transition fund created in 2012 Iowa
22 Acts, chapter 1120, section 23:
23 ..... $ 11,628,317
24 2. The moneys credited to the mental health and
25 disability services redesign transition fund pursuant
26 to subsection 1 are appropriated to the department of
27 human services for allocation to counties as follows:
28 a. To those counties identified by the department
29 in scenario 1 of the department's report on the
30 transition fund submitted to the general assembly on
31 December 1, 2012, pursuant to 2012 Iowa Acts, chapter
32 1120, section 23, to be used to continue or restore
33 services as provided in the application and the
34 department's determination of the award amount:
35 ..... $ 11,628,317
36 b. The allocations under this subsection shall be
37 remitted to counties not later than two calendar weeks
38 following the effective date of this Act.
39 c. A county receiving an allocation under this
40 subsection shall not use the allocation in a manner
41 that violates federal match requirements for the
42 medical assistance program or for the child enrollment
43 contingency fund under federal Children's Health
44 Insurance Program Reauthorization Act of 2009. Such
45 requirements include but are not limited to those
46 specified in 42 C.F.R. § 433.51 and 42 C.F.R. §
47 457.628. A county receiving an allocation under this
48 subsection shall not use the allocation in any way that
49 supports or draws federal match moneys.
50 d. A county receiving an allocation under this

1 subsection shall enter into a formal agreement
2 with the department concerning the allocation and
3 shall comply with any audit requirements for the
4 county's expenditures relating to the allocation. The
5 department shall develop the audit requirements with
6 assistance from the office of the auditor of state.
7 The requirements shall provide for the county to bear
8 the costs of any federal audit of the county's use
9 of the allocation, including any federal repayment
10 or penalty determination resulting from the audit
11 findings. The audit requirements may be applied
12 on a selective or random basis so that the audit
13 requirements do not apply to all counties receiving an
14 allocation. Any costs relating to the performance of
15 nonfederal, state-only audit requirements established
16 by the department are the responsibility of the
17 department.
18 3. For purposes of an application for county
19 formation of a mental health and disability services
20 region submitted on or before April 1, 2013, in
21 accordance with section 331.389, subsection 4, the
22 director of human services may approve an application
23 for a region that includes a county that is not
24 contiguous with any of the other counties in the
25 region, as otherwise required under section 331.389,
26 subsection 3, paragraph "a", if the county that is not
27 contiguous has had a formal relationship for two years
28 or longer with one or more of the other counties in the
29 region for provision of mental health and disability
30 services.
31 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being
32 deemed of immediate importance, takes effect upon
33 enactment.>>

SODERBERG of Plymouth

House File 202 - Introduced

HOUSE FILE 202
BY H. MILLER, GASKILL, BEARINGER, HANSON, RUFF, WOLFE, ISENHART, KEARNS, DUNKEL, MUHLBAUER, and MURPHY

A BILL FOR

1 An Act establishing an agricultural education pilot project
2 for certain school districts and including effective date
3 provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1676HH (5) 85
je/sc

H.F. 202

Section 1. NEW SECTION. **256.24 Agricultural education pilot project.**

1. An agricultural education pilot project is established to be administered by the department of education. Participating school districts shall include all of the following as part of their education programs under section 256.11, for either grades one through six or grades seven and eight:

a. The school district's social studies curriculum shall include the history of agriculture in Iowa and awareness of the global and technological importance of agriculture and conservation.

b. The school district's science curriculum shall include environment and natural resources, land stewardship, and biofuels and renewable energy.

2. For purposes of this section, *"participating school district"* means a school district with an enrollment of at least nine thousand students in grades kindergarten through twelve, which contains at least two high schools, and which is identified as a district in need of assistance under the federal No Child Left Behind Act of 2001, Pub. L. No. 107-110.

3. The department shall conduct a survey to evaluate the effectiveness of the pilot project. The department shall provide the survey to superintendents of participating school districts, teachers responsible for meeting the curriculum requirements of subsection 1, students subject to the curriculum requirements of subsection 1, and the parents of students subject to the curriculum requirements of subsection 1.

4. The department shall submit a report on the agricultural education pilot project to the governor and the general assembly by January 15, 2016. The report shall include the results of the survey conducted pursuant to subsection 3, a recommendation as to whether the pilot project should be continued or expanded, and any recommendations for changes to

H.F. 202

1 the pilot project.
2 5. This section is repealed on June 30, 2017.
3 Sec. 2. STATE MANDATE FUNDING SPECIFIED. In accordance
4 with section 25B.2, subsection 3, the state cost of requiring
5 compliance with any state mandate included in this Act shall
6 be paid by a school district from state school foundation aid
7 received by the school district under section 257.16. This
8 specification of the payment of the state cost shall be deemed
9 to meet all of the state funding-related requirements of
10 section 25B.2, subsection 3, and no additional state funding
11 shall be necessary for the full implementation of this Act
12 by and enforcement of this Act against all affected school
13 districts.
14 Sec. 3. EFFECTIVE DATE. This Act takes effect July 1, 2014.
15 EXPLANATION
16 This bill establishes an agricultural education pilot
17 project to be administered by the department of education.
18 The bill requires participating school districts to include
19 additional subjects as part of their education programs under
20 Code section 256.11, for either grades one through six or
21 grades seven and eight. A participating school district must
22 include the history of agriculture in Iowa and awareness of
23 the global and technological importance of agriculture and
24 conservation in its social studies curriculum. A participating
25 school district must also include environment and natural
26 resources, land stewardship, and biofuels and renewable energy
27 in its science curriculum.
28 The bill defines "participating school district" as a school
29 district with an enrollment of at least 9,000 students in
30 grades kindergarten through 12, which contains at least two
31 high schools, and which is identified as a district in need of
32 assistance under the federal No Child Left Behind Act of 2001,
33 Pub. L. No. 107-110.
34 The bill requires the department of education to conduct a
35 survey to evaluate the effectiveness of the pilot project. The

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1 survey will be provided to superintendents of participating
2 school districts, teachers responsible for meeting the
3 additional curriculum requirements, students subject to the
4 additional curriculum requirements, and the parents of students
5 subject to the additional curriculum requirements.
6 The department must submit a report on the agricultural
7 education pilot project to the governor and the general
8 assembly by January 15, 2016. The report must include
9 the results of the survey, a recommendation as to whether
10 the pilot project should be continued or expanded, and any
11 recommendations for changes to the pilot project.
12 The agricultural education pilot project is repealed on June
13 30, 2017.
14 The bill may include a state mandate as defined in Code
15 section 25B.3. The bill requires that the state cost of
16 any state mandate included in the bill be paid by a school
17 district from state school foundation aid received by the
18 school district under Code section 257.16. The specification
19 is deemed to constitute state compliance with any state mandate
20 funding-related requirements of Code section 25B.2. The
21 inclusion of this specification is intended to reinstate the
22 requirement of political subdivisions to comply with any state
23 mandates included in the bill.
24 The bill takes effect July 1, 2014.

House File 203 - Introduced

HOUSE FILE 203
BY MURPHY

A BILL FOR

1 An Act concerning school district funding for certain
2 programmatic costs of instruction of children requiring
3 special education and including effective date and
4 retroactive applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1132HH (2) 85
je/rj

H.F. 203

Section 1. Section 256B.9, subsection 7, Code 2013, is amended to read as follows:

7. *a.* The costs of special education instructional programs include the costs of purchase of transportation equipment to meet the special needs of children requiring special education with the approval of the director of the department of education.

b. The department of education shall administer the costs of special education instructional programs when contracted with a private agency that provides residential treatment services to meet the special needs of children requiring special education, which costs include costs of general administration, health service, attendance officers, plant operation, and plant maintenance; regular and special instructional costs; overhead costs; and the costs of purchase of equipment, transportation, and insurance.

c. The state board of education shall adopt rules under chapter 17A ~~for the purchase of transportation equipment pursuant~~ to administer this section.

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

Sec. 3. RETROACTIVE APPLICABILITY. This Act applies retroactively to July 1, 2012.

EXPLANATION

This bill directs the department of education to administer the costs of special education instructional programs when contracted with a private agency that provides residential treatment services to meet the special needs of children requiring special education. Such costs include costs of general administration, health service, attendance officers, plant operation, and plant maintenance; regular and special instructional costs; overhead costs; and the costs of purchase of equipment, transportation, and insurance.

The bill takes effect upon enactment and applies retroactively to July 1, 2012.

House File 204 - Introduced

HOUSE FILE 204
BY KAJTAZOVIC

A BILL FOR

1 An Act relating to the compulsory age of attendance, to
2 penalties for failure to attend school, and to dropout
3 prevention efforts.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1939YH (3) 85
kh/rj

H.F. 204

Section 1. Section 299.1A, subsection 1, Code 2013, is amended to read as follows:

1. Except as provided in subsection 2, a child who has reached the age of six and is under ~~sixteen~~ eighteen years of age by September 15 is of compulsory attendance age. However, if a child enrolled in a school district or accredited nonpublic school reaches the age of ~~sixteen~~ eighteen on or after September 15, the child remains of compulsory age until the end of the regular school calendar.

Sec. 2. Section 299.1B, Code 2013, is amended to read as follows:

299.1B Failure to attend — driver's license.

A person who is of compulsory attendance age, is not exempt under section 299.2, and does not attend a public school, an accredited nonpublic school, competent private instruction in accordance with the provisions of chapter 299A, an alternative school, or adult education classes shall not receive an intermediate or full driver's license until age eighteen.

Sec. 3. NEW SECTION. **299.14 School district dropout prevention measures.**

1. The board of directors of each school district shall take every opportunity to prevent students from dropping out of school. Actions which a school district may take to prevent students from dropping out of school include but are not limited to general education interventions, alternative program placement, alternative school placement, provision of support and supplemental services, individual and family intervention or therapy, truancy mediation, and coordination with other student support services.

2. In addition to meeting the budget requirements of section 257.41, the board of directors of each school district shall make every effort to align and maximize all of the funding streams that may be used to support students who are at risk of dropping out of school.

Sec. 4. Section 321.213B, Code 2013, is amended to read as

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1 follows:
2 **321.213B Suspension for failure to attend.**
3 1. The department shall establish procedures by rule for
4 suspending the license of a juvenile who has been issued a
5 driver's license and is not in compliance with the requirements
6 of section 299.1B or issuing the juvenile a restricted license
7 under section 321.178.
8 2. Upon receipt of proof of high school graduation from
9 a person whose intermediate or full driver's license was
10 suspended or revoked pursuant to section 299.1B, the department
11 may reinstate the person's license. Notwithstanding section
12 321.191, subsection 8, the fee for reinstatement of a license
13 pursuant to this subsection shall be twenty-five dollars.
14 Sec. 5. STATE MANDATE FUNDING SPECIFIED. In accordance
15 with section 25B.2, subsection 3, the state cost of requiring
16 compliance with any state mandate included in this Act shall
17 be paid by a school district from state school foundation aid
18 received by the school district under section 257.16. This
19 specification of the payment of the state cost shall be deemed
20 to meet all of the state funding-related requirements of
21 section 25B.2, subsection 3, and no additional state funding
22 shall be necessary for the full implementation of this Act
23 by and enforcement of this Act against all affected school
24 districts.
25 EXPLANATION
26 This bill relates to compulsory education standards,
27 penalties, and dropout prevention efforts.
28 The bill raises the compulsory school attendance age from 16
29 to 18. Each school district must make every effort to prevent
30 students from dropping out of school, and is directed to align
31 and maximize all of the funding streams that may be used to
32 support students who are at risk of dropping out of school.
33 The department of transportation is directed to reinstate,
34 upon receipt of proof of high school graduation from a person
35 whose intermediate or full driver's license was suspended or

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1 revoked because the person was truant, the person's license for
2 a fee of $25, notwithstanding a current Code provision that
3 permits the department to charge a fee of $20 for reinstatement
4 of a license. The bill makes a technical change to specify
5 that the current Code provision which prohibits licensure for
6 failure to attend school or classes applies only to persons who
7 are not exempt from the provision establishing the compulsory
8 attendance age.
9 The bill may include a state mandate as defined in Code
10 section 25B.3. The bill requires that the state cost of
11 any state mandate included in the bill be paid by a school
12 district from state school foundation aid received by the
13 school district under section 257.16. The specification is
14 deemed to constitute state compliance with any state mandate
15 funding-related requirements of Code section 25B.2. The
16 inclusion of this specification is intended to reinstate the
17 requirement of political subdivisions to comply with any state
18 mandates included in the bill.

House File 205 - Introduced

HOUSE FILE 205
BY WOLFE

A BILL FOR

1 An Act relating to the expungement of a dismissal or acquittal
2 of a criminal charge.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1570HH (3) 85
jm/rj

H.F. 205

1 Section 1. NEW SECTION. **901C.1 Expungement of dismissals**
2 **and acquittals.**
3 1. After the dismissal or acquittal of all charges arising
4 from the same incident, the court's criminal record relating
5 to the dismissal or acquittal of all charges arising from
6 the same incident shall be expunged. However, the court's
7 criminal record shall not be expunged until one year after the
8 date of the latest dismissal or acquittal or the person has
9 paid the costs, fees, or other financial obligations ordered
10 by the court or assessed by the clerk of the district court
11 in the case, whichever is later. The expunged record is a
12 confidential record exempt from public access under section
13 22.7 but shall be made available by the clerk of the district
14 court, upon request and without court order, to an agency or
15 person granted access to the deferred judgment docket under
16 section 907.4, subsection 2.
17 2. The provisions of this section apply to a dismissal or
18 acquittal of a charge for an offense committed on or after July
19 1, 2013.
20 EXPLANATION
21 This bill relates to the expungement of a dismissal or
22 acquittal of a criminal charge.
23 After a dismissal or acquittal of all criminal charges
24 arising from the same incident, the bill requires the court's
25 criminal record relating to all of the dismissed or acquitted
26 charges to be expunged. However, the court's record shall not
27 be expunged under the bill until the latter of one year after
28 the date of the latest dismissal or acquittal or the person has
29 paid the costs, fees, or other financial obligations ordered
30 by the court or assessed by the clerk of the district court in
31 the case.
32 The bill specifies that the expunged record is a
33 confidential record exempt from public access under Code
34 section 22.7 but shall be made available by the clerk of the
35 district court, upon request and without court order, to an

H.F. 205

1 agency or person granted access to the deferred judgment docket
2 under Code section 907.4, subsection 2.
3 The bill only applies to a dismissal or acquittal of a
4 criminal charge for an offense committed on or after July 1,
5 2013.

House File 206 - Introduced

HOUSE FILE 206
BY H. MILLER, BERRY, ANDERSON, THEDE, STECKMAN, HANSON, MASCHER, GASKILL, ABDUL-SAMAD, T. TAYLOR, RUNNING-MARQUARDT, KRESSIG, KAJTAZOVIC, WOLFE, and BEARINGER

A BILL FOR

1 An Act relating to the establishment of one or more facilities
2 for the housing of certain sex offenders in need of medical
3 and personal care.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1995YH (4) 85
ad/rj

H.F. 206

1 Section 1. NEW SECTION. **218.101 Medical and personal care**
2 **facility for sex offenders.**
3 1. *a.* By July 1, 2014, the department of human services,
4 subject to funding, shall establish one or more facilities for
5 the treatment of sex offenders classified as a tier II or tier
6 III offender who require the type of medical and personal care
7 provided by a nursing facility, residential care facility, or
8 assisted living program, and are unable to obtain admission
9 to a private facility due to the persons' status as a sex
10 offender.
11 *b.* The department may use or establish a state facility
12 or facilities for the purpose described in this section, or
13 may conduct a request for proposals process to contract with
14 private facilities or programs to provide some or all of the
15 necessary services described in subsection 2 for eligible
16 persons identified in subsection 3. A request for proposals
17 shall identify the reimbursement rates and the necessary
18 training for the staff and the staffing requirements for the
19 facility or program.
20 2. The purpose of a medical and personal care facility for
21 sex offenders is to provide one or more of the following:
22 *a.* To provide the type of care provided in a nursing
23 facility as described in section 135C.1, subsection 13.
24 *b.* To provide the type of care provided in a residential
25 care facility as described in section 135C.1, subsection 17.
26 *c.* To provide the type of care provided in assisted living
27 programs as described in section 231C.2, subsection 2.
28 3. A person is eligible for admission to a medical and
29 personal care facility for sex offenders if the person meets
30 all of the following requirements:
31 *a.* The person is classified as a tier II or tier III sex
32 offender pursuant to section 692A.102.
33 *b.* The person requires the type of medical and personal care
34 provided by a nursing facility, residential care facility, or
35 assisted living program.

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1 *c.* The person is unable to obtain admission to a private
2 nursing facility, residential care facility, or assisted living
3 program due to the person's status as a sex offender.
4 4. *a.* A person requesting admission to a facility shall
5 submit an application for admission to the department.
6 *b.* A representative of the department of inspections and
7 appeals, the department of corrections, or the department
8 of public safety, an administrator of a residential care
9 facility or nursing facility or the administrator's designee,
10 or a manager of an assisted living program or the manager's
11 designee, may also submit an application requesting admission
12 to a facility on behalf of a person with the permission of the
13 person or the person's guardian.
14 *c.* The application shall include a statement concerning
15 the actions the person requesting admission to a facility has
16 taken, or the steps taken on the person's behalf, to obtain
17 admission to a private nursing facility, residential care
18 facility, or assisted living program.
19 5. Upon application by or on behalf of a person meeting
20 the eligibility requirements, the department shall admit the
21 resident or tenant to a medical and personal care facility for
22 sex offenders unless an alternative, adequate placement for the
23 person is arranged.
24 6. Upon admission to a state-operated medical and personal
25 care facility, the department shall assess a resident or tenant
26 to identify payment options. The payor of last resort for the
27 facility is the medical assistance program established pursuant
28 to chapter 249A.
29 7. A resident or tenant may be discharged from a
30 state-operated facility if the person is no longer required
31 to register as a tier II or tier III sex offender, if the
32 department determines the person no longer requires the type
33 of medical and personal care provided by a nursing facility,
34 residential care facility, or assisted living program, or if an
35 alternative, adequate placement is arranged.

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1 8. For purposes of this section, *"adequate placement"* means
2 a placement that will provide the level of care necessary for
3 an eligible person including the level of care provided by a
4 nursing facility, residential care facility, or assisted living
5 program.
6 9. A state-operated facility offering the type of medical
7 and personal care provided by a nursing facility shall meet the
8 requirements for Medicare certification. A facility operated
9 by the state shall not be required to be licensed or certified
10 under chapter 135C or 231C.
11 10. The department shall establish by rule all of the
12 following requirements for a medical and personal care facility
13 for sex offenders:
14 *a.* The training requirements for staff at a facility.
15 *b.* The staffing plans for a facility.
16 *c.* The requirements of a safety plan for residents or
17 tenants of a facility. The rules shall include but are not
18 limited to all of the following:
19 (1) A plan for the safety of residents, tenants, and staff
20 of a facility.
21 (2) A plan for the safety of visitors to a facility.
22 (3) The responsibilities of employees of a facility in
23 implementing a safety plan.
24 *d.* The discharge policy and requirements of a state-operated
25 facility.
26 *e.* The security policy and the level of security that is
27 adequate for a facility.
28 11. The department shall adopt rules to administer this
29 section.
30 EXPLANATION
31 This bill relates to the establishment of a facility to
32 provide for the housing and care of certain sex offenders in
33 need of medical and personal care. The bill requires the
34 department of human services (DHS) to establish one or more
35 facilities, by July 1, 2014, to house and care for tier II or

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1 tier III sex offenders that need personal and medical care and
2 are unable to obtain admission to a private facility because
3 of the person's status as a sex offender. The bill states that
4 DHS may use or establish a state facility to provide care for
5 these persons or may conduct a request for proposals process to
6 contract with a private provider to provide services for these
7 persons.
8 The purpose of the establishment of the medical and personal
9 care facility for sex offenders is to provide the type of care
10 provided by a residential care facility, nursing facility, or
11 assisted living program.
12 The bill provides that a person is eligible for admission to
13 a medical and personal care facility for sex offenders if the
14 person is classified as a tier II or tier III sex offender, the
15 person requires the type of medical and personal care provided
16 by a nursing facility, residential care facility, or assisted
17 living program, and the person is unable to obtain admission
18 to a private nursing facility, residential care facility, or
19 assisted living program due to the person's status as a sex
20 offender. If a person admitted to a state-operated medical and
21 personal care facility for sex offenders no longer meets one of
22 these eligibility requirements, the patient may be discharged.
23 A person may also be discharged from a state-operated facility
24 if an alternative, adequate placement is arranged.
25 A person must submit an application for admission to a
26 medical and personal care facility for sex offenders to DHS.
27 An application may also be submitted on the person's behalf
28 with the person's permission. Upon the application of an
29 eligible person, the medical and personal care facility must
30 admit that resident or tenant unless an alternative, adequate
31 placement for the person is arranged.
32 The bill requires DHS to assess a resident or tenant's
33 payment options if accepted into a state-operated facility.
34 Medicaid is declared to be the payor of last resort.
35 The bill also mandates that a state-operated medical

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1 and personal care facility for sex offenders providing
2 nursing facility care must meet requirements for Medicare
3 certification, but a state-operated medical and personal care
4 facility is not required to be licensed or certified under Code
5 chapter 135C or 231C.
6 The bill provides certain requirements that DHS must
7 establish by rule concerning the operations of a medical and
8 personal care facility for sex offenders. These requirements
9 include staff training requirements, staffing plans, safety
10 plan requirements, the discharge policy and requirements of a
11 state-operated facility, and the security policy of a facility.

House File 207 - Introduced

HOUSE FILE 207
BY BYRNES

A BILL FOR

1 An Act relating to school district transportation costs by
2 providing supplementary weighting for transported pupils
3 in certain school districts and including applicability
4 provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2029YH (2) 85
md/sc

H.F. 207

Section 1. Section 257.11, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. *School district per pupil transportation cost.*

a. In order to provide additional funds for school districts with district transportation costs per pupil in excess of the state average transportation costs per pupil, as those amounts are determined under section 257.31, subsection 17, a supplementary weighting plan for determining enrollment is adopted.

b. A supplementary weighting amount per pupil as determined under paragraph *"c"* shall be assigned to each transported pupil of a school district that meets the requirement of paragraph *"a"*.

c. The department of management shall calculate a supplementary weighting amount per pupil for each school district meeting the requirement of paragraph *"a"* to generate an amount for the school district equal to the number of transported pupils in the district multiplied by the difference between the district transportation costs per pupil and the state average transportation cost per pupil.

d. Eligibility for supplementary weighting under this subsection shall not affect a school district's eligibility for transportation assistance under section 257.31, subsection 17.

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

EXPLANATION

This bill establishes a supplementary weighting plan for those school districts with district transportation costs per pupil in excess of the state average transportation costs per pupil. The bill requires the department of management to calculate a supplementary weighting amount per pupil for each school district meeting such a requirement to generate an amount for the school district equal to the number of transported pupils in the district multiplied by the difference

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1 between the district transportation costs per pupil and the
2 state average transportation cost per pupil.
3 The bill provides that eligibility for supplementary
4 weighting under the bill does not affect a school district's
5 eligibility for transportation assistance from the school
6 budget review committee under Code section 257.31(17).
7 The bill applies to school budget years beginning on or after
8 July 1, 2014.

House Resolution 11 - Introduced

HOUSE RESOLUTION NO. 11
BY ABDUL-SAMAD, GAINES, STAED, DAWSON, PRICHARD, T. OLSON, MURPHY, KOESTER, LOFGREN, HEDDENS, HUNTER, SALMON, DUNKEL, HANUSA, MAXWELL, HUSEMAN, GASKILL, PETTENGILL, STECKMAN, PAULSEN, KEARNS, WESSEL-KROESCHELL, R. OLSON, OLDSON, MUHLBAUER, H. MILLER, BERRY, COHOON, RUFF, HANSON, JACOBY, KELLEY, HALL, THEDE, and STUTSMAN

1 A Resolution designating February 2013 as Black History
2 Month.
3 WHEREAS, Black History Month in the United States
4 dates back to 1926, based upon the efforts of Dr.
5 Carter G. Woodson, a Harvard-educated scholar descended
6 from slave parents; and
7 WHEREAS, Black History Month is traditionally
8 observed in February of each year; and
9 WHEREAS, Black History Month is designated to
10 recognize and pay tribute to many African Americans
11 long neglected by society and the history books; and
12 WHEREAS, Black History Month aims to bridge the gap
13 created by American history´s failure to accurately
14 acknowledge, portray, and record the contributions of
15 Blacks in society; and
16 WHEREAS, Black History Month acknowledges the
17 achievements of Blacks in the military, the arts,
18 civil rights, education, entertainment, history, law,
19 literature, medicine, music, politics, science, sports,
20 and other areas; and
21 WHEREAS, the African American population in Iowa has
22 grown from 1.4 percent of the state population in 1980

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1 to 2.5 percent in 2006, and is projected to grow to 3.5
2 percent by 2030; and
3 WHEREAS, African Americans in Iowa are increasingly
4 assuming leadership roles in law, medicine, government,
5 education, the arts, and other areas; and
6 WHEREAS, five African Americans are currently
7 serving in the House of Representatives; NOW THEREFORE,
8 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES,
9 That the House of Representatives designates February
10 2013 as Black History Month and encourages schools,
11 community leaders, religious leaders, and all Iowans
12 to take this opportunity to discover the history of
13 African Americans in Iowa, from George Washington
14 Carver to James B. Morris to Simon Estes to Luther and
15 Willie Glanton, and to learn about the contributions
16 African Americans continue to make to Iowa´s economic
17 and cultural well-being.

House Resolution 12 - Introduced

HOUSE RESOLUTION NO. 12
BY HALL and PETTENGILL

1 A Resolution urging Congress to include political
2 organizations within the scope of the National Do
3 Not Call Registry.
4 WHEREAS, in 2003 Congress enacted the Do-Not-Call
5 Implementation Act of 2003; and
6 WHEREAS, under the Act the entry of a telephone
7 number on the National Do Not Call Registry will stop
8 most, but not all, unsolicited telephone calls; and
9 WHEREAS, calls from political organizations are
10 exempt from this restriction; and
11 WHEREAS, this omission is a glaring loophole in the
12 law; NOW THEREFORE,
13 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES,
14 That the House of Representatives urges the members of
15 Iowa´s congressional delegation to support legislation
16 including political organizations within the scope of
17 the National Do Not Call Registry.

House Study Bill 131 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
LOCAL GOVERNMENT BILL BY
CHAIRPERSON SCHULTZ)

A BILL FOR

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

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da/nh

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

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impoundment of adulterated or misbranded milk.

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

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

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

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

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

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

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

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

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

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

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1 to labeling requirements under chapter 191 or licensing,
2 permitting, or inspection requirements under this chapter or
3 chapter 194.
4 Sec. 8. NEW SECTION. **194.22 On-farm production, processing,**
5 **manufacturing, and marketing — exception.**
6 This chapter does not apply to any of the following:
7 1. Producing, processing, labeling, or marketing of milk,
8 if the milk is produced by a person operating a dairy farm in
9 compliance with section 192.145.
10 2. Manufacturing, labeling, or marketing of a milk product
11 or dairy product, if the milk product or dairy product is
12 manufactured by a person operating a dairy farm in compliance
13 with section 192.145.
14 Sec. 9. CODE EDITOR DIRECTIVE. The Code editor is directed
15 to divide chapter 192 into subchapters.
16 EXPLANATION
17 BACKGROUND. This bill amends provisions affecting persons
18 who operate dairy farms, including provisions for the
19 processing of milk and the manufacture of milk products, and
20 dairy products on such farms. The provisions are administered
21 and enforced by the department of agriculture and land
22 stewardship.
23 Generally, statutory provisions and departmental rules
24 regulating milk are based on model legislation referred to
25 as the "Grade `A' Pasteurized Milk Ordinance" (Code section
26 192.101A). The "Grade `A' Pasteurized Milk Ordinance" defines
27 a milk product as including cream, sour cream, dry milk,
28 concentrated milk, eggnog, buttermilk, and yogurt. All food
29 offered or exposed for sale must be labeled (Code section
30 191.1). This includes labeling the milk or milk product as
31 "raw" (Code section 191.2(5)(e)). All milk must be sold on
32 the basis of grade (Code section 194.10) and only grade "A"
33 pasteurized milk and milk products can be sold to the final
34 consumer (Code section 192.103). Grade "B" milk may be sold
35 for manufacturing purposes (21 IAC 68.2). All dairy farms

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

House Study Bill 132 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED ECONOMIC
DEVELOPMENT AUTHORITY BILL)

A BILL FOR

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

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1 DIVISION I
2 COLLECTION OF FEES
3 Section 1. Section 12.10, Code 2013, is amended to read as
4 follows:
5 **12.10 Deposits by state officers.**
6 Except as otherwise provided, all elective and appointive
7 state officers, boards, commissions, and departments shall,
8 within ten days succeeding the collection, deposit with the
9 treasurer of state, or to the credit of the treasurer of state
10 in any depository designated by the treasurer of state, ninety
11 percent of all fees, commissions, and moneys collected or
12 received. The balance actually collected in cash, remaining
13 in the hands of any officer, board, or department shall not
14 exceed the sum of five thousand dollars and money collected
15 shall not be held more than thirty days. This section does not
16 apply to the state fair board, the state board of regents, the
17 utilities board of the department of commerce, the director of
18 the department of human services, the Iowa finance authority,
19 the economic development authority, or to the funds received
20 by the state racing and gaming commission under sections 99D.7
21 and 99D.14.
22 Sec. 2. Section 15.106B, Code 2013, is amended by adding the
23 following new subsection:
24 NEW SUBSECTION. 5. *a.* The authority may charge fees to
25 businesses or individuals who receive financial assistance
26 under chapter 15 or 15E. The amount of such fees shall be
27 determined based on the costs of the authority associated with
28 its performance of contract administration and compliance
29 duties relating to economic development programs.
30 *b.* The authority may charge businesses and individuals a fee
31 for the use of the authority's federal EB-5 immigrant investor
32 regional center.
33 Sec. 3. Section 15.330, Code 2013, is amended by adding the
34 following new subsection:
35 NEW SUBSECTION. 12. *a.* The imposition of a one-time

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

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1 (2) Any amount of tax credits authorized and awarded during
2 a fiscal year for a program specified in subsection 2 which are
3 irrevocably declined by the awarded business on or before June
4 30 of the next fiscal year may be reallocated, authorized, and
5 awarded during the fiscal year in which the declination occurs.
6 Tax credits authorized pursuant to this subparagraph shall not
7 be considered for purposes of subparagraph (1).
8 Sec. 8. Section 15.119, subsection 2, paragraphs d and e,
9 Code 2013, are amended to read as follows:
10 *d.* The tax credits for investments in qualifying businesses
11 and community-based seed capital funds issued pursuant to
12 section 15E.43. In allocating tax credits pursuant to this
13 subsection, the authority shall allocate two million dollars
14 for purposes of this paragraph, unless the authority determines
15 that the tax credits awarded will be less than that amount.
16 *e.* The tax credits for investments in an innovation fund
17 pursuant to section 15E.52. In allocating tax credits pursuant
18 to this subsection, the authority shall allocate eight million
19 dollars for purposes of this paragraph, unless the authority
20 determines that the tax credits awarded will be less than that
21 amount.
22 Sec. 9. EFFECTIVE UPON ENACTMENT. This division of this
23 Act, being deemed of immediate importance, takes effect upon
24 enactment.
25 Sec. 10. RETROACTIVE APPLICABILITY. This division of this
26 Act applies retroactively to July 1, 2012.
27 DIVISION III
28 ENDOW IOWA TAX CREDIT LIMIT
29 Sec. 11. Section 15E.305, subsection 2, Code 2013, is
30 amended to read as follows:
31 2. The aggregate amount of tax credits authorized pursuant
32 to this section shall not exceed a total of ~~three~~ five million
33 ~~five hundred thousand~~ dollars ~~plus such additional credit~~
34 ~~amount as provided by this section~~ annually.
35 *a.* The maximum amount of tax credits granted to a taxpayer

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1 shall not exceed five percent of the aggregate amount of tax
2 credits authorized.
3 ~~*a.*~~ *b.* Ten percent of the aggregate amount of tax credits
4 authorized in a calendar year shall be reserved for those
5 endowment gifts in amounts of thirty thousand dollars or less.
6 If by September 1 of a calendar year the entire ten percent of
7 the reserved tax credits is not distributed, the remaining tax
8 credits shall be available to any other eligible applicants.
9 ~~*b.* For purposes of this subsection, the additional credit~~
10 ~~amount shall be an amount for each applicable calendar year~~
11 ~~determined by the department of revenue equal to the amount of~~
12 ~~money credited as provided by section 99F.11, subsection 3,~~
13 ~~paragraph "*d*", subparagraph (3), for the prior fiscal year.~~
14 Sec. 12. Section 99F.11, subsection 3, paragraph d,
15 subparagraph (3), Code 2013, is amended by striking the
16 subparagraph.
17 Sec. 13. EFFECTIVE UPON ENACTMENT. This division of this
18 Act, being deemed of immediate importance, takes effect upon
19 enactment.
20 Sec. 14. RETROACTIVE APPLICABILITY. This division of this
21 Act applies retroactively to January 1, 2013, for endow Iowa
22 tax credits authorized on or after that date.
23 DIVISION IV
24 WITHHOLDING TAX DIVERSION
25 Sec. 15. NEW SECTION. **15.331 Withholding tax payment**
26 **diversion.**
27 1. If the authority enters into an agreement pursuant to
28 this part, or pursuant to chapter 15E, division XVIII, for
29 any of the incentives or assistance provided under this part,
30 the authority and the eligible business may agree to credit
31 a portion of the withholding payments required under section
32 422.16 to the authority as provided in this section.
33 2. *a.* An eligible business entering into a withholding
34 agreement with the authority pursuant to this section shall
35 remit the total amount of withholding payments due pursuant to

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1 section 422.16 to the department of revenue.
2 *b.* The department of revenue shall quarterly deposit in a
3 fund created pursuant to section 15.106A an amount equal to two
4 and one-half percent of the gross wages paid by the eligible
5 business to each employee holding a created or retained job
6 covered by an agreement entered into pursuant to this part or
7 chapter 15E, division XVIII. Moneys to be deposited pursuant
8 to this paragraph shall not be paid to the authority until
9 the correct amounts have been verified by the department of
10 revenue.
11 3. Withholding payments shall be deposited pursuant to this
12 section by the department of revenue for each employee holding
13 a created or retained job for the duration of the agreement
14 between the eligible business and the authority.
15 4. The authority and the eligible business shall provide
16 to the department of revenue any information necessary to
17 correctly process the diversion of withholding tax payments
18 pursuant to this section.
19 5. An employee holding a created or retained job shall
20 receive full credit for the amount withheld as provided in
21 section 422.16.
22 6. If a portion of the employee's gross wages are subject
23 to a withholding credit diversion under chapter 260E, chapter
24 260G, or section 403.19A, or a supplemental withholding credit
25 diversion under section 15E.197, when a withholding credit
26 diversion under this section is agreed to, then the withholding
27 payments shall be credited in the following order of priority:
28 *a.* First, the withholding payments to be credited pursuant
29 to chapters 260E and 260G and section 15E.197.
30 *b.* Second, the withholding payments to be credited pursuant
31 to this section.
32 *c.* Third, the withholding payments to be credited pursuant
33 to section 403.19A.
34 7. If a withholding agreement is entered into pursuant to
35 this section before a withholding agreement is entered into

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1 under chapter 260E or 260G, or section 15E.197 or 403.19A, the
2 withholding payments shall be credited in the order in which
3 the agreements are entered into.
4 8. The authority, in conjunction with the department of
5 revenue, shall adopt rules for the administration of this
6 section.
7 Sec. 16. EFFECTIVE UPON ENACTMENT. This division of this
8 Act, being deemed of immediate importance, takes effect upon
9 enactment.
10 Sec. 17. RETROACTIVE APPLICABILITY. This division of
11 this Act applies retroactively to July 1, 2012, for high
12 quality jobs program agreements and enterprise zone program
13 agreements entered into on or after that date, and for awards
14 of incentives or assistance made under those programs on or
15 after that date.
16 DIVISION V
17 CITY DEVELOPMENT BOARD FEES
18 Sec. 18. Section 368.10, Code 2013, is amended to read as
19 follows:
20 **368.10 Rules — establishment of filing fees.**
21 The board may establish rules for the performance of its
22 duties and the conduct of proceedings before it. The rules
23 may include establishing filing fees for applications and
24 petitions submitted to the board. The amounts collected
25 from the establishment of such fees are appropriated to the
26 board for the purpose of reimbursing the economic development
27 authority for the budgeted costs of covering the board's
28 expenses as described in section 368.9, subsection 1. Any
29 amounts collected in a fiscal year by the board in excess of
30 such budgeted costs shall be deposited in the general fund of
31 the state. The board's rules are subject to chapter 17A, as
32 applicable.
33 DIVISION VI
34 HIGH QUALITY JOBS REPLACEMENT TAX REBATE
35 Sec. 19. NEW SECTION. **15.332A Replacement tax rebate.**

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1 1. Subject to the conditions in subsection 2, a community
2 may rebate all or a portion of the tax imposed and collected
3 pursuant to section 437A.5 on natural gas delivered or consumed
4 in completion of a project to the extent that the delivery or
5 consumption is directly related to new jobs created by the
6 start-up, location, or expansion of an eligible business under
7 the program.
8 2. A rebate provided pursuant to this section shall be for
9 a period equal to the length of the agreement executed pursuant
10 to this part or twenty years, whichever is less.
11 Sec. 20. EFFECTIVE UPON ENACTMENT. This division of this
12 Act, being deemed of immediate importance, takes effect upon
13 enactment.
14 Sec. 21. APPLICABILITY. This division of this Act applies
15 to high quality jobs program agreements entered into on or
16 after July 1, 2012.
17 EXPLANATION
18 This bill relates to the financial management of the
19 economic development authority (EDA) by authorizing and
20 creating fees and a tax rebate, affecting the aggregate tax
21 credit limit for certain economic development programs and
22 the tax credit for the endow Iowa tax credit, authorizing the
23 diversion of withholding tax payments for certain programs, and
24 by making an appropriation.
25 COLLECTION OF FEES. Division I amends Code section
26 15.106B, relating to the program powers of the EDA, to allow
27 for the imposition and collection of fees from businesses or
28 individuals who receive financial assistance from the EDA under
29 Code chapter 15 or 15E. The fee amounts are to be determined
30 based on the EDA's costs of administering contracts under its
31 various economic development programs. The division also
32 allows the EDA to charge a fee for the use of its federal EB-5
33 immigrant investor regional center. Code section 12.10 is
34 amended to allow the EDA to retain the fees it collects by
35 adding the EDA to the list of departments exempted from the

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1 requirement to deposit all collected fees with the treasurer of
2 state.
3 The division creates two compliance cost fees to be imposed
4 on all persons or entities that enter into an agreement with
5 the EDA under its high quality jobs program or enterprise zone
6 program. First, a one-time compliance cost fee of $500 due
7 prior to the issuance of a tax incentive certificate or the
8 disbursement of financial assistance. Second, a compliance
9 cost fee equal to 0.5 percent of the value of tax incentives
10 claimed under any agreement that has an aggregate tax incentive
11 value of $100,000 or greater, which fee is due after a tax
12 incentive is claimed from the department of revenue.
13 The division takes effect upon enactment and applies to
14 agreements entered into on or after the effective date of the
15 division.
16 AGGREGATE TAX CREDIT LIMITATION. Division II increases
17 the aggregate tax credit limit on EDA programs listed in
18 Code section 15.119 from $120 million per fiscal year to
19 $185 million per fiscal year. The division allows the EDA
20 to reallocate, authorize, and award for a fiscal year any
21 amount of tax credits that were previously awarded by the EDA,
22 provided the tax credit is irrevocably declined by the awarded
23 business before the close of the fiscal year which follows the
24 fiscal year in which it was awarded. Any amount of tax credits
25 reallocated, authorized, and awarded under this provision shall
26 not be included in the calculation of the aggregate tax credit
27 limit for the fiscal year.
28 The division amends the requirements that $2 million and $8
29 million in tax credits be allocated to the qualifying business
30 and community-based seed capital funds investment tax credits
31 and the innovation fund tax credit, respectively, to allow
32 the EDA to allocate a lesser amount if it determines the tax
33 credits awarded for that fiscal year will be lower.
34 The division takes effect upon enactment and applies
35 retroactively to July 1, 2012.

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1 ENDOW IOWA TAX CREDIT LIMIT. Under current law, the amount
2 of endow Iowa tax credits that may be authorized in a calendar
3 year cannot exceed a total of $3.5 million plus a certain
4 percentage of the wagering tax receipts as provided in Code
5 section 99F.11. Division III amends this annual limit to
6 provide that a maximum of $5 million per calendar year may
7 be authorized and to provide that amounts collected from the
8 wagering tax pursuant to Code section 99F.11 will no longer be
9 used to fund the endow Iowa tax credit.
10 The division takes effect upon enactment and applies
11 retroactively to January 1, 2013, for endow Iowa tax credits
12 authorized on or after that date.
13 WITHHOLDING TAX DIVERSION. Division IV provides for
14 a diversion of withholding tax to the EDA. The division
15 provides that the authority may enter into agreements with
16 recipients of financial assistance under the high quality jobs
17 program and the enterprise zones program that allow for the
18 diversion of withholding tax payments pursuant to Code section
19 422.16 from the department of revenue to the authority. The
20 diversion amount will be 2.5 percent of gross wages paid by
21 eligible businesses to each employee considered to be holding a
22 created or retained job. The division establishes a priority
23 withholding order if the employee's wages are subject to
24 another withholding diversion. The division provides that the
25 withholding diversion takes effect upon enactment and applies
26 retroactively to high quality jobs program agreements and
27 enterprise zone program agreements entered into on or after
28 July 1, 2012, and awards of incentives and assistance made
29 under those programs on or after July 1, 2012.
30 CITY DEVELOPMENT BOARD FEES. Under current law, the EDA
31 is required to provide office space and staff assistance to
32 the city development board created in Code section 368.9,
33 and to budget funds to cover expenses of the board. Also
34 under current law, the city development board is allowed to
35 impose fees upon applications and petitions submitted to the

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1 board. Division V appropriates the amounts collected from
2 those fees to the city development board for the purpose of
3 reimbursing the EDA for the budgeted costs of covering the
4 board's expenses. Any fees collected in a fiscal year by the
5 city development board in excess of such budgeted costs shall
6 be deposited in the general fund of the state.
7 HIGH QUALITY JOBS REPLACEMENT TAX REBATE. Division VI
8 provides that a community may rebate all or a portion of the
9 replacement tax imposed on the delivery of natural gas in Code
10 section 437A.5. To qualify for the rebate, the natural gas
11 upon which the replacement tax was paid must be delivered or
12 consumed in completion of a project that is part of a high
13 quality jobs program agreement and must be directly related to
14 new jobs created by the start-up, location, or expansion of an
15 eligible business under the high quality jobs program.
16 The division takes effect upon enactment and applies to high
17 quality jobs program agreements entered into on or after July
18 1, 2012.

House Study Bill 133 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON COWNIE)

A BILL FOR

1 An Act relating to enhanced E911 emergency communication
2 systems, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1422YC (3) 85
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1 Section 1. Section 34A.7, subsection 1, paragraph a, Code
2 2013, is amended by striking the paragraph and inserting in
3 lieu thereof the following:
4 *a.* To encourage local implementation of E911 service, one
5 source of funding for E911 emergency communication systems
6 shall come from a surcharge per month, per access line on each
7 access line subscriber, of one dollar.
8 Sec. 2. Section 34A.7, subsection 1, paragraph b,
9 subparagraph (1), Code 2013, is amended to read as follows:
10 (1) The program manager shall notify a local exchange
11 service provider scheduled to provide exchange access line
12 service to an E911 service area that implementation of an E911
13 service plan has been approved by the joint E911 service board
14 ~~and by the service area referendum~~ and that collection of the
15 surcharge is to begin within sixty days.
16 Sec. 3. Section 34A.7, subsection 5, Code 2013, is amended
17 to read as follows:
18 5. *Use of moneys in fund — priority and limitations on*
19 *expenditure.*
20 *a.* Moneys deposited in the E911 service fund shall be
21 used for the repayment of any bonds issued for the benefit
22 of or loan made to the joint E911 service board pursuant to
23 sections 34A.20 through 34A.22, and as long as any such bond
24 or loan remains unpaid the surcharge shall not be reduced or
25 eliminated. Moneys deposited in the fund shall be subject to
26 such terms and conditions as may be contained in the relevant
27 bond documents, trust indenture, resolution, loan agreement, or
28 other instrument pursuant to which bonds are issued or a loan
29 is made, without regard to any limitation otherwise provided
30 by law. ~~The surcharge may be increased, but shall not exceed~~
31 ~~the maximum allowed in subsection 1, upon approval of the~~
32 ~~authority upon such terms and conditions as may be contained~~
33 ~~in the relevant bond documents, trust indenture, resolution,~~
34 ~~loan agreement, or other instrument pursuant to which bonds are~~
35 ~~issued or a loan is made, as deemed necessary or prudent by the~~

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1 ~~authority to secure repayment and assure marketability or a~~
2 ~~reasonable interest rate.~~
3 *b.* Moneys deposited in the E911 service fund shall be used
4 for the following, in order of priority if paragraph *"a"* does
5 not apply:
6 (1) Money shall first be spent for actual recurring costs of
7 operating the E911 service plan.
8 (2) If money remains in the fund after fully paying for
9 recurring costs incurred in the preceding year, the remainder
10 may be spent to pay for nonrecurring costs, not to exceed
11 actual nonrecurring costs as approved by the program manager.
12 (3) If money remains in the fund after fully paying
13 obligations under subparagraphs (1) and (2), the remainder may
14 be accumulated in the fund as a carryover operating surplus.
15 ~~If the surplus is greater than twenty-five percent of the~~
16 ~~approved annual operating budget for the next year, the program~~
17 ~~manager shall reduce the surcharge by an amount calculated to~~
18 ~~result in a surplus of no more than twenty-five percent of the~~
19 ~~planned annual operating budget. After nonrecurring costs have~~
20 ~~been paid, if the surcharge is less than the maximum allowed~~
21 ~~and the fund surplus is less than twenty-five percent of the~~
22 ~~approved annual operating budget, the program manager shall,~~
23 ~~upon application of the joint E911 service board, increase the~~
24 ~~surcharge in an amount calculated to result in a surplus of~~
25 ~~twenty-five percent of the approved annual operating budget.~~
26 ~~The surcharge may only be adjusted once in a single year, upon~~
27 ~~sixty days' prior notice to the provider.~~
28 Sec. 4. Section 34A.7, subsection 7, Code 2013, is amended
29 by striking the subsection.
30 Sec. 5. Section 34A.7A, subsection 1, paragraphs a and b,
31 Code 2013, are amended to read as follows:
32 *a.* ~~Notwithstanding section 34A.6, the~~ The administrator
33 shall adopt by rule a monthly surcharge of ~~up to sixty-five~~
34 ~~cents~~ one dollar to be imposed on each communications service
35 number provided in this state. The surcharge shall be

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imposed uniformly on a statewide basis and simultaneously on all communications service numbers as provided by rule of the administrator. The surcharge shall not be imposed on wire-line-based communications or prepaid wireless telecommunications service.

b. The program manager shall provide no less than sixty days' notice of the surcharge to be imposed to each communications service provider. ~~The program manager, subject to the sixty-five cent limit in paragraph "a", may adjust the amount of the surcharge as necessary, but no more than once in any calendar year.~~

Sec. 6. Section 34A.7A, subsection 2, Code 2013, is amended by adding the following new paragraph:

NEW PARAGRAPH. *0b.* The program manager shall allocate thirteen percent of the total amount of surcharge generated to wireless carriers to recover their costs to deliver E911 phase 1 services. If the allocation in this paragraph is insufficient to reimburse all wireless carriers for such carrier's eligible expenses, the program manager shall allocate a prorated amount to each wireless carrier equal to the percentage of such carrier's eligible expenses as compared to the total of all eligible expenses for all wireless carriers for the calendar quarter during which such expenses were submitted. When prorated expenses are paid, the remaining unpaid expenses shall no longer be eligible for payment under this paragraph.

Sec. 7. Section 34A.7A, subsection 2, paragraph e, Code 2013, is amended to read as follows:

e. If moneys remain in the fund after fully paying all obligations under paragraphs *"a"* ~~through~~, *"0b"*, *"b"*, *"c"*, and *"d"*, the remainder may be accumulated in the fund as a carryover operating surplus. This surplus shall be used to fund future network and public safety answering point improvements, including hardware and software for an internet protocol-enabled next generation network, and wireless

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1 carriers' transport costs related to wireless E911 services, if
2 those costs are not otherwise recovered by wireless carriers
3 through customer billing or other sources and approved by the
4 program manager in consultation with the E911 communications
5 council. Notwithstanding section 8.33, any moneys remaining
6 in the fund at the end of each fiscal year shall not revert to
7 the general fund of the state but shall remain available for
8 the purposes of the fund.
9 Sec. 8. Section 34A.7A, Code 2013, is amended by adding the
10 following new subsection:
11 NEW SUBSECTION. 5. *a.* The program manager, in consultation
12 with the E911 communications council, shall establish a
13 methodology for determining and collecting comprehensive public
14 safety answering point cost and expense data. The methodology
15 shall include the collection of data for all costs and expenses
16 related to the operation of a public safety answering point and
17 account for the extent to which identified costs and expenses
18 are compensated for or addressed through E911 surcharges versus
19 other sources of funding.
20 *b.* Data collection pursuant to paragraph "*a*" shall commence
21 no later than January 1, 2014. The program manager shall
22 prepare a report detailing the methodology developed and
23 the data collected after such data has been collected for a
24 two-year period. The report shall be submitted to the general
25 assembly by March 1, 2016, and every two years thereafter.
26 *c.* A public safety answering point which fails to submit
27 expenses and costs pursuant to the methodology developed
28 pursuant to paragraph "*a*" by March 31, 2014, shall be allocated
29 sixty-five cents out of the one dollar emergency communications
30 service surcharge until March 31, 2015. A public safety
31 answering point which fails to submit expenses and costs by
32 March 31, 2015, shall continue to be allocated sixty-five
33 cents out of the one dollar emergency communications service
34 surcharge until March 31, 2016, and all revenue derived during
35 this second year shall, notwithstanding any provision to the

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1 contrary, be deposited in the emergency communications fund and
2 accumulated as operating surplus as provided in subsection 2,
3 paragraph *"e"*. These provisions shall remain applicable for
4 failure to submit required data for every successive two-year
5 period.
6 Sec. 9. REPEAL. Sections 34A.6 and 34A.6A, Code 2013, are
7 repealed.
8 EXPLANATION
9 This bill modifies provisions applicable to the
10 administration and funding of enhanced E911 emergency
11 communication systems.
12 The bill eliminates existing voter referendum requirements
13 regarding imposition of the local wire-line E911 service
14 surcharge and the alternative surcharge applicable to wire-line
15 communications contained in Code sections 34A.6 and 34A.6A,
16 respectively. The bill replaces current provisions authorizing
17 imposition of the wire-line E911 service surcharge in an amount
18 up to $1 per access line with a requirement that the surcharge
19 be imposed at the $1 level. The bill increases the level of
20 the emergency communications service surcharge from the current
21 level of up to 65 cents per communications service number to
22 $1 per service number.
23 The bill reinstates provisions authorizing wireless carriers
24 to recover their E911 service delivery costs which were
25 eliminated during the 2012 legislative session. However, the
26 bill specifies that the program manager shall allocate 13
27 percent of the total amount of emergency communications service
28 surcharge revenue for such cost recovery. Further, the bill
29 requires the E911 program manager to consult with the E911
30 communications council regarding how revenue accumulated in the
31 emergency communications fund as carryover operating surplus
32 shall be allocated. Currently, this determination is made
33 strictly with the approval of the program manager.
34 Additionally, the bill directs the program manager, in
35 consultation with the council, to establish a methodology

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1 for determining and collecting comprehensive public safety
2 answering point cost and expense data. The bill states that
3 data collection shall commence no later than January 1, 2014,
4 and that the program manager shall prepare a report detailing
5 the methodology and the data collected after the data has
6 been collected for two years. The report is required to
7 be submitted to the general assembly by March 1, 2016, and
8 every two years thereafter. The bill provides that a public
9 safety answering point which fails to submit expenses and
10 costs pursuant to the methodology by March 31, 2014, shall
11 be allocated 65 cents out of the emergency communications
12 service surcharge until March 31, 2015, and that a public
13 safety answering point which fails to submit expenses and costs
14 by March 31, 2015, shall continue to be allocated 65 cents
15 until March 31, 2016, with all revenue derived during this
16 second year deposited and accumulated as operating surplus in
17 the emergency communications fund. The bill specifies that
18 these provisions remain applicable to public safety answering
19 points for failure to submit required data for every successive
20 two-year period.

House Study Bill 134 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON COWNIE)

A BILL FOR

1 An Act regulating the sale of portable electronics insurance,
2 including by requiring licensure, and providing for fees and
3 penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1494YC (3) 85
av/nh

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1 Section 1. NEW SECTION. **522E.1 Definitions.**
2 As used in this chapter, unless the context otherwise
3 requires:
4 1. *"Commissioner"* means the commissioner of insurance.
5 2. *"Customer"* means a person who purchases portable
6 electronics.
7 3. *"Enrolled customer"* means a customer who elects coverage
8 under a portable electronics insurance policy issued to a
9 vendor of portable electronics.
10 4. *"Free trial offer"* means an offer to a customer under
11 which portable electronics insurance is provided free of charge
12 for a limited time period subsequent to which a charge is
13 made to the customer for the insurance without notice to the
14 customer of such charge prior to the expiration of the free
15 trial period.
16 5. *"Location"* means any physical location in this state,
17 or any internet site, call center site, or similar location
18 directed to residents of this state.
19 6. *"Portable electronics"* means electronic devices that
20 are personal, self-contained, easily carried by an individual,
21 battery operated, and used for communication, viewing,
22 listening, recording, gaming, computing, or global positioning,
23 including cell or satellite phones, pagers, personal global
24 positioning satellite units, portable computers, portable
25 audio listening, video viewing, or recording devices, digital
26 cameras, video camcorders, portable gaming systems, docking
27 stations, automatic answering devices, and other similar
28 devices, and the accessories and services related to the use of
29 such devices.
30 7. *a. "Portable electronics insurance"* means insurance
31 providing coverage for the repair or replacement of portable
32 electronics which may include coverage against any one or more
33 of the following causes of loss:
34 (1) Property loss.
35 (2) Theft.

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1 (3) Inoperability due to mechanical failure.
2 (4) Malfunction.
3 (5) Damage.
4 (6) Other similar causes of loss.
5 *b. "Portable electronics insurance"* does not include any of
6 the following:
7 (1) A service contract or extended warranty providing
8 coverage limited to the repair, replacement, or maintenance
9 of property for the operational or structural failure of the
10 property due to a defect in materials, workmanship, accidental
11 damage from handling power surges, or normal wear and tear.
12 (2) A policy of insurance coverage of a seller's or
13 manufacturer's obligations under a warranty.
14 (3) A homeowner's, renter's, private passenger automobile,
15 commercial multiperil, or similar insurance policy.
16 8. *"Portable electronics transaction"* means any of the
17 following:
18 *a.* The sale or lease of portable electronics by a vendor to
19 a customer.
20 *b.* The sale of a service related to the use of portable
21 electronics by a vendor to a customer.
22 9. *"Supervising entity"* means a business entity that is
23 a licensed insurer or an insurance producer licensed under
24 chapter 522B, that is appointed by an insurer to supervise the
25 administration of a portable electronics insurance program.
26 10. *"Vendor"* means a person in the business of engaging in
27 portable electronics transactions, directly or indirectly.
28 Sec. 2. NEW SECTION. **522E.2 Licensure of vendors.**
29 1. A vendor shall obtain a portable electronics limited
30 lines insurance license as required under this chapter to
31 sell or offer for sale coverage under a policy of portable
32 electronics insurance.
33 2. A portable electronics limited lines insurance license
34 issued to a vendor pursuant to this chapter authorizes any
35 employee or authorized representative of the vendor to sell or

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1 offer coverage under a policy of portable electronics insurance
2 to a customer at each location at which the vendor engages in
3 portable electronics transactions.
4 3. A supervising entity shall maintain a registry of vendor
5 locations that are authorized to sell or solicit portable
6 electronics insurance in this state. Upon request by the
7 commissioner and with ten days' notice to the supervising
8 entity, the registry shall be open to inspection and
9 examination by the commissioner during regular business hours
10 of the supervising entity.
11 4. Notwithstanding any other provision of law to the
12 contrary, a portable electronics limited lines insurance
13 license issued pursuant to this chapter authorizes the licensee
14 and its employees or authorized representatives to engage in
15 those activities that are permitted in this chapter.
16 Sec. 3. NEW SECTION. **522E.3 Requirements for sale of**
17 **portable electronics insurance.**
18 1. At every location where portable electronics insurance
19 is offered to customers, brochures or other written materials
20 that do all of the following shall be made available to
21 prospective customers:
22 *a.* Disclose that portable electronics insurance may provide
23 a duplication of coverage already provided by the customer's
24 homeowner's insurance policy, renter's insurance policy, or
25 other source of insurance coverage.
26 *b.* State that enrollment by the customer in a portable
27 electronics insurance program is not required in order to
28 purchase or lease portable electronics.
29 *c.* Summarize the material terms of the portable electronics
30 insurance coverage including all of the following:
31 (1) The identity of the insurer.
32 (2) The identity of the supervising entity.
33 (3) The amount of any applicable deductible and how it is
34 to be paid.
35 (4) Benefits of the coverage.

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1 (5) Key terms and conditions of coverage such as whether
2 portable electronics may be repaired or replaced with similar
3 make and model reconditioned or nonoriginal manufacturer parts
4 or equipment.
5 *d.* Summarize the process for filing a claim, including
6 a description of how to return portable electronics and the
7 maximum fee applicable in the event the customer fails to
8 comply with any equipment return requirements.
9 *e.* State that an enrolled customer may cancel enrollment for
10 coverage under a portable electronics insurance policy at any
11 time and the person paying the premium shall receive a refund
12 or credit of any applicable unearned premium.
13 2. The disclosures required pursuant to subsection 1 or the
14 full terms and conditions of portable electronics insurance
15 coverage shall be provided to customers enrolling in such
16 coverage by hand delivery, ordinary mail, or electronic mail,
17 or by directing the customer to an internet site containing
18 such information.
19 3. Portable electronics insurance may be offered on a
20 month-to-month or other periodic basis as a group or master
21 commercial inland marine policy issued to a vendor for its
22 enrolled customers.
23 4. Portable electronics insurance shall not be sold through
24 a free trial offer.
25 5. The commissioner of insurance shall establish
26 eligibility and underwriting standards for customers electing
27 to enroll in coverage for each portable electronics insurance
28 program.
29 Sec. 4. NEW SECTION. **522E.4 Authority of vendors.**
30 1. The employees and authorized representatives of a vendor
31 may sell or offer portable electronics insurance to customers
32 and shall not be subject to licensure under this chapter or as
33 an insurance producer under chapter 522B provided that all of
34 the following requirements are met:
35 *a.* The vendor obtains a portable electronics limited lines

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1 insurance license that authorizes the vendor's employees
2 or authorized representatives to sell or offer portable
3 electronics insurance pursuant to this chapter.
4 *b.* The insurer issuing the portable electronics insurance
5 either directly supervises the administration of the portable
6 electronics insurance program or appoints a supervising entity
7 to supervise the administration of the program, including
8 development of a training program for employees and authorized
9 representatives of the vendor. The training required by this
10 paragraph shall comply with all of the following requirements:
11 (1) The training shall be delivered to employees and
12 authorized representatives of a vendor who are directly engaged
13 in the activity of selling or offering for sale portable
14 electronics insurance.
15 (2) The training may be offered in electronic form.
16 However, if the training is conducted in electronic form, the
17 supervising entity shall implement a supplemental education
18 program for employees and authorized representatives of
19 the vendor regarding the portable electronics insurance
20 product that is conducted and overseen by an employee of the
21 supervising entity who is an insurance producer licensed under
22 chapter 522B.
23 (3) Each employee and authorized representative of a vendor
24 shall receive basic instruction about the portable electronics
25 insurance offered to customers and the disclosures required
26 under section 522E.3.
27 *c.* A vendor or an authorized representative shall maintain
28 a list of all employees or authorized representatives of each
29 vendor who are authorized to sell or offer portable electronics
30 insurance to customers under this section. Upon request by
31 the commissioner, and with ten days' notice to the vendor
32 or supervising entity, the list maintained shall be open to
33 inspection and examination by the commissioner during normal
34 business hours of the vendor or supervising entity.
35 *d.* An employee or authorized representative of a vendor

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1 shall not advertise, represent, or otherwise hold the employee
2 or authorized representative out as being a licensed insurance
3 producer under chapter 522B.
4 2. *a.* Charges for portable electronics insurance coverage
5 may be billed and collected by the vendor. Any charge to an
6 enrolled customer for coverage that is not included in the cost
7 associated with the purchase or lease of portable electronics
8 shall be separately itemized on the enrolled customer's bill.
9 If the portable electronics insurance is included with the
10 purchase or lease of portable electronics, the vendor shall
11 clearly and conspicuously disclose to the enrolled customer
12 that the portable electronics insurance is included with the
13 portable electronics.
14 *b.* A vendor that bills and collects charges for portable
15 electronics insurance shall not be required to maintain such
16 funds in a segregated account provided that the vendor is
17 authorized by the insurer to hold such funds in an alternative
18 manner and remits such amounts to the supervising entity within
19 sixty days of receipt.
20 *c.* All funds received by a vendor from an enrolled customer
21 for the purchase of portable electronics insurance shall be
22 considered funds held in trust by the vendor in a fiduciary
23 capacity for the benefit of the insurer. A vendor may receive
24 compensation for billing and collection services.
25 Sec. 5. NEW SECTION. **522E.5 Penalties — suspension or**
26 **revocation of license.**
27 If a vendor or the vendor's employee or authorized
28 representative violates any provision of this chapter, the
29 commissioner may do any of the following:
30 1. After notice and hearing, impose penalties not to exceed
31 five hundred dollars per violation or five thousand dollars in
32 the aggregate for such violations.
33 2. After notice and hearing, take other affirmative action
34 that the commissioner deems necessary and reasonable to carry
35 out the purposes of this chapter, including the following:

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1 *a.* Suspend the privilege of selling or offering for sale
2 portable electronics insurance pursuant to this chapter at
3 specific business locations where violations of this chapter
4 have occurred.
5 *b.* Suspend or revoke the ability of an individual employee
6 or authorized representative to sell or offer for sale portable
7 electronics insurance pursuant to the portable electronics
8 limited lines insurance license of a vendor.
9 Sec. 6. NEW SECTION. **522E.6 Termination of portable**
10 **electronics insurance.**
11 Notwithstanding any other provision of law to the contrary:
12 1. An insurer may terminate or otherwise change the terms
13 and conditions of a policy of portable electronics insurance
14 only upon providing the vendor and enrolled customers with at
15 least thirty days' notice of such termination or change.
16 2. If the insurer changes the terms and conditions of a
17 policy of portable electronics insurance, the insurer shall
18 provide the vendor with a revised policy or endorsement and
19 each enrolled customer with a revised certificate, endorsement,
20 updated brochure, or other evidence indicating that a change in
21 the terms and conditions of the policy has occurred along with
22 a summary of material changes.
23 3. Notwithstanding subsection 1, an insurer may terminate
24 an enrolled customer's enrollment under a portable electronics
25 insurance policy with fifteen days' notice upon discovery of
26 fraud or material misrepresentation in obtaining coverage or in
27 the presentation of a claim under that coverage.
28 4. Notwithstanding subsection 1, an insurer may immediately
29 terminate an enrolled customer's enrollment under a portable
30 electronics insurance policy for any of the following reasons:
31 *a.* Nonpayment of premium.
32 *b.* If the enrolled customer ceases to have active service
33 with the vendor.
34 *c.* If the enrolled customer exhausts the aggregate limit of
35 liability, if any, under the terms of the portable electronics

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1 insurance policy and the insurer sends notice of termination to
2 the enrolled customer within thirty days after exhaustion of
3 the limit. However, if notice is not timely sent, enrollment
4 shall continue notwithstanding the aggregate limit of liability
5 until the insurer sends notice of termination to the enrolled
6 customer.
7 5. If a portable electronics insurance policy is terminated
8 by a vendor, the vendor shall mail or deliver written notice
9 to each enrolled customer advising the enrolled customer
10 of the termination of the policy and the effective date of
11 termination. The written notice shall be mailed or delivered
12 to the enrolled customer at least thirty days prior to the
13 termination.
14 6. *a.* Whenever notice or correspondence with respect to a
15 policy of portable electronics insurance is required pursuant
16 to this section or is otherwise required by law, the notice
17 or correspondence shall be in writing and sent within the
18 notice period, if any, specified in the statute or regulation
19 requiring the notice or correspondence.
20 *b.* Notwithstanding any other provision of law to the
21 contrary, notices and correspondence may be sent by mail or by
22 electronic means as set forth in this lettered paragraph *"b"*.
23 (1) If the notice or correspondence is sent by mail, it
24 shall be sent to the vendor at the vendor's mailing address
25 specified for such purpose and to the affected enrolled
26 customers at their last known mailing addresses on file with
27 the insurer. The insurer or vendor, as the case may be, shall
28 maintain proof of mailing in a form authorized or accepted
29 by the United States postal service or other commercial mail
30 delivery service.
31 (2) If the notice or correspondence is sent by electronic
32 means, it shall be sent to the vendor at the vendor's
33 electronic mail address specified for such purpose and to the
34 affected enrolled customers at their last known electronic mail
35 address as provided by each enrolled customer to the insurer or

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1 vendor, as the case may be. For purposes of this subparagraph,
2 an enrolled customer's provision of an electronic mail address
3 to an insurer or vendor shall be deemed consent to receive
4 notices and correspondence by electronic means. The insurer or
5 vendor, as the case may be, shall maintain proof that a notice
6 or correspondence was sent by electronic means to an enrolled
7 customer.
8 7. Notice or correspondence required by this section or
9 otherwise required by law may be sent on behalf of an insurer
10 or vendor, as the case may be, by the supervising entity
11 appointed by the insurer.
12 Sec. 7. NEW SECTION. **522E.7 Application for license —**
13 **fees.**
14 1. If a vendor is selling or offering to sell or will
15 sell or offer to sell portable electronics insurance in this
16 state, the vendor shall submit a sworn application for a
17 portable electronics limited lines insurance license to the
18 commissioner on an application form prescribed and furnished by
19 the commissioner.
20 2. The application form shall include the following
21 information:
22 *a.* The name, residence address, and other information
23 required by the commissioner for an employee or officer of
24 the vendor that is designated by the vendor as the person
25 responsible for or who will be responsible for the vendor's
26 compliance with the requirements of this chapter. However, if
27 the vendor derives more than fifty percent of its revenue from
28 the sale of portable electronics insurance, the information
29 required in this paragraph shall be provided for all officers,
30 directors, and shareholders of record of the vendor that have
31 beneficial ownership in the vendor of ten percent or more of
32 any class of securities registered under federal securities
33 law.
34 *b.* Provide the location of the vendor's home office.
35 3. Any vendor engaging in the sale of or offering for sale

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1 portable electronics insurance on or before July 1, 2013,
2 shall apply for licensure under this chapter within ninety
3 days of the application form being made available by the
4 commissioner. Any vendor commencing operations in this state
5 after July 1, 2013, shall obtain a portable electronics limited
6 lines insurance license prior to selling or offering for sale
7 portable electronics insurance.
8 4. Initial portable electronics limited lines insurance
9 licenses issued pursuant to this chapter shall be valid for a
10 period of twenty-four months and shall expire on March of the
11 renewal year assigned by the commissioner.
12 5. Each vendor licensed under this chapter shall pay to the
13 commissioner a fee as prescribed by the commissioner by rule,
14 but in no event shall the fee exceed one thousand dollars for
15 an initial portable electronics limited lines insurance license
16 or five hundred dollars for each renewal of the license.
17 However, for a vendor that engages in portable electronics
18 transactions at ten or fewer locations in the state, the fee
19 shall not exceed one hundred dollars for an initial license and
20 one hundred dollars for each renewal of the license.
21 Sec. 8. NEW SECTION. **522E.8 Rules.**
22 The commissioner shall adopt rules pursuant to chapter 17A
23 as necessary to implement and administer the provisions of this
24 chapter.
25 EXPLANATION
26 This bill regulates the sale of portable electronics
27 insurance in new Code chapter 522E by requiring licensure,
28 and providing for fees and penalties. "Portable electronics"
29 are electronic devices that are personal, self-contained,
30 easily carried by an individual, battery operated, and used
31 for communication, viewing, listening, recording, gaming,
32 computing, or global positioning, including cell or satellite
33 phones, pagers, personal global positioning satellite units,
34 portable computers, portable audio listening, video viewing, or
35 recording devices, digital cameras, video camcorders, portable

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1 gaming systems, docking stations, automatic answering devices,
2 and other similar devices, and the accessories and services
3 related to the use of such devices.
4 "Portable electronics insurance" is insurance that provides
5 coverage for the repair or replacement of portable electronics
6 including various causes of loss. "Portable electronics
7 insurance" does not include a service contract or extended
8 warranty, a seller's or manufacturer's warranty obligations,
9 or other insurance such as homeowner's, renter's, automobile,
10 or commercial multiperil insurance. Vendors of portable
11 electronics sell or offer for sale such insurance pursuant
12 to a policy issued to the vendor by an insurer that offers
13 such coverage. The bill applies to vendors that have physical
14 locations in the state, as well as any internet site, call
15 center site, or similar location directed to residents of this
16 state.
17 Vendors are required to obtain a portable electronics
18 limited lines insurance license as required under new Code
19 chapter 522E to sell or offer for sale coverage under a
20 portable electronics insurance policy. Such a license
21 issued to a vendor authorizes any employee or authorized
22 representative of the vendor to sell or offer the insurance
23 coverage at each location in the state where the vendor
24 sells portable electronics. A "supervising entity" that is
25 a licensed insurer or licensed insurance producer under Code
26 chapter 522B must maintain a registry of vendor locations at
27 which portable electronics insurance is sold or solicited that
28 is available for inspection by the commissioner of insurance.
29 Vendors that sell portable electronics insurance are
30 required to offer written materials to customers that disclose
31 certain specified information about the insurance that is being
32 offered. Such insurance may be offered on a month-to-month
33 or other periodic basis. The disclosures contained in the
34 written materials must be offered to persons enrolling in
35 portable electronics coverage by hand delivery, ordinary

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1 mail, or electronic mail, or by directing the customer to an
2 internet site containing the information. Portable electronics
3 insurance cannot be sold through a free trial offer. A
4 "free trial offer" is an offer to provide such insurance to a
5 customer free of charge for a limited time period subsequent
6 to which a charge is made to the customer without notice prior
7 to expiration of the free trial period. Eligibility and
8 underwriting standards must be established for each portable
9 electronics insurance program by the commissioner of insurance.
10 Employees and authorized representatives of a vendor may
11 sell or offer portable electronics insurance to customers
12 and are not subject to licensure under new Code chapter
13 522E or Code chapter 522B if certain training and oversight
14 requirements are met by the insurer and the supervising
15 entity appointed by the insurer. A vendor or an authorized
16 representative is required to maintain a list of all employees
17 or authorized representatives of the vendor who are authorized
18 to sell or offer portable electronics insurance to customers.
19 The list must be available for inspection and examination
20 during the vendor's normal business hours by the commissioner
21 of insurance upon 10 days' notice.
22 A vendor may bill and collect charges for portable
23 electronics insurance and be paid for doing so but is
24 considered to hold any funds collected in trust for the
25 insurer.
26 The commissioner of insurance may subject a vendor or the
27 vendor's employees or authorized representatives to penalties
28 for violations of the Code chapter not to exceed $500 per
29 violation or $5,000 in the aggregate. The commissioner may
30 also suspend the vendor's privilege of selling the insurance
31 at specific locations of the vendor or suspend or revoke
32 the selling privileges of a specific employee or authorized
33 representative of a vendor.
34 An insurer cannot terminate or otherwise change the terms of
35 a portable electronics insurance policy without giving notice

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1 to the vendor and enrolled customers as provided in the bill.
2 Notice may be sent in writing by mail or by electronic means.
3 A vendor who is selling or offering to sell or will sell
4 or offer to sell portable electronics insurance in this state
5 must submit a sworn application for a portable electronics
6 limited lines insurance license to the commissioner. A vendor
7 who is engaging in the sale of such insurance on or before the
8 effective date of the bill must apply for a license within
9 90 days of the date the application form is made available
10 by the commissioner of insurance. Any vendor that commences
11 operations in the state after the effective date of the bill
12 must obtain a license prior to selling or offering for sale
13 portable electronics insurance.
14 Portable electronics limited lines insurance licenses shall
15 be valid for 24 months and shall not exceed $1,000 for an
16 initial license or $500 for a renewal of the license, except
17 that if a vendor has 10 or fewer locations in the state, the
18 license cost shall not exceed $100 for an initial license and
19 for each renewal of the license.
20 The commissioner of insurance is required to adopt rules
21 pursuant to Code chapter 17A to implement and administer the
22 provisions of the bill.

House Study Bill 135 - Introduced

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

A BILL FOR

1 An Act relating to the regulation of vehicles of excessive size
2 and weight, establishing fees, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1290DP (7) 85
dea/nh

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Section 1. Section 321.473, Code 2013, is amended to read as follows:

321.473 ~~**Limiting trucks — rubbish vehicles**~~ **Limitations on trucks by local authorities.**

1. Local authorities with respect to highways under their jurisdiction may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles, or may impose limitations as to the weight thereof, on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on such highways.

~~2. The department may issue annual special permits for the operation of compacted rubbish vehicles and vehicles which transport compacted rubbish from a rubbish collection point to a landfill area, exceeding the weight limitation of section 321.463, but not exceeding a rear axle gross weight for two-axle vehicles of twenty-two thousand pounds for the period commencing July 1, 1978 and ending June 30, 1986 and twenty thousand pounds commencing July 1, 1986 and thereafter, and for tandem axle vehicles or transferable auxiliary axle vehicles not exceeding a gross weight on the rear axles of thirty-six thousand pounds. Annual special permits for the operation on secondary roads shall be approved by the county engineer. Annual special permits for a particular vehicle shall not be issued by the department unless prior approval is given by the county engineer of the county in which the vehicle will be operated. Annual special permits for operation on primary roads shall be approved by the state department of transportation. Compacted rubbish vehicles and vehicles which transport compacted rubbish from a rubbish collection point to a landfill area operated pursuant to an annual special permit shall be operated only over routes designated by the local authority. Annual special permits for a particular vehicle shall not be issued by the department unless approved by the local authority responsible for the roads over which the vehicle will be operated. Annual special permits approved~~

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~~by the issuing authority shall be issued upon payment of an annual fee, in addition to other registration fees imposed, of one hundred dollars to be paid to the department for all nongovernmental vehicles.~~

~~3. Any person who violates the provisions of the ordinance or resolution shall, upon conviction or a plea of guilty, be subject to a fine determined by dividing the difference between the actual weight and the maximum weight established by the ordinance or resolution by one hundred, and multiplying the quotient by two dollars. The fine for violation of a special permit issued pursuant to this section shall be based upon the difference between the actual weight of the vehicle and load and the maximum weight allowed by the permit in accordance with section 321.463.~~

~~4.~~ 2. Local authorities may issue special permits, during periods such restrictions are in effect, to permit limited operation of vehicles upon specified routes with loads in excess of any restrictions imposed under this section, but not in excess of load restrictions imposed by any other provision of this chapter, and such authorities shall issue such permits upon a showing that there is a need to move to market farm produce or to move to any farm, feeds or fuel for home heating purposes.

3. *a.* A person who violates the provisions of an ordinance or resolution adopted pursuant to subsection 1 shall, upon conviction or a plea of guilty, be subject to a fine determined by dividing the difference between the actual weight and the maximum weight established by the ordinance or resolution by one hundred, and multiplying the quotient by two dollars.

b. The fine for violation of a special permit issued pursuant to subsection 2 shall be based upon the difference between the actual weight of the vehicle and load and the maximum weight allowed by the permit in accordance with section 321.463.

Sec. 2. Section 321E.1, Code 2013, is amended to read as

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1 follows:
2 **321E.1 Permits by department and local authorities.**
3 1. The department and local authorities may in their
4 discretion and upon application and with good cause ~~being~~ shown
5 issue permits for the movement of ~~construction machinery or~~
6 ~~asphalt repavers~~ special mobile equipment being temporarily
7 moved on streets, roads, or highways and for vehicles with
8 indivisible loads which exceed the maximum dimensions and
9 weights specified in sections 321.452 through 321.466, but not
10 to exceed the limitations imposed in this section and sections
11 321E.2 through 321E.15 except as provided in section 321E.29.
12 2. Vehicles permitted to transport indivisible loads may do
13 any of the following:
14 *a.* Exceed the width and length limitations specified in
15 sections 321.454 and 321.457 for the purpose of picking up an
16 indivisible load or returning from delivery of the indivisible
17 load. Vehicles with retractable body extensions used to
18 support cargo must be reduced to legal dimensions unless the
19 vehicle is loaded and the extension is in use.
20 *b.* Move indivisible special mobile equipment which does not
21 otherwise exceed the maximum dimensions and weights specified
22 in sections 321.452 through 321.466 if the vehicle has an
23 overall width not to exceed nine feet and all other conditions
24 of the vehicle's permit are met.
25 3. ~~Permits issued may be single-trip, multi-trip, or annual~~
26 ~~permits. Permits~~ A permit issued under this chapter shall be
27 in writing or in an electronic format and shall be carried in
28 the cab of the vehicle for which the permit has been issued
29 ~~and shall be available for inspection at all times~~. ~~The~~
30 ~~vehicle and load for~~ Permits issued under this chapter and the
31 vehicle for which the permit has been issued shall be open to
32 inspection at all times by ~~a~~ any peace officer or an authorized
33 agent of ~~a permit granting~~ any permit-issuing authority.
34 4. When in the judgment of the ~~issuing~~ permit-issuing
35 authority ~~in cities and counties~~ the movement of a vehicle

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with an indivisible load or ~~construction machinery~~ special mobile equipment which exceeds the maximum dimensions and weights will be unduly hazardous to public safety or will cause undue damage to ~~streets, avenues, boulevards, thoroughfares, highways, curbs, sidewalks, trees,~~ infrastructure or other public or private property, the permit shall be denied and the reasons for denial endorsed on the application. Permits shall designate the days when and routes upon which loads and ~~construction machinery~~ special mobile equipment may be moved within a county on other than primary roads.

5. ~~Local authorities~~ A permit-issuing authority may allow persons requesting permits under this chapter to do so ~~by means of a telephone or~~ in person, through the internet, by facsimile machine, or by telephone, authorizing payment for the permits to be made upon receipt of an invoice sent to the persons by the ~~local authorities~~ permit-issuing authority.

Sec. 3. Section 321E.2, Code 2013, is amended to read as follows:

321E.2 Permit-issuing authorities.

1. ~~Annual, multi-trip, and single-trip permits~~ Permits issued under this chapter shall be issued by the authority responsible for the maintenance of the system of highways or streets. However, the department may issue permits on primary road extensions in cities in conjunction with movements on the rural primary road system. The department may issue an ~~all-system~~ all-systems permit under section 321E.8 which is valid for movements on all highways or streets under the jurisdiction of either the state or those local authorities ~~which~~ that have indicated to the department in writing ~~to the department~~, including by means of electronic communication, those streets or highways for which an ~~all-system~~ all-systems permit is not valid. The department may issue annual permits pursuant to section 321E.8A valid only for operation on noninterstate highways in counties stipulated in the permit.

2. At the request of a local authority, the department shall

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issue ~~annual, multi-trip, and single-trip~~ permits under this chapter for highways or streets that are under the jurisdiction of the local authority if the local authority has indicated to the department in writing, including by means of electronic communication, those streets or highways for which a permit is not valid.

Sec. 4. Section 321E.7, subsections 1 and 2, Code 2013, are amended to read as follows:

1. The gross weight on any axle of any vehicle or combination of vehicles traveling under a permit issued in accordance with ~~the provisions of~~ this chapter shall not exceed the maximum axle load prescribed in section 321.463~~;~~, except ~~that cranes~~ for the following:

a. Cranes being temporarily moved on streets, roads, or highways may have a gross weight of twenty-four thousand pounds on any single axle~~; and construction machinery~~.

b. (1) Special mobile equipment other than cranes being temporarily moved on streets, roads, or highways may have a maximum gross weight of thirty-six thousand pounds on any single axle equipped with flotation pneumatic tires with a minimum size of twenty-six point ~~five-inch by twenty-five-inch flotation pneumatic tires~~ five inches by twenty-five inches and a maximum gross weight of twenty thousand pounds on any single axle equipped with flotation pneumatic tires with a minimum size ~~eighteen-inch by twenty-five-inch flotation pneumatic tires, with the~~ of eighteen inches by twenty-five inches.

(2) The department is authorized to adopt rules to permit the use of tire sizes and weights within the minimum and maximum specifications provided in ~~this section~~ subparagraph (1), provided that the total gross weight of the vehicle or ~~a~~ combination of vehicles does not exceed ~~a maximum of~~ one hundred twenty-six thousand pounds~~; and except that a~~.

(3) A manufacturer of machinery or equipment manufactured or assembled in Iowa may be granted a permit for the movement of such machinery or equipment mounted on pneumatic tires

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with axle loads exceeding the maximum axle load prescribed in section 321.463 for distances not to exceed twenty-five miles at a speed not greater than twenty miles per hour. The movement of such machinery or equipment shall be over a specified route between the place of assembly or manufacture and a storage area, shipping point, proving ground, experimental area, weighing station, or another manufacturing plant.

c. Raw milk transporters operating under a permit issued pursuant to section 321E.29A shall not exceed the axle and gross weights specified in that section.

d. Compacted rubbish vehicles operating under a permit issued pursuant to section 321E.30 shall not exceed the axle and gross weights specified in that section.

2. The gross weight on any one axle of any vehicle or combination of vehicles traveling under a permit issued in accordance with this chapter shall not exceed the maximum axle load prescribed in section 321.463; except that any one axle on a vehicle or combination of vehicles transporting ~~construction machinery~~ special mobile equipment shall be allowed a one thousand pound weight tolerance, provided the total gross weight of the vehicle or combination of vehicles does not exceed the gross weight allowed by the permit.

Sec. 5. Section 321E.8, Code 2013, is amended to read as follows:

321E.8 Annual permits.

Subject to the discretion and judgment provided for in section 321E.1, annual permits shall be issued in accordance with the following provisions:

1. Vehicles with indivisible loads, or manufactured or mobile homes including appurtenances, having an overall width not to exceed sixteen feet zero inches, an overall length not to exceed one hundred twenty feet zero inches, an overall height not to exceed fifteen feet five inches, and except for vehicles in compliance with section 321.463, subsection 5,

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1 paragraph "c", subparagraph (1), a total gross weight not to
2 exceed eighty thousand pounds, may be moved as follows:
3 *a.* Vehicles with indivisible loads, or manufactured or
4 mobile homes including appurtenances, having an overall width
5 not to exceed twelve feet five inches, an overall length not
6 to exceed one hundred twenty feet zero inches, and an overall
7 height not to exceed thirteen feet ten inches may be moved for
8 unlimited distances without route approval from the ~~permitting~~
9 permit-issuing authority.
10 *b.* Vehicles with indivisible loads, or manufactured or
11 mobile homes including appurtenances, having an overall width
12 not to exceed fourteen feet six inches, an overall length not
13 to exceed one hundred twenty feet zero inches, and an overall
14 height not to exceed fifteen feet five inches may be moved
15 on the interstate highway system and primary highways with
16 more than one lane traveling in each direction for unlimited
17 distances and no more than fifty miles from the point of origin
18 on all other highways without route approval from the ~~permit~~
19 ~~issuing~~ permit-issuing authority.
20 *c.* All other vehicles with indivisible loads operating under
21 this subsection shall obtain route approval from the ~~permitting~~
22 permit-issuing authority.
23 *d.* Vehicles with indivisible loads may operate under an
24 all-systems permit in compliance with paragraph "a", "b", or
25 "c".
26 2. Vehicles with indivisible loads, or manufactured or
27 mobile homes including appurtenances, having an overall width
28 not to exceed thirteen feet five inches and an overall length
29 not to exceed one hundred twenty feet zero inches may be
30 moved on highways specified by the ~~permitting~~ permit-issuing
31 authority for unlimited distances if the height of the vehicle
32 and load does not exceed fifteen feet five inches and the
33 total gross weight of the vehicle does not exceed one hundred
34 fifty-six thousand pounds.
35 *a.* The vehicle owner or operator shall verify with the

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1 ~~permitting~~ permit-issuing authority prior to movement of the
2 load that highway conditions have not changed so as to prohibit
3 movement of the vehicle.
4 *b.* Any cost to repair damage to highways or highway
5 structures shall be borne by the owner or operator of the
6 vehicle causing the damage.
7 *c.* Permitted vehicles under this subsection shall not be
8 allowed to travel on any portion of the interstate highway
9 system.
10 *d.* Vehicles with indivisible loads operating under the
11 permit provisions of this subsection may operate under the
12 permit provisions of subsection 1 provided the vehicle and load
13 comply with the limitations described in subsection 1.
14 3. Notwithstanding any other provision of law to the
15 contrary, cranes exceeding the maximum gross weight on any axle
16 as prescribed in section 321.463 or 321E.7 and used in the
17 construction of alternative energy facilities may be moved with
18 approval from the ~~permit issuing~~ permit-issuing authority.
19 Sec. 6. Section 321E.9, Code 2013, is amended to read as
20 follows:
21 **321E.9 Single-trip permits.**
22 Subject to the discretion and judgment provided for in
23 section 321E.1, single-trip permits, which may include a round
24 trip to and from a job or delivery site, shall be issued in
25 accordance with the following provisions:
26 1. ~~Vehicles with indivisible loads having an overall width~~
27 ~~not to exceed forty feet, zero inches, an overall length not to~~
28 ~~exceed one hundred twenty feet, zero inches, or a total gross~~
29 ~~weight not to exceed one hundred thousand pounds may be moved,~~
30 ~~provided the gross weight on any one axle shall not exceed~~
31 ~~the maximum prescribed in section 321.463, pursuant to rules~~
32 ~~adopted pursuant to chapter 17A. The height of the vehicles~~
33 ~~and loads shall be limited only to height limitations of~~
34 ~~underpasses, bridges, power lines and other established height~~
35 ~~restrictions on the specified route.~~ The maximum height,

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width, length, and weight of vehicles and loads operating under permits authorized by this section shall be limited to the maximum physical limitations and clearances of the roadway and infrastructure of the intended route of travel, provided that the gross weight on any one axle does not exceed the maximum prescribed in section 321.463, pursuant to rules adopted pursuant to chapter 17A. The permit-issuing authority shall make the final determination regarding the issuance of a permit and the suitability of the intended route based upon known roadway clearances and capacities. Permits shall be authorized only when the movement will not cause undue stress or damage to highway pavement, bridges, or other highway infrastructure. In addition to the dimension and weight limitations of an intended route, a permit-issuing authority shall consider the interests of public safety and, at the discretion of the permit-issuing authority, may deny the issuance of a permit when the intended movement of any vehicle or load poses a potential risk to the public.

2. Vehicles with indivisible loads ~~exceeding the width, length, and total gross weight provided in subsection 1,~~ may be moved in special or emergency situations, provided the ~~permitting~~ permit-issuing authority has reviewed the route and has approved the movement of the vehicle and load. The ~~issuing~~ permit-issuing authority may impose any special restrictions on movements as deemed necessary ~~on movements~~ or exempt movements from the restrictions of section 321E.11 by permit under this subsection.

3. ~~Cranes exceeding the maximum gross weight on any axle as prescribed in section 321.463 but not exceeding twenty-four thousand pounds may be moved in accordance with rules adopted pursuant to chapter 17A.~~ Notwithstanding any other provision of law to the contrary, cranes exceeding the maximum gross weight on any axle as prescribed in section 321.463 or 321E.7 and used in the construction of alternative energy facilities may be moved with approval from the ~~permit issuing~~

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1 permit-issuing authority.
2 Sec. 7. Section 321E.9A, subsections 1 and 2, Code 2013, are
3 amended to read as follows:
4 1. Vehicles with indivisible loads having an overall length
5 not to exceed one hundred twenty feet, an overall width not to
6 exceed sixteen feet, and ~~of any~~ a height not to exceed fifteen
7 feet five inches may be moved on highways specified by the
8 permitting authority, provided the gross weight on any one axle
9 shall not exceed the maximum prescribed in section 321.463
10 and the total gross weight is not greater than one hundred
11 fifty-six thousand pounds.
12 2. Vehicles or combinations of vehicles consisting of
13 ~~construction machinery~~ special mobile equipment not exceeding
14 the height, length, and width limitations of this section being
15 temporarily moved on highways with a maximum total gross weight
16 limitation and a single axle weight limitation in accordance
17 with section 321E.7 may be moved.
18 Sec. 8. Section 321E.9B, subsections 1 and 3, Code 2013, are
19 amended to read as follows:
20 1. Vehicles with an indivisible load having an overall
21 length not to exceed two hundred twenty-five feet, an overall
22 width not to exceed sixteen feet, a height not to exceed
23 sixteen feet, and a total gross weight not to exceed two
24 hundred fifty-six thousand pounds may be moved on highways
25 specified by the ~~permitting~~ permit-issuing authority to an
26 alternative energy construction site or staging area for
27 alternative energy transportation, provided the gross weight on
28 any one axle shall not exceed twenty thousand pounds.
29 3. The ~~permitting~~ permit-issuing authority shall have
30 discretion to include restrictions and require special
31 considerations, such as responsibility for protection or repair
32 of the roadway and bridges, prior to issuance of the permit.
33 Sec. 9. Section 321E.10, Code 2013, is amended to read as
34 follows:
35 **321E.10 ~~Truck~~ Semitrailers and trailers manufactured in Iowa.**

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The department or local authorities may upon application issue annual ~~trip~~ permits for the movement of ~~truck~~ semitrailers and trailers manufactured or assembled in this state that exceed the maximum length specified in section 321.457 and the maximum width specified in section 321.454. Movement of the ~~truck~~ semitrailers and trailers shall be solely for the purpose of delivery or transfer from the point of manufacture or assembly to another point of manufacture or assembly within the state or to a point outside the state~~,~~; shall be only on roadways of twenty-four feet or more in width or on four-lane highways~~,~~; shall be on the most direct route necessary for such movement~~,~~; and shall display the special plates designated in section 321.57. All ~~truck~~ semitrailers and trailers under permit for such movement shall not contain freight or additional load. A vehicle or combination of two or more vehicles inclusive of front and rear bumpers, including towing units, involved in the movement of ~~truck~~ semitrailers and trailers shall not exceed an overall width of ten feet. ~~Vehicles or combinations shall be distinctly marked on both the front and rear of the unit in a manner the director of transportation designates to indicate that the vehicles or combinations are being moved for delivery or transfer purposes only.~~

~~Permits issued under the provisions of this section shall be in writing and shall be carried in the cabs of the vehicles for which the permits have been issued and shall be available for inspection at all times. The vehicles for which the permits have been issued shall be open to inspection by any peace officer or to any authorized agent of any permit granting authority.~~

Sec. 10. Section 321E.11, Code 2013, is amended to read as follows:

321E.11 ~~Daylight movement only — exceptions — holidays~~ Movement under permit — penalty.

1. Movements ~~by~~ under permit in accordance with this chapter

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shall be permitted only during the hours from thirty minutes prior to sunrise to thirty minutes following sunset unless the ~~issuing~~ permit-issuing authority determines that the movement can be better accomplished at another period of time because of traffic volume or other roadway-related conditions or the vehicle subject to the permit qualifies for nighttime movement as specified in subsection 2.

2. A permitted vehicle which has an overall length not to exceed one hundred feet, an overall width not to exceed eleven feet, and an overall height not to exceed fourteen feet, ~~four~~ six inches, ~~and the permit requires the vehicle to operate only on those highways designated by the department~~ may operate under permit from thirty minutes following sunset to thirty minutes prior to sunrise on primary and nonprimary highway system roadways that are at least twenty-two feet in total width with at least eleven feet of lane width. Vehicles operating under the provisions of this subsection shall be equipped with operating projecting-load lighting devices which are in addition to the required vehicle lighting and the signs, flags, and warning lights required for vehicles operating under permit. Additional safety lighting and escorts may be required for movement at night as determined by the permit-issuing authority.

~~2.~~ 3. Except as provided in section 321.457, no movement ~~by~~ under permit shall be permitted on holidays, after ~~twelve o'clock~~ 12:00 noon on days preceding holidays and holiday weekends, or special events when abnormally high traffic volumes can be expected. Such restrictions shall not be applicable to urban transit systems as defined in section 321.19, subsection 2.

~~3.~~ 4. For the purposes of this chapter, *"holidays"* shall include Memorial Day, Independence Day, and Labor Day.

~~4.~~ 5. A person who violates this section commits a simple misdemeanor.

Sec. 11. Section 321E.12, Code 2013, is amended to read as

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follows:

321E.12 Registration must be consistent.

1. A vehicle traveling under permit shall be ~~properly~~ registered for the gross weight of the vehicle and load. A trip permit issued according to section 326.23 shall not be used in lieu of the registration provided for in this section. ~~A person owning special mobile equipment may use a transport vehicle registered for the gross weight of the transport without a load.~~

2. A private carrier who is not for hire may transport special mobile equipment on a vehicle registered for the gross weight of the transport vehicle and cargo, minus the weight of the special mobile equipment, when the special mobile equipment is owned, leased, or rented and under exclusive control of the private carrier.

3. Vehicles, while being used for the transportation of buildings~~, except~~ other than mobile homes and factory-built structures, may be registered for the combined gross weight of the vehicle and load on a single-trip basis. The fee is five cents per ton exceeding the weight registered under section 321.122 per mile of travel. Fees shall not be prorated for fractions of miles. This provision does not exempt these vehicles from any other provision of this chapter.

Sec. 12. Section 321E.13, Code 2013, is amended to read as follows:

321E.13 Financial responsibility.

Prior to the issuance of any permit, the applicant for a permit shall be required to file proof of financial responsibility or ~~to~~ post a bond with the ~~issuing~~ permit-issuing authority. The amount of the bond shall be determined by the ~~issuing~~ permit-issuing authority and shall be used as security for repair or replacement of official signs, signals, and roadway foundations, surfaces, or structures which may be damaged or destroyed during the movement of a vehicle and load operating under the permit. The duration of the bond

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shall be determined by the ~~issuing~~ permit-issuing authority for a period not to exceed one year.

Sec. 13. Section 321E.14, Code 2013, is amended to read as follows:

321E.14 Fees for permits.

1. Permit-issuing authorities may charge the following fees:

~~1.~~ *a.* ~~The department or local authorities issuing permits shall charge a fee of twenty-five~~ Twenty-five dollars for an annual permit issued ~~under~~ pursuant to section 321E.8, subsection 1~~, a fee of three~~.

b. Three hundred dollars for an annual permit issued ~~under~~ pursuant to section 321E.8, subsection 2~~, a fee of two~~.

c. Two hundred dollars for a multi-trip permit issued ~~under~~ pursuant to section 321E.9A~~, a fee of six~~.

d. Six hundred dollars for a special alternative energy multi-trip permit issued ~~under~~ pursuant to section 321E.9B~~, and a fee of ten~~.

e. Ten dollars for a single-trip permit~~, and shall determine charges for special permits~~ issued pursuant to section 321E.9.

f. Twenty-five dollars for an annual permit for special mobile equipment, as defined in section 321.1, subsection 75, issued pursuant to section 321E.7, subsection 3, with a combined gross weight of not more than eighty thousand pounds.

g. Twenty-five dollars for a permit issued pursuant to section 321E.29 ~~by rules adopted pursuant to chapter 17A~~ or 321E.29A.

h. One hundred dollars for a permit issued pursuant to section 321E.30.

i. One hundred twenty dollars for an annual all-systems permit issued pursuant to section 321E.8, which shall be deposited in the road use tax fund.

2. Fees for the movement of buildings, parts of buildings, or unusual vehicles or loads may be increased to cover the costs of inspections by the ~~issuing~~ permit-issuing authority.

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3. A fee not to exceed two hundred fifty dollars per day or a prorated fraction of that fee per person and car for escort service may be charged when requested or when required under this chapter. Proration of escort fees between state and local authorities when more than one governmental authority provides or is required to provide escort for a movement during the period of a day shall be determined by rule under section 321E.15.

4. The department and local authorities may charge a permit applicant for the cost of trimming trees and removal and replacement of natural obstructions or official signs and signals or other public or private property required to be removed during the movement of a vehicle and load. ~~In addition to the fees provided in this section, the annual fee for a permit for special mobile equipment, as defined in section 321.1, subsection 75, operated pursuant to section 321E.7, subsection 3, with a combined gross weight up to and including eighty thousand pounds shall be twenty-five dollars and for a combined gross weight exceeding eighty thousand pounds, fifty dollars.~~

~~2. The annual fee for an all-system permit is one hundred twenty dollars which shall be deposited in the road use tax fund.~~

Sec. 14. Section 321E.16, Code 2013, is amended to read as follows:

321E.16 Violations — penalties.

1. A person who violates a provision of a permit issued pursuant to this chapter or rules adopted under section 321E.15, other than a provision relating to weight, shall be subject to a scheduled fine under section 805.8A, subsection 12, paragraph *"f"*.

2. The fine for violation of the weight allowed by a permit shall be based upon the difference between the actual weight of the vehicle and load and the maximum allowable by permit in accordance with section 321.463. If a vehicle with

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an indivisible load traveling under permit is found to be in violation of weight limitations, the vehicle operator shall be allowed a reasonable amount of time to remove any ice, mud, snow, and other weight attributable to climatic conditions accumulated along the route prior to application of the penalties prescribed in section 321.463.

3. A person operating a civilian escort vehicle in violation of rules adopted pursuant to section 321E.15 shall be subject to a scheduled fine under section 805.8A, subsection 12, paragraph *"f"*.

Sec. 15. Section 321E.17, Code 2013, is amended to read as follows:

321E.17 ~~Five or more~~ Serious violations.

Proof of imposition of ~~penalties on five or more occasions~~ a penalty for a violation of ~~sections~~ section 321.256, 321.454, 321.456, 321.457, 321.463, 321.471, 321.474, or 321E.16 or any combination of penalties for violation of ~~said~~ those sections ~~totaling five or more incurred during any twelve-month period~~ with respect to the operation of one or more vehicles by any one permit holder, whether operated personally or through agents, servants, or employees of the permit holder, shall constitute prima facie evidence that the permit holder has willfully operated or caused to be operated a vehicle or vehicles in violation of this chapter.

Sec. 16. Section 321E.18, Code 2013, is amended to read as follows:

321E.18 Overall operations considered.

In any proceeding brought under this chapter, the ~~issuing~~ permit-issuing authority shall consider evidence relating to the ~~character and gravity~~ nature and severity of the violations and the extent of the operations of any vehicles by or on behalf of the permit holder upon the public highways of this state, which did not involve any violations.

Sec. 17. Section 321E.19, Code 2013, is amended to read as follows:

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321E.19 Permit ~~suspended, changed, or revoked~~ denial, change, suspension, or revocation.

~~Upon complaint by local authorities or on the department's own initiative and after notice and hearing before one or more members of the permit issuing body in the case of local authorities or the department of inspections and appeals for permits issued by the state department of transportation, permit privileges under this chapter may be suspended, changed, or revoked in whole or in part by the issuing authority for willful failure to comply with a provision of this chapter, a rule adopted under this chapter, or a term, condition, or limitation of the permit.~~ The permit-issuing authority may deny, change, suspend, or revoke any permit issued by the authority pursuant to this chapter for good cause. A decision of the department may be appealed in accordance with chapter 17A, and a decision of a local authority may be appealed in accordance with the appeal procedures of the local authority.

Sec. 18. Section 321E.20, Code 2013, is amended to read as follows:

321E.20 Suspension period.

Whenever the ~~issuing~~ permit-issuing authority finds from the evidence adduced at hearing that a permit holder has willfully operated or caused to be operated a vehicle or vehicles in violation of this chapter, the permit-issuing authority may enter an order suspending, modifying, or revoking the permit in whole or in part at its discretion for a period not to exceed one hundred eighty days. If the ~~issuing~~ permit-issuing authority finds in a subsequent proceeding within twelve months from the date of the initial suspension, modification, or revocation that a permit holder has again willfully operated in violation of this chapter, the ~~issuing~~ permit-issuing authority shall order suspension, modification, or revocation of permit privileges in whole or in part for a period not to exceed two years.

Sec. 19. Section 321E.24, Code 2013, is amended by striking

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1 the section and inserting in lieu thereof the following:
2 **321E.24 Warning and lighting devices on oversize loads.**
3 The department shall adopt rules pursuant to chapter 17A
4 regarding oversize load signs, warning flags, warning lights,
5 and projecting-load lights.
6 Sec. 20. Section 321E.25, Code 2013, is amended to read as
7 follows:
8 **321E.25 Use of highways of interstate system.**
9 Use of the national system of interstate and defense
10 highways under the provisions of this chapter shall be
11 restricted by regulation and other appropriate action of the
12 department in such a manner as to not be in conflict with the
13 applicable provisions of ~~section 127, Tit. 23, United States~~
14 ~~Code~~ 23 U.S.C. § 127.
15 Sec. 21. Section 321E.29, Code 2013, is amended to read as
16 follows:
17 **321E.29 Excess size divisible load permits.**
18 1. Vehicles or a combination of vehicles with divisible
19 loads in excess of the width, length, or height requirements
20 of chapter 321 may be moved on the highways of this state if
21 the department or ~~issuing~~ permit-issuing authority determines
22 there is a special or emergency situation which warrants the
23 issuance of a special permit. The combined gross weight or
24 gross weight on any one axle or group of axles may exceed the
25 limits established in section 321.463, subject to the limits
26 and routes established by the ~~issuing~~ permit-issuing authority.
27 ~~Permits~~
28 2. Annual permits may be issued for vehicles with divisible
29 loads of hay, straw or stover without a finding of special or
30 emergency situations, if the movement meets the requirements of
31 this chapter.
32 Sec. 22. Section 321E.29A, Code 2013, is amended to read as
33 follows:
34 **321E.29A Raw milk transporters.**
35 ~~The department or a local~~ A permit-issuing authority may

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1 issue annual permits authorizing a raw milk transporter to
2 transport by motor truck raw milk to or from a milk plant,
3 receiving station, or transfer station. The combined gross
4 weight or gross weight on any axle or ~~groups~~ group of axles of
5 the motor truck shall not exceed the limits established under
6 section 321.463. The ~~issuing~~ permit-issuing authority may
7 specify weight limits or routes for each raw milk transporter
8 or establish weight limits or routes under section 321E.8.
9 Sec. 23. NEW SECTION. **321E.30 Compacted rubbish**
10 **transporters.**
11 1. A permit-issuing authority may issue annual permits for
12 the operation of compacted rubbish vehicles and vehicles which
13 transport compacted rubbish from a rubbish collection point to
14 a landfill area, exceeding the weight limitation of section
15 321.463 but not exceeding twenty thousand pounds per axle,
16 and for tandem axle vehicles or transferrable axle vehicles,
17 not exceeding a gross weight on the rear axles of thirty-six
18 thousand pounds.
19 2. Vehicles operated pursuant to an annual permit
20 issued under this section shall be operated only over routes
21 designated by the permit-issuing authority.
22 3. Annual permits approved by the permit-issuing authority
23 shall be issued upon payment of an annual fee, in addition
24 to other registration fees imposed, to be paid to the
25 permit-issuing authority for all nongovernmental vehicles.
26 Sec. 24. Section 321E.32, Code 2013, is amended to read as
27 follows:
28 **321E.32 Movement of structures and other loads on dolly**
29 **axles.**
30 ~~The weight limits on axles used for the movement of physical~~
31 ~~structures and buildings shall be subject to the same weight~~
32 ~~limits which are placed on all other axles. However, when~~
33 ~~physical structures or buildings are moved and the axles~~
34 ~~under the load are five feet or more apart, each axle shall~~
35 ~~be considered a separate axle in determining the axle weight~~

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~~limitations provided by law.~~ The movement of structures and other indivisible loads on dolly axles shall be subject to the same weight limits that apply to all other indivisible loads. However, when an indivisible load is moved and the transverse dolly axles under the load have a clear inside spacing of five feet or more, each axle shall be considered a separate axle in determining the axle weight limitations provided by law.

Sec. 25. Section 321E.34, Code 2013, is amended to read as follows:

321E.34 Escort requirements.

1. ~~An~~ The operator of an escort vehicle~~,~~ serving as an escort in the movement of vehicles and loads of excess size and weight under permits required by this chapter shall have a driver's license as defined in section 321.1 valid for the operation of the escort vehicle.

~~2. Vehicles under permit, the width of which, including any load, exceeds that prescribed in section 321.454 but does not exceed fourteen feet six inches including appurtenances, may be moved on two-lane highways of this state without an escort if the highway being traversed has a minimum lane width of twelve feet and a sufficient shoulder width and if an amber revolving light or strobe light is displayed on the power unit and on the rear extremity of the vehicle or load. In addition, vehicles moving under permit, including any load, with an overall width not exceeding sixteen feet six inches may be moved on an interstate or four-lane highway of this state without an escort if an amber revolving light or strobe light is displayed on the power unit and on the rear extremity of the vehicle or load.~~

~~3.~~ 2. The department shall adopt rules pursuant to chapter 17A for all escort requirements ~~other than those exempted in subsection 2~~. The rules shall include ~~escorting requirements for annual permits, single-trip permits, multi-trip permits, special or emergency situations, length, height, and weight~~ operator requirements; escort vehicle requirements; and length, height, width, and weight requirements for the load or vehicle

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1 being moved under an annual or single-trip permit or in a
2 special or emergency situation.
3 Sec. 26. Section 331.362, subsection 9, Code 2013, is
4 amended to read as follows:
5 9. A county may regulate traffic on and use of the secondary
6 roads, in accordance with sections 321.236 to 321.250, 321.254,
7 321.255, 321.285, subsection 4, sections 321.352, 321.471
8 to 321.473, and other applicable provisions of chapter 321,
9 chapter 321E, and sections 321G.9, 321I.10, and 327G.15.
10 Sec. 27. REPEAL. Sections 321E.21, 321E.22, 321E.23,
11 321E.28, 321E.31, and 321E.33, Code 2013, are repealed.
12 Sec. 28. TRANSFER OF SECTIONS. The Code editor is requested
13 to transfer section 321E.27 to section 321E.1; to transfer
14 section 321E.1, as amended in this Act, to section 321E.2; to
15 transfer section 321E.2, as amended in this Act, to section
16 321E.3; and to correct internal references as necessary.
17 EXPLANATION
18 This bill contains provisions concerning the movement of
19 vehicles of excessive size and weight on Iowa roads.
20 Code section 321.473 is amended by striking provisions
21 relating to annual permits for the operation of compact rubbish
22 vehicles, which are moved to new Code section 321E.30.
23 Code section 321E.1 is amended to provide that if a vehicle
24 permitted to transport indivisible loads has a retractable body
25 extension, the extension must be reduced to legal dimensions
26 unless the vehicle is loaded and the extension is in use. The
27 bill allows persons requesting permits to do so in person,
28 through the internet, by facsimile machine, or by telephone.
29 Currently, Code section 321E.2 allows the department of
30 transportation to issue all-systems permits for movements on
31 all highways or streets under the jurisdiction of either the
32 state or local authorities that have indicated in writing those
33 streets or highways for which an all-systems permit is not
34 valid. Under the bill, at the request of a local authority,
35 the department shall also issue other types of permits for

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1 streets under local jurisdiction if the local authority
2 has indicated to the department in writing those streets or
3 highways where a permit is not valid. The bill stipulates that
4 "in writing" includes electronic communication.
5 Code section 321E.7, which relates to load limits per axle,
6 is amended by making technical revisions to existing language
7 and by including the axle and gross weight limitations for raw
8 milk transporters and compact rubbish vehicles by reference
9 to those provisions, which are found elsewhere in the Code
10 chapter.
11 Code section 321E.8, which provides for the issuance of
12 annual permits, is amended to provide that certain commercial
13 vehicles other than special trucks, which are currently
14 allowed to operate at weight limits of up to 90,000 pounds
15 with six axles, and up to 96,500 pounds with seven axles, are
16 exempt from permitting requirements based on weight in excess
17 of 80,000 pounds. Currently, cranes that are used in the
18 construction of alternative energy facilities and which exceed
19 the 20,000 weight limit established under Code chapter 321 on
20 any one axle may be moved with approval of the permit-issuing
21 authority, without the requirement of an annual permit. The
22 bill allows such cranes to exceed the 24,000 pound weight limit
23 established under Code section 321E.7 for any one axle. The
24 exemption is also allowed for such cranes operating under a
25 single-trip permit.
26 Currently, Code section 321E.9 provides that a vehicle
27 with an indivisible load, having an overall width of 40 feet,
28 overall length of 120 feet, or a total gross weight of 100,000
29 pounds may be moved under a single-trip permit provided the
30 gross weight on any one axle does not exceed maximum weight
31 limits. The height of vehicles and loads is currently limited
32 by the height of underpasses, bridges, power lines, and other
33 restrictions on the route specified in the permit. The bill
34 strikes those provisions and instead provides that maximum
35 height, width, length, and weight of vehicles and loads

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1 operating under single-trip permits shall be limited to the
2 maximum physical limitations and clearances of the roadway
3 and infrastructure of the intended route. Permit-issuing
4 authorities are authorized to make the final determination
5 regarding the issuance of single-trip permits, based on whether
6 the movement will cause undue stress or damage to pavement,
7 bridges, or other highway infrastructure, and taking into
8 consideration the interest of public safety.
9 The bill amends Code section 321E.9A to limit the maximum
10 height allowed for a vehicle with an indivisible load moved
11 under a multi-trip permit to 15 feet, 5 inches. Current law
12 does not provide a height restriction.
13 Code section 321E.9B is amended by making technical
14 changes to the language in the Code section to conform to the
15 terminology used throughout the Code chapter.
16 Code section 321E.10 currently relates to requirements
17 for annual trip permits for trucks and trailers manufactured
18 in Iowa that exceed length and width limits and are moved
19 from the point of manufacture or assembly to another point of
20 manufacture or assembly. The bill amends the Code section
21 by limiting its applicability to semitrailers and trailers.
22 Current requirements for the marking of vehicles being moved
23 for delivery or transfer purposes and accessibility to peace
24 officers' inspections are stricken.
25 Code section 321E.11 provides for movements under permit
26 during daylight hours, with certain exceptions, and on
27 holidays. The Code section is amended to specify that a
28 permitted vehicle with an overall length of not more than 100
29 feet and an overall width of not more than 14 feet, 6 inches,
30 may operate from 30 minutes after sunset to 30 minutes before
31 sunrise on primary and nonprimary highway system roadways that
32 are at least 22 feet in total width with at least 11 feet of
33 lane width. The bill requires such vehicles to be equipped
34 with projecting-load lights which are operating in addition
35 to signs, flags, and warning lights required for vehicles

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1 operating under permit. The permit-issuing authority may
2 impose additional lighting and escort requirements for night
3 movement.
4 Code section 321E.12 provides that, with certain exceptions,
5 a vehicle traveling under permit must be registered for the
6 gross weight of the vehicle and load. A current exception
7 exists to allow the owner of special mobile equipment
8 registered for the gross weight of the vehicle without the
9 load. The bill amends that exception to provide that a private
10 carrier who is not for hire may transport special mobile
11 equipment on a vehicle registered for the gross weight of the
12 transport vehicle and cargo, minus the weight of the special
13 mobile equipment, when the special mobile equipment is owned,
14 leased, or rented and under exclusive control of the private
15 carrier.
16 Code section 321E.13 is amended by making technical
17 changes to the language in the Code section to conform to the
18 terminology used throughout the Code chapter.
19 Code section 321E.14 contains a schedule of fees for permits
20 currently issued by the department or local authorities. The
21 Code section is amended to include all permit fees in one Code
22 section. The specified fees are as follows:
23 $25 for an annual permit issued under Code section 321E.8,
24 subsection 1.
25 $300 for an annual permit issued under Code section 321E.8,
26 subsection 2.
27 $200 for a multi-trip permit issued under Code section
28 321E.9A.
29 $600 for a special alternative energy multi-trip permit.
30 $10 for a single-trip permit issued under Code section
31 321E.9.
32 $25 for an annual permit for special mobile equipment with a
33 combined gross weight of not more than 80,000 pounds.
34 $25 for a vehicle of excessive size with a divisible load.
35 $25 for a raw milk transporter permit.

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1 $100 for a compact rubbish transporter permit.
2 $120 for an annual all-systems permit. Pursuant to current
3 law, all-systems permit fees are to be deposited in the road
4 use tax fund.
5 An escort fee of up to $250 per day, or a fee prorated per
6 person and car, may be charged to provide escort for a movement
7 under permit. Proration of the fees between governmental
8 entities involved in the escort service is determined by
9 administrative rule.
10 Code section 321E.16, which contains penalties for
11 violations of permit provisions, is amended to include a
12 penalty for violations by escort vehicle operators. The bill
13 provides that operating a civilian escort vehicle in violation
14 of administrative rules is a simple misdemeanor punishable
15 by a scheduled fine of $250. This is the same fine which is
16 currently applicable to violations of Code chapter 321E, other
17 than weight violations.
18 Code section 321E.17 currently provides that the imposition
19 of penalties on five or more occasions within a 12-month period
20 for violations of certain Code sections in Code chapters 321
21 and 321E with respect to the operation of one or more vehicles
22 by any one permit holder constitutes prima facie evidence
23 of a willful violation of Code chapter 321E. The bill adds
24 violations of Code sections 321.256 (obedience to official
25 traffic-control devices), 321.457 (maximum length of vehicles
26 and combinations of vehicles), and 321.474 (authority of the
27 department to restrict weight) to the list of violations to
28 which this provision applies.
29 Code section 321E.18 currently requires that in proceedings
30 involving violations under Code chapter 321E, permit-issuing
31 authorities consider, among other things, evidence relating to
32 the character and gravity of the violations. The bill replaces
33 the terms "character and gravity" with the terms "nature and
34 severity".
35 Code section 321E.19 is amended to provide that a

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1 permit-issuing authority may deny, change, suspend, or revoke
2 any permit issued by the authority for good cause. Decisions
3 of the department may be appealed according to administrative
4 procedures, and decisions of local authorities may be
5 appealed in accordance with the appeal procedures of the local
6 authority. This replaces current requirements for hearings
7 before one or more members of the permit-issuing body for
8 permits issued by local authorities, and before the department
9 of inspections and appeals for permits issued by the department
10 of transportation.
11 Code section 321E.20 is amended by making technical
12 changes to the language in the Code section to conform to the
13 terminology used throughout the Code chapter.
14 Code section 321E.24 currently requires vehicles of a
15 certain size and weight to carry a warning device clearly
16 visible from a distance of 500 feet to the rear. The bill
17 replaces that requirement with a provision for the adoption
18 by the department of administrative rules regarding oversize
19 load signs, warning flags, warning lights, and projecting-load
20 lights.
21 Code section 321E.25 is amended to conform the citation of
22 federal law to the style of the Code.
23 Code section 321E.29 is amended to specify that permits
24 which currently may be issued for vehicles with divisible
25 loads of hay, straw, or stover without a finding of special or
26 emergency situations are annual permits.
27 Code section 321E.29A is amended by making technical
28 changes to the language in the Code section to conform to the
29 terminology used throughout the Code chapter.
30 New Code section 321E.30 contains current provisions for the
31 permitting of compacted rubbish vehicles, which are transferred
32 from Code chapter 321 into Code chapter 321E. The bill moves
33 the responsibility for issuance of the permits and designation
34 of routes over which compacted rubbish vehicles may be operated
35 from the department to local authorities. The $100 annual

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1 permit fee, which is currently paid to the department, is to be
2 paid instead to the issuing authority under the bill.
3 Code section 321E.32 is amended to provide that current
4 requirements for the movement of structures and buildings on
5 dolly axles apply to the movement of structures and other
6 indivisible loads.
7 Code section 321E.34 is amended by deleting current specific
8 requirements for escort vehicles used in the movement of
9 vehicles of excessive size and weight. The bill requires
10 the department to adopt administrative rules for escort
11 requirements.
12 Code section 331.362, which provides for a county's
13 authority over specific issues relating to roads, is amended to
14 include the regulation of traffic on and the use of secondary
15 roads in accordance with Code chapter 321E, relating to
16 vehicles of excessive size and weight.
17 The bill repeals Code sections 321E.21, 321E.22, and
18 321E.23, designating the Iowa secretary of state as the agent
19 for service of process for a nonresident operating a vehicle
20 in this state under Code chapter 321E, providing a procedure
21 for service of process in a proceeding against a nonresident,
22 and establishing the rights of a person to receive notice of
23 the service, a copy of the process, and an opportunity for a
24 hearing; Code section 321E.28, containing specific provisions
25 for the issuance of single-trip, multi-trip, and annual
26 permits for the movement of manufactured or mobile homes or
27 factory-built structures; Code section 321E.31, relating to the
28 movement of manufactured and mobile homes which are registered
29 in another state; and Code section 321E.33, concerning
30 reciprocal agreements with other states for the movement of
31 vehicles under permit.
32 The bill requests that the Code editor transfer Code
33 sections 321E.1, 321E.2, and 321E.27 to new positions within
34 the Code chapter to improve readability.

House Study Bill 136 - Introduced

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

A BILL FOR

1 An Act relating to state requirements for county and
2 multicounty juvenile detention homes.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1713YC (1) 85
jp/rj

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1 Section 1. Section 232.142, subsections 3, 5, and 6, Code
2 2013, are amended to read as follows:
3 3. A county or multicounty juvenile detention home approved
4 pursuant to this section shall receive financial aid from the
5 state ~~in a manner approved by the director~~ in accordance with
6 the requirements established in this section for the juvenile
7 detention transition fund and in appropriations made to provide
8 such aid. Aid paid by the state shall be at least ten percent
9 and not more than fifty percent of the total ~~cost~~ costs of the
10 establishment, improvements, operation, and maintenance of the
11 home.
12 5. The director shall approve annually all such homes
13 established and maintained under the provisions of this
14 chapter. A home shall not be approved unless it complies with
15 minimal rules and standards adopted by the director and has
16 been inspected by the department of inspections and appeals.
17 The statewide number of beds in the homes approved by the
18 director shall not exceed the number of beds in approved homes
19 as of July 1, 2012.
20 6. *a.* A juvenile detention home fund is created in the
21 state treasury under the authority of the department. The
22 fund shall consist of moneys deposited in the fund pursuant
23 to sections 321.218A and 321A.32A. The moneys in the fund
24 shall be used for the costs of the establishment, improvement,
25 operation, and maintenance of county or multicounty juvenile
26 detention homes in accordance with annual appropriations made
27 by the general assembly from the fund for these purposes.
28 *b.* For purposes of allocating moneys among the juvenile
29 detention homes of this state in accordance with this
30 subsection, a detention home's costs shall reflect only those
31 costs attributed to the children placed in the detention
32 home from a court in the judicial district in this state in
33 which the detention home is located and any of the following
34 placements:
35 (1) The placement is from another judicial district in

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1 this state but the child's residence is located closer to the
2 detention home of placement than to the detention home serving
3 the other judicial district from which the child was placed.
4 (2) The placement is from another judicial district in this
5 state and the court ordering the placement has determined that
6 placing the child in the detention home serving such judicial
7 district would be detrimental to the child's well-being or is
8 not in the best interests of the child.
9 EXPLANATION
10 This bill relates to county and multicounty juvenile
11 detention homes in this state.
12 Under current law in Code section 232.142, the juvenile
13 detention homes are subject to approval by the director of the
14 department of human services (DHS). The Code section requires
15 the state to pay financial aid to the juvenile detention homes
16 in an amount that is at least 10 percent and not more than 50
17 percent of the total cost of the establishment, improvements,
18 operation, and maintenance of the home. The Code section also
19 deposits into a juvenile detention home fund civil penalties
20 assessed when the department of transportation suspends,
21 revokes, or bars a person's driver's license or nonresident
22 operating privilege pursuant to Code section 321.218A for
23 a conviction under Code chapter 321 (motor vehicle law) or
24 pursuant to Code section 321A.32 for failure to have motor
25 vehicle liability insurance or other financial responsibility
26 as required under Code chapter 321A. The moneys in the fund
27 are to be used for the costs of the detention homes.
28 The bill links the percentage requirements for the aid
29 provided to the juvenile detention homes to the requirements
30 established for the juvenile detention home fund, limits the
31 statewide number of beds in the homes approved by the director
32 to the number of beds in approved homes as of July 1, 2012,
33 and limits juvenile detention home costs that can be included
34 in the calculation of state aid to those costs attributed to
35 children placed from judicial districts in this state.

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1 With two exceptions, only costs attributed to the children
2 placed in the detention home from a court in the judicial
3 district in which the detention home is located can be used for
4 allocating moneys from the fund. The two exceptions are when
5 the placement is from another judicial district in this state
6 but the child's residence is located closer to the detention
7 home of placement than to the detention home serving the
8 judicial district from which the child was placed and when the
9 placement is from another judicial district in this state and
10 the court ordering the placement has determined that placing
11 the child in the detention home serving such judicial district
12 would be detrimental to the child's well-being or is not in the
13 best interests of the child.

House Study Bill 137 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON COWNIE)

A BILL FOR

1 An Act establishing data security compliance requirements
2 in relation to payment card transactions, and providing
3 penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1395YC (2) 85
rn/nh

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1 Section 1. Section 715C.2, subsection 8, Code 2013, is
2 amended by striking the subsection.
3 Sec. 2. NEW SECTION. **715C.3 Personal information —**
4 **business duty to safeguard — remedies.**
5 1. Any person who accepts a payment card in connection
6 with transactions occurring in the ordinary course of business
7 has a duty to comply with or adhere to payment card industry
8 data security standards. A financial institution may bring an
9 action against a person who is subject to a breach of security
10 if the person is found at the time of the breach to have engaged
11 in or violated such data security standards.
12 2. In an action commenced by a financial institution
13 to recover damages pursuant to subsection 1, the financial
14 institution shall submit in writing a request that the person
15 alleged to have violated this section certify compliance with
16 the standards pursuant to a payment card industry-approved
17 independent auditor or another person authorized to issue such
18 a certification. A presumption of compliance shall exist if
19 a person contracts for or utilizes the services of a third
20 party to collect, maintain, or store personal information used
21 in connection with a payment card, and contractually requires
22 that the third party ensure compliance with the standards on
23 an ongoing basis.
24 3. *a.* A financial institution prevailing in an action for
25 failure to safeguard personal information against a breach
26 of security may recover actual damages arising from the
27 failure. Actual damages shall include any costs incurred by
28 the financial institution in relation to the following:
29 (1) Cancellation or reissuance of a payment card affected
30 by the security breach.
31 (2) Closing of a deposit, transaction, share draft, or other
32 account affected by the security breach and any action to stop
33 payment or block a transaction with respect to the account.
34 (3) Opening or reopening of a deposit, transaction, share
35 draft, or other account affected by the security breach.

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1 (4) Refunding or crediting made to an account holder to
2 cover the cost of any unauthorized transaction relating to the
3 breach of security.
4 (5) Notification to account holders affected by the breach
5 of security pursuant to section 715C.2.
6 *b.* Reasonable attorney fees and costs shall be awarded to
7 the prevailing party, with the exception that an award shall
8 not be made to a person who failed to submit certification as
9 required in subsection 2.
10 *c.* An action pursuant to this section shall not be commenced
11 against any person other than a person who has been found to
12 have violated this section.
13 Sec. 3. NEW SECTION. **715C.4 Penalties.**
14 1. A violation of this chapter is an unlawful practice
15 pursuant to section 714.16 and, in addition to the remedies
16 provided to the attorney general pursuant to section 714.16,
17 subsection 7, the attorney general may seek and obtain an
18 order that a party held to violate this chapter pay damages
19 to the attorney general on behalf of a person injured by the
20 violation.
21 2. The rights and remedies available under this chapter are
22 cumulative to each other and to any other rights and remedies
23 available under the law.
24 EXPLANATION
25 This bill establishes data security compliance requirements
26 in relation to payment card transactions.
27 Current provisions in Code chapter 715C prescribe consumer
28 notification requirements applicable to security breaches
29 involving consumer personal information used in the course
30 of a person's business, vocation, occupation, or volunteer
31 activities. This bill establishes requirements and remedies
32 available to a financial institution in the event a security
33 breach occurs and a person who accepts a payment card in
34 connection with transactions occurring in the ordinary course
35 of business has failed to comply with or adhere to payment card

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1 industry data security standards.
2 The bill provides that a financial institution may bring
3 an action against a person who is subject to a breach of
4 security if the person is found at the time of the breach
5 to have engaged in or violated data security standards. The
6 financial institution shall be required to submit in writing a
7 request that the person alleged to have violated the standards
8 certify compliance with the standards pursuant to a payment
9 card industry-approved independent auditor or another person
10 authorized to issue such a certification. The bill states that
11 a presumption of compliance shall exist if a person contracts
12 for or utilizes the services of a third party to collect,
13 maintain, or store personal information used in connection with
14 a payment card, and contractually requires that the third party
15 ensure compliance with the standards on an ongoing basis.
16 The bill provides that a financial institution prevailing in
17 an action for failure to safeguard personal information against
18 a breach of security may recover actual damages, as specified
19 in the bill, arising from the failure.
20 The bill makes existing unlawful practice penalty provisions
21 for violations of Code section 715C.2 also applicable to data
22 security compliance violations.

House Study Bill 138 - Introduced

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

A BILL FOR

1 An Act relating to the service of notice of no-contact orders
2 and protective orders.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1750HC (5) 85
rh/rj

H.F. _____

1 Section 1. Section 236.3, subsection 3, Code 2013, is
2 amended to read as follows:
3 3. *a.* The filing fee and court costs for an order for
4 protection and in a contempt action under this chapter shall be
5 waived for the plaintiff.
6 *b.* The clerk of court, the sheriff of any county in this
7 state, and other law enforcement and corrections officers shall
8 perform their duties relating to service of process without
9 charge to the plaintiff. When an order for protection is
10 entered by the court, the court may direct the defendant to pay
11 to the clerk of court the fees for the filing of the petition
12 and reasonable costs of service of process if the court
13 determines the defendant has the ability to pay the plaintiff's
14 fees and costs. In lieu of personal service of an order for
15 protection issued pursuant to this section, the sheriff of any
16 county in this state, and other law enforcement and corrections
17 officers may serve a defendant with a short-form notification
18 pursuant to section 664A.4A.
19 Sec. 2. NEW SECTION. **664A.4A Short-form notification —**
20 **no-contact order or protective order.**
21 1. In lieu of personal service of a no-contact order or a
22 protective order on a person whose activities are restrained
23 by the order, a sheriff of any county in this state or any
24 peace officer or corrections officer in this state may serve
25 the person with a short-form notification pursuant to this
26 section to effectuate service of an unserved no-contact order
27 or protective order.
28 2. Service of a short-form notification under this section
29 shall be allowed during traffic stops and other contacts with
30 the person by a sheriff, peace officer, or corrections officer
31 in this state in the course of performing official duties.
32 The person may be detained for a reasonable period of time to
33 complete the short-form notification process.
34 3. When the short-form notification process is complete,
35 the sheriff, peace officer, or corrections officer serving the

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1 notification shall file a copy of the notification with the
2 clerk of the district court. The filing shall indicate the
3 date and time the notification was served on the person.
4 4. The short-form notification shall be on a form
5 prescribed by the state court administrator. The state court
6 administrator shall prescribe rules relating to the content
7 and distribution of the form to appropriate law enforcement
8 agencies in this state. The form shall include but not be
9 limited to all of the following statements:
10 *a.* The person shall have no contact with the protected
11 party.
12 *b.* The person is responsible for obtaining a full copy of
13 the no-contact order or the protective order from the county
14 sheriff of the county in which the order was entered or from
15 the clerk of the district court.
16 *c.* The terms and conditions of the no-contact order or
17 protective order are enforceable, and the person is subject to
18 arrest for violating the no-contact order or the protective
19 order.
20 EXPLANATION
21 This bill relates to the service of notice of no-contact
22 orders and protective orders.
23 The bill provides that, in lieu of personal service of a
24 no-contact order or a protective order, a sheriff of any county
25 in this state or any peace officer or corrections officer in
26 this state may serve the person subject to the order with a
27 short-form notification to effectuate service of an unserved
28 no-contact order or protective order. The bill allows service
29 of a short-form notification during traffic stops and other
30 contacts with the person by a sheriff, peace officer, or
31 corrections officer in the course of performing official
32 duties. The detention of the person shall be for a reasonable
33 period of time to complete the short-form notification process.
34 When the short-form notification process is complete, the
35 sheriff, peace officer, or corrections officer serving the

H.F. _____

1 notification shall file a copy of the notification with the
2 clerk of the district court which shall indicate the date and
3 time the notification was served on the person. The short-form
4 notification shall be on a form prescribed by the state court
5 administrator. The state court administrator shall prescribe
6 rules relating to the content and distribution of the form to
7 the appropriate law enforcement agencies in this state. The
8 form shall include but not be limited to statements that the
9 person shall have no contact with the protected party, is
10 responsible for obtaining a full copy of the no-contact order
11 or protective order from the county sheriff of the county in
12 which the order was entered or from the clerk of the district
13 court, and that the terms and conditions of the no-contact
14 order or protective order are enforceable, and the person
15 is subject to arrest for violating the no-contact order or
16 protective order.

House Study Bill 139 - Introduced

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

A BILL FOR

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

TLSB 1504YC (1) 85
dea/nh

H.F. _____

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

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

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

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

EXPLANATION

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

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

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

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

House Study Bill 140 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
TRANSPORTATION BILL BY
CHAIRPERSON BYRNES)

A BILL FOR

1 An Act relating to the penalty for failing to return a persons
2 with disabilities parking permit and using the permit to
3 park illegally.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1965YC (2) 85
dea/nh

H.F. _____

Section 1. Section 321L.3, subsection 2, Code 2013, is amended to read as follows:

2. A person who fails to return the persons with disabilities parking permit and subsequently misuses the permit by illegally parking in a persons with disabilities parking space is guilty of a simple misdemeanor punishable ~~as a scheduled violation under section 805.8A, subsection 1, paragraph "c"~~ by a fine of not less than five hundred dollars or by imprisonment not to exceed thirty days, or by both.

Sec. 2. Section 805.8A, subsection 1, paragraph c, Code 2013, is amended to read as follows:

c. For violations under section 321L.2A, subsection 3, ~~sections 321L.3,~~ section 321L.4, subsection 2, and section 321L.7, the scheduled fine is two hundred dollars.

EXPLANATION

Under current law, a persons with disabilities parking permit must be returned to the department of transportation, a driver's license station, or any law enforcement officer when the person to whom the permit was issued is deceased or moves out of state; when a person finds or obtains possession of a permit not issued to that person; when the permit has expired or has been revoked; or when a permit reported lost or stolen is found, if the permit was subsequently replaced. A person who fails to return a persons with disabilities parking permit and subsequently uses the permit illegally to park in a persons with disabilities parking space is guilty of a simple misdemeanor punishable by a scheduled fine of $200. This bill changes that penalty to a simple misdemeanor punishable by a minimum fine of $500 or by imprisonment for not more than 30 days, or by both.

Pursuant to current law, persons with disabilities license plates, persons with disabilities parking stickers, and persons with disabilities removable windshield placards are all included in the definition of "persons with disabilities parking permit".

House Study Bill 141 - Introduced

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

A BILL FOR

1 An Act relating to marital agreements, and including effective
2 date and applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1479YC (5) 85
pf/rj

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1 Section 1. Section 249A.3, subsection 11, paragraph d, Code
2 2013, is amended to read as follows:
3 *d.* Unless a surviving spouse is precluded from making an
4 election under the terms of a ~~premarital~~ marital agreement as
5 defined in section 596.1, the failure of a surviving spouse to
6 take an elective share pursuant to chapter 633, division V,
7 constitutes a transfer of assets for the purpose of determining
8 eligibility for medical assistance to the extent that the value
9 received by taking an elective share would have exceeded the
10 value of the inheritance received under the will.
11 Sec. 2. Section 596.1, Code 2013, is amended to read as
12 follows:
13 **596.1 Definitions.**
14 As used in this chapter:
15 1. *"Marital agreement"* means any of the following:
16 *a.* A premarital agreement.
17 *b.* An amendment to a premarital agreement made between
18 present spouses, but only relating to post-death matters.
19 *c.* An agreement or an amendment to an agreement between
20 present spouses, but only relating to post-death matters.
21 2. *"Party"* means a person who has entered into a marital
22 agreement.
23 3. *"Post-death matter"* includes but is not limited to the
24 disposition of the parties' individually or jointly owned
25 assets upon the death of either or both parties; the making of
26 a will, trust, or other arrangements for the disposition of
27 property upon the death of either or both parties; ownership
28 rights in life insurance policies and retirement plans and the
29 disposition of the death benefits of any such policy or plan;
30 and the limitation or expansion of spousal elective shares
31 pursuant to chapter 633, division V.
32 ~~1.~~ 4. *"Premarital agreement"* means an agreement between
33 prospective spouses made in contemplation of marriage and to be
34 effective upon marriage.
35 ~~2.~~ 5. *"Property"* means an interest, present or future,

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1 legal or equitable, vested or contingent, in real or personal
2 property, including income and earnings.
3 Sec. 3. Section 596.2, Code 2013, is amended to read as
4 follows:
5 **596.2 Construction and application.**
6 This chapter shall be construed and applied to effectuate
7 its general purpose ~~to make uniform the law with respect to~~
8 ~~premarital agreements~~.
9 Sec. 4. Section 596.3, Code 2013, is amended to read as
10 follows:
11 **596.3 Short title.**
12 This chapter may be cited as the *"Iowa ~~Uniform Premarital~~*
13 *Marital Agreement Act"*.
14 Sec. 5. Section 596.4, Code 2013, is amended to read as
15 follows:
16 **596.4 Formalities.**
17 1. *a.* A ~~premarital~~ marital agreement must be in writing
18 ~~and~~, must be signed by both ~~prospective spouses. It~~ parties,
19 and must contain the date that each party signed the marital
20 agreement. Each party's signature must be witnessed or
21 acknowledged by one of the following methods, as applicable:
22 (1) Witnessed by a competent person, as described in section
23 633.280, who, in the presence of the signing party, witnessed
24 the signing of the agreement by the party or by another person
25 acting on behalf of the party at that party's direction.
26 (2) Acknowledged before a notarial officer within this
27 state.
28 *b.* The witnessing or acknowledgment language may be in
29 substantially the following form:
30 **THIS DOCUMENT MUST BE EITHER WITNESSED OR ACKNOWLEDGED**
31 WITNESS STATEMENT
32 I declare that the parties who signed this document are
33 personally known to me, and that they signed this marital
34 agreement in my presence. I further declare that I am at least
35 sixteen years of age or older.

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Witness #1: Signature: _____
Date: _____
Print Name: _____
Telephone: _____
Address: _____
Witness #2: Signature: _____
Date: _____
Print Name: _____
Telephone: _____
Address: _____

ACKNOWLEDGMENT

STATE OF IOWA, _____ COUNTY, ss:
On this ____ day of _____ (month), ____ (year), the said _____, and _____, known to me (or satisfactorily proven) to be the parties named in the foregoing instrument, personally appeared before me, a Notary Public, within and for the State and County aforesaid, and acknowledged that they freely and voluntarily executed the same for the purposes stated therein.

2. A marital agreement between present spouses must be signed by both parties prior to the filing of an action for dissolution of marriage, for legal separation, or for separate maintenance.

3. A marital agreement is enforceable without consideration ~~other than the marriage~~.

4. Both parties to ~~the~~ a marital agreement shall execute all documents necessary to enforce the agreement.

Sec. 6. Section 596.5, Code 2013, is amended to read as follows:

596.5 Content.

1. ~~Parties~~ Subject to the limitations of a marital agreement between present spouses, which as specified in section 596.1, subsection 1, shall only relate to post-death matters, parties to a ~~premarital~~ marital agreement may contract with respect to the following:

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1 *a.* The rights and obligations of each of the parties in any
2 of the property of either or both of them whenever and wherever
3 acquired or located.
4 *b.* The ~~right~~ rights of possession, ownership, or control,
5 including but not limited to the rights to buy, sell, use,
6 transfer, make a gift of, exchange, abandon, lease, consume,
7 expend, assign, create a security interest in, mortgage,
8 encumber, dispose of, or otherwise manage and control property.
9 *c.* The disposition of property upon separation, dissolution
10 of the marriage, death, or the occurrence or nonoccurrence of
11 any other event.
12 *d.* The making of a will, trust, or other arrangement to
13 carry out the provisions of the marital agreement.
14 *e.* The ownership rights in ~~and disposition of the death~~
15 ~~benefit from~~ a life insurance policy and the establishment of
16 rights of beneficiaries to the benefits of such policy.
17 *f.* The rights and obligations in benefits available or to be
18 available under an employee benefit or retirement plan, except
19 to the extent federal law prevents a binding agreement with
20 respect to such rights and obligations.
21 ~~*f.*~~ *g.* The choice of law governing the construction of the
22 agreement.
23 ~~*g.*~~ *h.* Any other matter, including the personal rights and
24 obligations of the parties, not in violation of public policy
25 or a statute imposing a criminal penalty.
26 2. A marital agreement is not enforceable unless the
27 agreement contains a statement of the types of rights that
28 could be affected by the marital agreement in an all capital
29 letter typeface and font size as large as the largest typeface
30 and font contained in the document. The following statement or
31 a statement of like import contained within the document shall
32 be acceptable for this purpose:
33 BE ADVISED, BY SIGNING THIS DOCUMENT, YOU MAY BE GIVING
34 UP LEGAL RIGHTS, SUCH AS THE RIGHTS TO OWN OR OCCUPY YOUR
35 HOMESTEAD, RIGHTS TO A STATUTORY SHARE OF YOUR SPOUSE'S ASSETS

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UPON DEATH, RIGHTS TO COURT DETERMINATIONS OF DISTRIBUTIONS OF PROPERTY UPON DISSOLUTION OF MARRIAGE, AND OTHER RIGHTS YOU MAY HAVE BY REASON OF MARRIAGE. YOU MAY ALSO BE EXPANDING OR RESTRICTING THOSE TYPES OF RIGHTS OR EXPANDING OR RESTRICTING THE COURT'S POWERS TO DETERMINE THESE ISSUES.

~~2.~~ 3. The right of a spouse or child to support, whether during the lifetime or after the death of a party, shall not be adversely affected by a ~~premarital~~ marital agreement.

Sec. 7. Section 596.6, Code 2013, is amended to read as follows:

596.6 Effective date of agreement.

1. A ~~premarital~~ marital agreement becomes effective upon ~~the~~ marriage, if signed by both of the parties prior to the marriage.

2. If a marital agreement is signed by the parties during their marriage, the marital agreement becomes effective on the effective date stated in the marital agreement. If no such effective date is stated in the marital agreement, the marital agreement becomes effective upon the latest date of signature by the parties.

Sec. 8. Section 596.7, Code 2013, is amended to read as follows:

596.7 Revocation and amendment.

1. *Revocation.* After marriage, a ~~premarital~~ marital agreement may be revoked, in whole or in part, only as follows:

~~1.~~ *a.* By a written agreement signed by both ~~spouses~~ parties. The revocation is enforceable without consideration.

~~2.~~ *b.* ~~To revoke a premarital~~ By either party to the marital agreement without the consent of the other ~~spouse~~ party, ~~the person seeking revocation must prove one or more~~ if the party seeking revocation proves any of the following:

~~*a.*~~ (1) The ~~person~~ party seeking revocation did not execute the marital agreement voluntarily.

~~*b.*~~ (2) The marital agreement was unconscionable when it was executed.

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1 ~~c.~~ (3) Before the execution of the marital agreement the
2 ~~person~~ party seeking revocation was not provided a fair and
3 reasonable disclosure of the property or financial obligations
4 of the other ~~spouse~~ party; and the ~~person~~ party seeking
5 revocation did not have, or reasonably could not have had, an
6 adequate knowledge of the property or financial obligations of
7 the other ~~spouse~~ party; and such disclosure would have been
8 material to the decision of the party seeking revocation to
9 execute the marital agreement.
10 (4) Before the execution of the marital agreement the party
11 seeking revocation was not given a reasonable opportunity to
12 obtain independent legal representation with respect to the
13 marital agreement.
14 2. *Revocation severable.* If the revocation of one or
15 more provisions of the marital agreement, or the application
16 of the revocation of such a provision to a party is upheld
17 by the court, any revoked provision shall be severed from
18 the remainder of the marital agreement, unless the marital
19 agreement states otherwise, and shall not affect the remaining
20 provisions.
21 3. *Amendment.* A marital agreement may be amended by
22 a written agreement signed by both parties. An amendment
23 is subject to the limitations of an amendment to a marital
24 agreement which, as specified in section 596.1, subsection 1,
25 shall only relate to post-death matters, and subject to the
26 enforcement provisions of section 596.8.
27 4. *Limits on amendment and revocation.* A marital
28 agreement cannot be amended or revoked by an agent, guardian,
29 conservator, or other legal representative of either party, or
30 after the death of either party, except as provided pursuant
31 to subsection 1, paragraph *"b"*, relating to revocation without
32 the consent of the other party.
33 Sec. 9. Section 596.8, Code 2013, is amended to read as
34 follows:
35 **596.8 Enforcement.**

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1 1. A ~~premarital~~ marital agreement is not enforceable if the
2 person or party against whom enforcement is sought proves ~~any~~
3 ~~of the following:~~
4 ~~1. The person did not execute the agreement voluntarily.~~
5 ~~2. The agreement was unconscionable when it was executed.~~
6 ~~3. Before the execution of the agreement the person was~~
7 ~~not provided a fair and reasonable disclosure of the property~~
8 ~~or financial obligations of the other spouse; and the person~~
9 ~~did not have, or reasonably could not have had, an adequate~~
10 ~~knowledge of the property or financial obligations of the other~~
11 ~~spouse~~ that such person or party could have revoked the marital
12 agreement pursuant to section 596.7, subsection 1, paragraph
13 *"b"*, relating to revocation without consent of the other party.
14 2. If ~~a provision~~ one or more of the provisions of the
15 marital agreement ~~or the application of the provision to a~~
16 ~~party~~ is ~~found~~ determined by the court to be unenforceable
17 pursuant to this section, the unenforceable provision shall be
18 severed from the remainder of the marital agreement, unless the
19 marital agreement states otherwise, and shall not affect the
20 remaining provisions~~, or application, of the agreement which~~
21 ~~can be given effect without the unenforceable provision~~.
22 3. Other than the determination of the issue of
23 unconscionability, actions with respect to enforcement of a
24 marital agreement shall be decided by the court as a matter of
25 equity.
26 Sec. 10. Section 596.9, Code 2013, is amended to read as
27 follows:
28 **596.9 Unconscionability.**
29 In any action under this chapter to revoke or enforce a
30 ~~premarital~~ marital agreement, the issue of unconscionability of
31 a ~~premarital~~ marital agreement shall be decided by the court
32 as a matter of law.
33 Sec. 11. Section 596.10, Code 2013, is amended to read as
34 follows:
35 **596.10 Enforcement — void marriage.**

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1 If a marriage is determined to be void, an agreement that
2 would otherwise have been a ~~premarital~~ marital agreement
3 is enforceable only to the extent necessary to avoid an
4 inequitable result.
5 Sec. 12. Section 596.11, Code 2013, is amended to read as
6 follows:
7 **596.11 Limitation of actions.**
8 Any statute of limitations applicable to an action asserting
9 a claim for relief under a ~~premarital~~ marital agreement is
10 tolled during the marriage of the parties ~~to the agreement~~.
11 However, equitable defenses limiting the time for enforcement,
12 including laches and estoppel, are available to either party.
13 Sec. 13. NEW SECTION. **596.11A Scope of chapter — bona fide**
14 **purchasers and distribution of assets.**
15 1. This chapter shall not affect adversely the rights of a
16 bona fide purchaser for value to the extent that this chapter
17 applies to a transfer or conveyance of property by a party to a
18 marital agreement to a nonparty.
19 2. A financial institution, insurance company, investment
20 company as defined in the federal Investment Company Act of
21 1940, 15 U.S.C. § 80a-3, or broker-dealer registered under
22 the federal Securities Exchange Act of 1934, 15 U.S.C. § 78m
23 et seq., may distribute any assets, in accordance with the
24 terms of the contract with a party to a marital agreement or in
25 accordance with any effective beneficiary designation without
26 liability to either party to the marital agreement.
27 Sec. 14. Section 596.12, Code 2013, is amended to read as
28 follows:
29 **596.12 Effective date and applicability.**
30 1. ~~This~~ As it relates to premarital agreements, this chapter
31 takes effect on January 1, 1992, and applies to any premarital
32 agreement executed on or after that date, in accordance
33 with the statutory provisions in effect as of the date of
34 the premarital agreement. This chapter does not affect the
35 validity under Iowa law of any premarital agreement entered

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1 into prior to January 1, 1992.
2 2. As it relates to amendments to premarital agreements
3 and to marital agreements and amendments to marital agreements
4 entered into after marriage, this chapter takes effect July 1,
5 2013, and applies to any such amendments or agreements executed
6 on or after that date.
7 Sec. 15. Section 598.21, subsection 5, paragraph 1, Code
8 2013, is amended to read as follows:
9 *1.* The provisions of ~~an antenuptial~~ a premarital agreement.
10 Sec. 16. Section 598.21A, subsection 1, paragraph i, Code
11 2013, is amended to read as follows:
12 *i.* The provisions of ~~an antenuptial~~ a premarital agreement.
13 Sec. 17. Section 633.246A, Code 2013, is amended to read as
14 follows:
15 **633.246A Medical assistance eligibility.**
16 Unless precluded from doing so under the terms of a
17 ~~premarital~~ marital agreement as defined in section 596.1, the
18 failure of a surviving spouse to make an election under this
19 division constitutes a transfer of assets for the purpose of
20 determining eligibility for medical assistance pursuant to
21 chapter 249A to the extent that the value received by making
22 the election would have exceeded the value of property received
23 absent the election.
24 EXPLANATION
25 This bill amends Code chapter 596 (premarital agreements)
26 to allow for marital agreements which include premarital
27 agreements, certain amendments to premarital agreements, and
28 the creation of agreements or amendments to agreements between
29 present spouses. An amendment to a premarital agreement or an
30 agreement or amendment to an agreement between present spouses
31 is effective only to the extent it relates to post-death
32 matters. The bill provides for protection of the parties
33 including that the agreement must not be unconscionable at the
34 time it is entered into; the agreement must include a provision
35 that states the rights a party may be giving up; an agent is

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1 prohibited from amending or revoking a marital agreement on
2 behalf of a party; and unconscionability is determined by the
3 court as a matter of law while all other matters are determined
4 in equity. The bill provides for revocation and amendment of
5 marital agreements, places limits on amendments and revocations
6 of marital agreements, provides for enforcement, provides
7 for scope of the chapter regarding bona fide purchasers and
8 distribution of assets, and makes conforming changes.
9 The bill continues the applicability of the amended Code
10 chapter to any premarital agreement executed on or after
11 January 1, 1992, in accordance with the statutory provisions
12 in effect as of the date of the premarital agreement. The
13 bill does not modify the inapplicability of the Code chapter
14 to any premarital agreement entered into prior to January
15 1, 1992. Additionally, the bill provides that as the Code
16 chapter relates to amendments to premarital agreements and to
17 marital agreements entered into after marriage, the amended
18 Code chapter takes effect July 1, 2013, and applies to any such
19 amendments or agreements executed on or after that date.
20 The bill also makes conforming changes throughout the Code.

Senate File 177 - Introduced

SENATE FILE 177
BY BEALL, BOLKCOM, HOGG, DVORSKY, DOTZLER, SENG, PETERSEN, HART, HORN, DEARDEN, RAGAN, McCOY, and QUIRMBACH

A BILL FOR

1 An Act relating to domestic abuse protective orders and pets or
2 companion animals owned or held by a petitioner, respondent,
3 or minor child of the petitioner or respondent in a domestic
4 abuse case.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1155XS (3) 85
rh/nh

S.F. 177

1 Section 1. Section 236.3, subsection 1, Code 2013, is
2 amended by adding the following new paragraph:
3 NEW PARAGRAPH. *0g.* Name or description of any pet or
4 companion animal owned, possessed, leased, kept, or held by the
5 petitioner, respondent, or minor child of the petitioner or
6 respondent whose welfare may be affected by the controversy.
7 However, this paragraph shall not apply to livestock as defined
8 in section 717.1, held solely or primarily for commercial
9 purposes.
10 Sec. 2. Section 236.4, Code 2013, is amended by adding the
11 following new subsection:
12 NEW SUBSECTION. 3A. The court may include in the temporary
13 order issued pursuant to this section a grant to the petitioner
14 of the exclusive care, possession, or control of any pets or
15 companion animals owned, possessed, leased, kept, or held by
16 the petitioner, respondent, or minor child of the petitioner or
17 respondent whose welfare may be affected by the controversy.
18 The court may forbid the respondent from approaching, taking,
19 transferring, encumbering, concealing, molesting, attacking,
20 striking, threatening, harming, or otherwise disposing of the
21 pet or companion animal. This subsection shall not apply to
22 livestock as defined in section 717.1, held solely or primarily
23 for commercial purposes.
24 Sec. 3. Section 236.4, subsection 4, Code 2013, is amended
25 to read as follows:
26 4. If a hearing is continued, the court may make or extend
27 any temporary order under subsection 2, ~~or~~ 3, or 3A that it
28 deems necessary.
29 Sec. 4. Section 236.5, subsection 1, paragraph b, Code 2013,
30 is amended by adding the following new subparagraph:
31 NEW SUBPARAGRAPH. (7) A grant to the petitioner of
32 the exclusive care, possession, or control of any pets or
33 companion animals owned, possessed, leased, kept, or held by
34 the petitioner, respondent, or minor child of the petitioner or
35 respondent whose welfare may be affected by the controversy.

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1 The court may forbid the respondent from approaching, taking,
2 transferring, encumbering, concealing, molesting, attacking,
3 striking, threatening, harming, or otherwise disposing of the
4 pet or companion animal. This subparagraph shall not apply to
5 livestock as defined in section 717.1, held solely or primarily
6 for commercial purposes.
7 EXPLANATION
8 This bill relates to domestic abuse protective orders
9 and pets or companion animals owned or held by a petitioner,
10 respondent, or minor child of the petitioner or respondent in
11 a domestic abuse case.
12 The bill provides that a person who files a petition for
13 relief from domestic abuse pursuant to Code section 236.3 may
14 include in the petition the name or description of any pet or
15 companion animal owned, possessed, leased, kept, or held by the
16 petitioner, respondent, or minor child of the petitioner or
17 respondent whose welfare may be affected by the controversy.
18 The bill further provides the court may include in both
19 temporary and permanent orders issued a grant to the petitioner
20 of the exclusive care, possession, or control of any pets or
21 companion animals owned, possessed, leased, kept, or held by
22 the petitioner, respondent, or minor child of the petitioner or
23 respondent whose welfare may be affected by the controversy.
24 The court may forbid the respondent from approaching, taking,
25 transferring, encumbering, concealing, molesting, attacking,
26 striking, threatening, harming, or otherwise disposing of the
27 pet or companion animal.
28 The bill does not apply to livestock as defined in Code
29 section 717.1, held solely or primarily for commercial
30 purposes.

Senate File 178 - Introduced

SENATE FILE 178
BY BEALL

A BILL FOR

1 An Act relating to mandatory child abuse and dependent adult
2 abuse reporter training, and including applicability
3 provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1567XS (2) 85
ad/nh

S.F. 178

1 Section 1. Section 135.11, subsection 24, Code 2013, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:
4 24. *a.* Establish requirements for the curricula and
5 perform the review and approval for mandatory reporter
6 training curricula for those persons who work in a position
7 classification that under law makes the persons mandatory
8 reporters of child or dependent adult abuse and the position
9 classification does not have a mandatory reporter training
10 curriculum approved by a licensing or examining board. The
11 department may convene a stakeholder group which includes
12 representatives from the departments of education, human
13 services, and public safety, as necessary to make revisions to
14 the curricula.
15 *b.* Establish requirements for trainers for the interactive
16 training requirement for mandatory reporters and perform
17 the review and approval of the trainers for the interactive
18 training requirement for mandatory reporters provided in
19 section 232.69, subsection 3, paragraph *"b"*, subparagraph (3).
20 Sec. 2. Section 232.69, subsection 3, paragraph b, Code
21 2013, is amended to read as follows:
22 *b.* (1) A person required to make a report under subsection
23 1, other than a physician whose professional practice does
24 not regularly involve providing primary health care to
25 children, shall complete two hours of training relating to
26 the identification and reporting of child abuse within six
27 months of initial employment or self-employment involving the
28 examination, attending, counseling, or treatment of children
29 on a regular basis.
30 (2) Within one month of initial employment or
31 self-employment, the person shall obtain a statement of the
32 abuse reporting requirements from the person's employer or, if
33 self-employed, from the department.
34 (3) Between twenty-four and thirty-six months after initial
35 employment or self-employment, the person shall complete ninety

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minutes of interactive training for mandatory reporters. However, if the person obtains subsequent employment prior to completing the interactive training, and the person's subsequent employment is substantially similar or the person has the same job responsibilities and the subsequent employer requires the person to complete two hours of training within six months of the subsequent employment pursuant to subparagraph (1), the person shall complete the interactive training between twenty-four to thirty-six months after initial employment at the subsequent employment. The person shall also complete the interactive training between twenty-four to thirty-six months after initial employment at the subsequent employment when the person obtains subsequent employment prior to completing the interactive training, and the person's subsequent employment is not substantially similar. The trainers for the interactive training for mandatory reporters shall be approved by the department of public health pursuant to section 135.11, subsection 24.

(4) The person shall complete at least two hours of additional child abuse identification and reporting training, not including the interactive training described in subparagraph (3), every five years after the date of initial employment or self-employment and every five years thereafter.

Sec. 3. Section 232.69, subsection 3, paragraph d, unnumbered paragraph 1, Code 2013, is amended to read as follows:

The person may complete the initial, interactive, or additional training requirements as part of any of the following that are applicable to the person:

Sec. 4. Section 232.69, subsection 3, paragraph d, subparagraph (2), Code 2013, is amended to read as follows:

(2) A training program using a curriculum approved by the ~~abuse education review panel established by the director~~ department of public health pursuant to section 135.11.

Sec. 5. Section 235B.16, subsection 5, paragraph d,

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subparagraph (2), Code 2013, is amended to read as follows:

(2) A training program using a curriculum approved by the ~~abuse education review panel established by the director~~ department of public health pursuant to section 135.11.

Sec. 6. Section 235B.16, subsection 5, paragraph e, Code 2013, is amended to read as follows:

e. A person required to complete both child abuse and dependent adult abuse mandatory reporter training may complete the training through a program which combines child abuse and dependent adult abuse curricula and thereby meet the training requirements of both this subsection and section 232.69 simultaneously. A person who is a mandatory reporter for both child abuse and dependent adult abuse may satisfy the combined training requirements of this subsection and section 232.69 through completion of a ~~two-hour~~ three-hour training program, if the training program curriculum is approved by the appropriate licensing board or the ~~abuse education review panel established by the director~~ department of public health pursuant to section 135.11.

Sec. 7. RULES. The department of public health shall adopt rules to implement the provisions of this Act.

Sec. 8. APPLICABILITY.

1. The section of this Act amending section 232.69, subsection 3, paragraph "b", applies to a person required to make a child abuse report who begins initial employment or self-employment on or after July 1, 2013.

2. The section of this Act amending section 235B.16, subsection 5, paragraph "e", applies on and after July 1, 2014, to a person who is a mandatory reporter for both child abuse and dependent adult abuse and is completing a combined training program.

EXPLANATION

This bill relates to mandatory child abuse and dependent adult abuse reporter training. The bill eliminates the abuse education review panel, a panel established by the department

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of public health. The abuse education review panel was established to review and approve mandatory reporter training curricula. The bill instead transfers this responsibility to the department of public health and also requires the department to review and approve trainers for the new interactive training requirement for mandatory reporters of child abuse. The bill also provides that the department of public health may convene a group of stakeholders to make revisions to curricula.

The bill adds an additional one-time training requirement for mandatory reporters of child abuse. Between 24 and 36 months after initial employment or self-employment, a mandatory reporter must complete a 90-minute interactive training. The bill requires the department of public health to approve the trainers for this interactive training. The other training requirements for mandatory reporters of child abuse remain the same under the bill.

The bill increases the number of hours of training for persons required to report both child abuse and dependent adult abuse who are completing a combined training from two hours to three hours.

The bill states that the interactive training requirement applies to mandatory reporters of child abuse who begin initial employment or self-employment on or after July 1, 2013. The bill also provides that the provision increasing the training requirement for combined child abuse and dependent adult abuse training applies on and after July 1, 2014, to those mandatory reporters of both child abuse and dependent adult abuse who are completing a combined training program.

Senate File 179 - Introduced

SENATE FILE 179
BY HOGG

A BILL FOR

1 An Act providing for an annual adjustment to the amount of
2 value used to calculate the homestead credit and including
3 applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1822XS (2) 85
md/sc

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Section 1. Section 425.1, subsection 2, Code 2013, is amended to read as follows:

2. *a.* The homestead credit fund shall be apportioned each year so as to give a credit against the tax on each eligible homestead in the state in an amount equal to the actual levy on the first four thousand eight hundred fifty dollars, as adjusted pursuant to paragraph *"b"*, of actual value for each homestead.

b. The amount of actual value specified in paragraph *"a"* shall be adjusted annually as provided in this paragraph. For each fiscal year beginning on or after July 1, 2013, the amount of actual value used to calculate the homestead credit shall be the amount of actual value used to calculate the homestead credit in the immediately preceding fiscal year multiplied by the annual homestead credit factor.

c. For the purposes of this subsection, *"annual homestead credit factor"* means the percent increase, but not less than zero, in the statewide actual value of residential property for the assessment year applicable to the fiscal year for which the homestead credit is being calculated resulting from the revaluation of existing properties over the statewide actual value of residential property in the preceding assessment year, plus one hundred percent.

Sec. 2. APPLICABILITY. This Act applies to property taxes due and payable in fiscal years beginning on or after July 1, 2013.

EXPLANATION

Current Code section 425.1 provides that the homestead credit fund shall be apportioned each year so as to give a credit against the tax on each eligible homestead in the state in an amount equal to the actual levy on the first $4,850 of actual value for each homestead.

This bill provides for an annual adjustment to the amount of actual value used to calculate the homestead credit under Code chapter 425. For each fiscal year beginning on or after

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1 July 1, 2013, the bill requires that the amount of actual value
2 used to calculate the homestead credit shall be the amount of
3 actual value used to calculate the homestead credit in the
4 immediately preceding fiscal year multiplied by the annual
5 homestead credit factor. The bill defines "annual homestead
6 credit factor" to mean the percent increase, but not less than
7 zero, in the statewide actual value of residential property for
8 the assessment year applicable to the fiscal year for which
9 the homestead credit is being calculated resulting from the
10 revaluation of existing properties over the statewide actual
11 value of residential property in the preceding assessment year,
12 plus 100 percent.
13 The bill applies to property taxes due and payable in fiscal
14 years beginning on or after July 1, 2013.

Senate File 180 - Introduced

SENATE FILE 180
BY ZAUN

A BILL FOR

1 An Act providing for annual review of pensions by the public
2 retirement systems committee.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2103XS (1) 85
ec/rj

S.F. 180

1 Section 1. Section 97D.4, subsection 3, unnumbered
2 paragraph 1, Code 2013, is amended to read as follows:
3 The committee, on an annual basis, shall:
4 EXPLANATION
5 This bill requires the public retirement systems committee
6 to review public pension policy on an annual basis.

Senate File 181 - Introduced

SENATE FILE 181
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1139)

A BILL FOR

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

TLSB 2165SV (1) 85
rn/nh

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

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

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after the initial application shall be submitted with the quarterly reports pursuant to section 533C.503, subsection 2. If the licensee has no locations in this state at which business is conducted through authorized delegates or employees of the licensee, the license fee shall be set by the superintendent, but shall not exceed five thousand dollars. A license under this article expires on the next ~~September 30~~ December 31 after its issuance. The initial license fee is considered an annual fee and the superintendent shall prorate the license fee, refunding any amount due to a partial license year. However, no refund of a license fee shall be made when a license is suspended, revoked, or surrendered.

Sec. 8. Section 533C.202, Code 2013, is amended by adding the following new subsections:

NEW SUBSECTION. 6. The superintendent may authorize applicants and licensees to be licensed through a nationwide licensing system and to pay the corresponding system processing fees. The superintendent may establish by rule or order new licensing requirements as necessary, including but not limited to requirements that applicants, including officers and directors and those who have control of the applicant, submit to fingerprinting and criminal history checks.

NEW SUBSECTION. 7. For the purposes of this section and in order to reduce the points of contact which the federal bureau of investigation may be required to maintain for purposes of subsection 6, the superintendent may use the nationwide licensing system as a channeling agent for requesting information from and distributing information to the United States department of justice or other governmental agency, or to or from any other source so directed by the superintendent.

Sec. 9. Section 533C.205, subsections 1 and 3, Code 2013, are amended to read as follows:

1. A licensee under this article shall pay an annual renewal fee as determined below by no later than ~~September~~ December 1 of the year of expiration. The renewal fee shall be

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

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

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

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

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

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

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the next scheduled time. Thereafter, the applicant shall be allowed to take the examination at the discretion of the board. An applicant who has failed the examination may request in writing information from the board concerning the applicant's examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the board administers a uniform, standardized examination, the board shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the board.

Sec. 23. Section 543B.20, Code 2013, is amended to read as follows:

543B.20 ~~Written examination~~ Examination.

Examinations for registration shall be given as often as deemed necessary by the real estate commission, but no less than one time per year. Each applicant for a license must pass ~~a written~~ an examination authorized by the commission and administered by the commission or persons designated by the commission. The examination shall be of scope and wording sufficient in the judgment of the commission to establish the competency of the applicant to act as a real estate broker or salesperson in a manner to protect the interests of the public. An examination for a real estate broker shall be of a more exacting nature than that for a real estate salesperson and require higher standards of knowledge of real estate. ~~All examinations in real estate theory shall be in writing and the~~ The identity of the persons taking the examinations shall be concealed until after the examination ~~papers have~~ has been graded. ~~For examinations in practice, the identity of the persons taking the examinations shall also be concealed as far as possible.~~ A person who fails to pass either ~~written~~ examination once may immediately apply to take the next available examination. Thereafter, the applicant may take the examination at the discretion of the commission. An applicant who has failed either examination may request in writing

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information from the commission concerning the applicant's examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the commission administers a uniform, standardized examination, the commission is only required to provide the examination grade and other information concerning the applicant's examination results which is available to the commission.

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

543D.4 Iowa real estate appraiser board.

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

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

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

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

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

~~5.~~ 4. Upon expiration of their terms, members of the

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

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

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

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1 department of public safety, or federal bureau of investigation
2 in obtaining criminal history information. Amounts collected
3 shall be considered repayment receipts as defined in section
4 8.2, subsection 8.
5 6. Criminal history data and other criminal history
6 information relating to an applicant, certificate holder, or
7 registrant obtained by the board pursuant to this section is
8 confidential. Such information may, however, be used by the
9 board in a certificate or registration denial or disciplinary
10 proceeding.
11 Sec. 29. Section 544A.21, Code 2013, is amended by striking
12 the section and inserting in lieu thereof the following:
13 **544A.21 Practice by business entities.**
14 The board shall adopt rules to govern the practice of
15 architecture through business entities to protect the public
16 from misleading and deceptive advertising and to guard against
17 the unlicensed practice of architecture.
18 Sec. 30. LICENSE EXPIRATION DATES — TRANSITION
19 PROVISIONS. A license which would otherwise expire on or
20 before the effective date of this Act pursuant to Code sections
21 533A.4 and 533D.3 shall remain in full force and effect until
22 December 31, 2013, or January 1, 2014, as applicable.
23 EXPLANATION
24 This bill relates to matters under the purview of the banking
25 division of the department of commerce.
26 The bill amends provisions which currently prohibit a
27 depository, defined as a bank or credit union in which public
28 funds are deposited, from directly or indirectly paying
29 interest to a public officer on a demand deposit of public
30 funds, and prohibit a public officer from taking or receiving
31 interest. The bill provides that a depository may pay interest
32 to a public officer on deposits of public funds, and a public
33 officer may take or receive it. The bill deletes a provision
34 that the previous prohibition did not apply to interest on time
35 certificates of deposit or savings accounts for public funds.

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

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1 of consumer credit administrators and its affiliates and
2 subsidiaries, and any other regulator associations, and shall
3 maintain as confidential and privileged any such document,
4 material, or other information received with notice or the
5 understanding that it is confidential or privileged under the
6 laws of the jurisdiction that is the source of the document,
7 material, or other information.
8 Additionally, with reference to Code chapters 533A, 533C,
9 and 533D, the bill makes licensure expiration and renewal dates
10 consistent as December 1 for renewal and either December 31 or
11 January 1 (in the case of a delayed deposit services business)
12 for expiration.
13 The bill provides transition provisions specifying that
14 licenses which would otherwise have expired on or before the
15 bill's effective date of July 1, 2013, shall remain in full
16 force and effect until the expiration date as modified by the
17 bill.
18 The bill deletes outdated references to licensure under Code
19 chapter 533B, Code 2003, and related transition provisions,
20 contained in Code section 533C.904.
21 The bill adds to confidentiality provisions relating to the
22 mortgage licensing Act contained in Code section 535D.15. The
23 bill states that, except as otherwise provided by the Code
24 chapter, all papers, documents, examination reports, and other
25 writings relating to the supervision of licensees are not
26 public records and are not subject to disclosure under Code
27 chapter 22.
28 The bill changes the requirements for the five real estate
29 appraiser members of the Iowa real estate appraiser board
30 to require that they be actively engaged in practice as a
31 certified real estate appraiser and shall have been so engaged
32 for five years preceding their appointment, with at least
33 the last two years in this state. The bill makes conforming
34 changes consistent with this modification, and provides
35 that vacancies occurring during a term shall be filled by

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1 appointment by the governor for the unexpired term. The
2 bill permits a member to serve for three consecutive terms,
3 an increase from the current limit of two such terms, and
4 states that appointment to fill an unexpired term shall not
5 be considered a complete term for this purpose. The bill
6 authorizes members to be eligible for per diem and actual and
7 necessary expenses. Further, the bill modifies provisions
8 which had previously stated that the board shall consider and
9 may incorporate any standards recommended by the appraisal
10 foundation, or by a professional appraisal organization, or
11 by a public authority or organization responsible to review
12 appraisals or for the oversight of appraisers. This provision
13 is modified to refer to consideration and incorporation of any
14 standards required or recommended by the appraisal foundation
15 or by a federal agency with regulatory authority over appraisal
16 standards or the certification of appraisers for federally
17 related transactions.
18 The bill provides that uniform appraisal standards shall,
19 in addition to the current requirements, require compliance
20 with the uniform standards of professional appraisal practice
21 in all appraisal assignments. The bill also provides that the
22 board shall maintain a registry of the names and certificate
23 numbers, instead of addresses, of certified appraisers and
24 the names and registration numbers of registered associate
25 appraisers. The bill deletes a provision, with reference
26 to continuing education requirements, that instructional
27 hours by correspondence and home study courses claimed by an
28 appraiser shall not exceed 50 percent of the required hours of
29 instruction necessary for renewal.
30 Again with reference to real estate appraisers, the bill
31 adds provisions relating to criminal background checks.
32 The bill states that the board is authorized to require a
33 national criminal history check through the federal bureau
34 of investigation for applicants, certificate holders, or
35 registrants if needed to comply with federal law or regulation,

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1 or the policies of the appraisal qualification board of the
2 appraisal foundation. The bill states that the board is also
3 authorized to request and obtain state criminal history data
4 for applicants, certificate holders, and registrants. The
5 bill specifies that a request for criminal history data shall
6 be submitted to the department of public safety, division
7 of criminal investigation, pursuant to Code section 692.2,
8 subsection 1. The bill authorizes the board, in addition to
9 any other fees, to charge and collect such amounts as may
10 be incurred by the board, the department of public safety,
11 or federal bureau of investigation, in obtaining criminal
12 history information. The board shall inform the applicant,
13 certificate holder, or registrant of the requirement of a
14 national criminal history check or request for criminal history
15 data and obtain a signed waiver from the applicant, certificate
16 holder, or registrant prior to requesting the check or data.
17 Additionally, the bill specifies that criminal history data and
18 other criminal history information relating to an applicant,
19 certificate holder, or registrant obtained by the board is
20 confidential but may be used by the board in a certificate or
21 registration denial or disciplinary proceeding.
22 The bill deletes references to a "written" or "oral"
23 examination in relation to engineering, land surveying, real
24 estate broker and salesperson, and real estate appraiser
25 licensing examinations in favor of the nonspecific reference
26 to "examinations".
27 Finally, the bill deletes current detailed provisions
28 contained in Code section 544A.21 imposing requirements
29 relating to the practice of architecture through business
30 entities to protect the public from misleading and deceptive
31 advertising and to guard against the unlicensed practice of
32 architecture. The provisions are replaced with the statement
33 that the board shall adopt rules regarding the practice of
34 architecture through business entities.

Senate File 182 - Introduced

SENATE FILE 182
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1052)

A BILL FOR

1 An Act relating to credit for reinsurance, including
2 transition, applicability, and effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1268SV (1) 85
av/nh

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1 DIVISION I
2 CREDIT FOR REINSURANCE
3 Section 1. NEW SECTION. **521B.101 Purpose — legislative**
4 **intent.**
5 1. The purpose of this chapter is to protect the interests
6 of insureds, claimants, ceding insurers, assuming insurers, and
7 the public generally.
8 2. The general assembly declares its intent to ensure
9 adequate regulation of insurers and reinsurers and adequate
10 protection for those to whom insurers and reinsurers owe
11 obligations.
12 3. The general assembly declares that the matters contained
13 in this chapter are fundamental to the business of insurance in
14 accordance with 15 U.S.C. § 1011 – 1012.
15 Sec. 2. NEW SECTION. **521B.102 Credit allowed certain**
16 **domestic ceding insurers.**
17 Credit for reinsurance shall be allowed a domestic ceding
18 insurer as either an asset or a reduction from liability on
19 account of reinsurance ceded only when the reinsurer meets the
20 requirements of subsection 1, 2, 3, 4, 5, or 6. Credit shall be
21 allowed under subsection 1, 2, or 3 only respecting cessions of
22 those kinds or classes of business which the assuming insurer
23 is licensed or otherwise permitted to write or assume in the
24 insurer's state of domicile or, in the case of a United States
25 branch of an alien assuming insurer, in the state through which
26 the insurer is entered and licensed to transact insurance or
27 reinsurance. Credit shall be allowed under subsection 3 or 4
28 only if the applicable requirements of subsection 7 have been
29 satisfied.
30 1. Credit shall be allowed when the reinsurance is ceded to
31 an assuming insurer that is licensed to transact insurance or
32 reinsurance in this state.
33 2. Credit shall be allowed when the reinsurance is ceded
34 to an assuming insurer that is accredited by the commissioner
35 as a reinsurer in this state. In order to be eligible

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1 for accreditation, an assuming insurer must do all of the
2 following:
3 *a.* File with the commissioner evidence of the assuming
4 insurer's submission to this state's jurisdiction.
5 *b.* Submit to this state's authority to examine the assuming
6 insurer's books and records.
7 *c.* Be licensed to transact insurance or reinsurance in at
8 least one state, or in the case of a United States branch of
9 an alien assuming insurer, be entered through and licensed to
10 transact insurance or reinsurance in at least one state.
11 *d.* File annually with the commissioner a copy of the
12 assuming insurer's annual statement filed with the insurance
13 department of the assuming insurer's state of domicile and a
14 copy of the assuming insurer's most recent audited financial
15 statement.
16 *e.* Demonstrate to the satisfaction of the commissioner that
17 the assuming insurer has adequate financial capacity to meet
18 the assuming insurer's reinsurance obligations and is otherwise
19 qualified to assume reinsurance from domestic insurers. An
20 assuming insurer is deemed to meet this requirement as of the
21 time of the assuming insurer's application if the assuming
22 insurer maintains a surplus as regards policyholders in an
23 amount of not less than twenty million dollars and the assuming
24 insurer's accreditation has not been denied by the commissioner
25 within ninety days after submission of the assuming insurer's
26 application.
27 3. *a.* Credit shall be allowed when the reinsurance is ceded
28 to an assuming insurer that is domiciled in, or in the case of
29 a United States branch of an alien assuming insurer, is entered
30 through, a state that employs standards regarding credit for
31 reinsurance that are substantially similar to those applicable
32 under this chapter and the assuming insurer or United States
33 branch of an alien assuming insurer does all of the following:
34 (1) Maintains a surplus as regards policyholders in an
35 amount of not less than twenty million dollars.

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1 (2) Submits to the authority of this state to examine the
2 assuming insurer's books and records.
3 *b.* The requirement of paragraph *"a"*, subparagraph (1) does
4 not apply to reinsurance ceded and assumed pursuant to pooling
5 arrangements among insurers in the same holding company system.
6 4. *a.* Credit shall be allowed when the reinsurance is
7 ceded to an assuming insurer that maintains a trust fund
8 in a qualified United States financial institution, as
9 defined in section 521B.104, subsection 2, for payment of
10 the valid claims of the assuming insurer's United States
11 ceding insurers, their assigns, and successors in interest.
12 To enable the commissioner to determine the sufficiency of
13 the trust fund, the assuming insurer shall report annually
14 to the commissioner information substantially the same as
15 that required to be reported on the national association of
16 insurance commissioners' annual statement form by licensed
17 insurers. The assuming insurer shall submit to examination of
18 the assuming insurer's books and records by the commissioner
19 and bear the expense of examination.
20 *b.* Credit for reinsurance shall not be granted under
21 this subsection unless all of the following conditions are
22 satisfied:
23 (1) The form of the trust and any amendments to the trust
24 have been approved by either of the following:
25 (a) The commissioner of the state where the trust is
26 domiciled.
27 (b) The commissioner of another state who, pursuant to
28 the terms of the trust instrument, has accepted principal
29 regulatory oversight of the trust.
30 (2) The form of the trust and any trust amendments are
31 filed with the commissioner of every state in which the ceding
32 insurer's beneficiaries of the trust are domiciled. The trust
33 instrument shall provide that contested claims are valid and
34 enforceable upon the final order of any court of competent
35 jurisdiction in the United States. The trust shall vest legal

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1 title to the trust's assets in its trustees for the benefit
2 of the assuming insurer's United States ceding insurers,
3 their assigns, and successors in interest. The trust and the
4 assuming insurer shall be subject to examination as determined
5 by the commissioner.
6 (3) The trust remains in effect for as long as the assuming
7 insurer has outstanding obligations due under the reinsurance
8 agreements subject to the trust. No later than February 28
9 of each year, the trustee of the trust shall report to the
10 commissioner in writing the balance of the trust and list
11 the trust's investments at the preceding year-end, and shall
12 certify the date of termination of the trust, if so planned, or
13 certify that the trust will not expire prior to the following
14 December 31.
15 *c.* The following requirements apply to the following
16 categories of assuming insurer:
17 (1) The trust fund for a single assuming insurer shall
18 consist of funds in trust in an amount not less than the
19 assuming insurer's liabilities attributable to reinsurance
20 ceded by United States ceding insurers, and in addition, the
21 assuming insurer shall maintain a trusteed surplus of not less
22 than twenty million dollars, except as provided in subparagraph
23 (2).
24 (2) At any time after an assuming insurer has permanently
25 discontinued underwriting new business secured by the trust
26 for at least three full years, the commissioner with principal
27 regulatory oversight of the trust may authorize a reduction
28 in the required trusteed surplus, but only after a finding,
29 based on an assessment of the risk, that the new required
30 trusteed surplus level is adequate for the protection of
31 United States ceding insurers, policyholders, and claimants
32 in light of reasonably foreseeable adverse loss development.
33 The risk assessment may involve an actuarial review, including
34 an independent analysis of reserves and cash flows, and shall
35 consider all material risk factors, including, when applicable,

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1 the lines of business involved, the stability of the incurred
2 loss estimates, and the effect of the surplus requirements on
3 the assuming insurer's liquidity or solvency. The minimum
4 required trusteed surplus shall not be reduced to an amount
5 less than thirty percent of the assuming insurer's liabilities
6 attributable to reinsurance ceded by United States ceding
7 insurers covered by the trust.
8 (3) In the case of a group including incorporated and
9 individual unincorporated underwriters, all of the following
10 requirements are met:
11 (a) For reinsurance ceded under reinsurance agreements with
12 an inception, amendment, or renewal date on or after January
13 1, 1993, the trust shall consist of a trusteed account in
14 an amount not less than the respective underwriters' several
15 liabilities attributable to business ceded by United States
16 domiciled ceding insurers to any underwriter of the group.
17 (b) For reinsurance ceded under reinsurance agreements
18 with an inception date on or before December 31, 1992, and
19 not amended or renewed after that date, notwithstanding the
20 other provisions of this chapter, the trust shall consist of
21 a trusteed account in an amount not less than the respective
22 underwriters' several insurance and reinsurance liabilities
23 attributable to business written in the United States.
24 (c) In addition to the trusts described in subparagraph
25 divisions (a) and (b), the group shall maintain in trust a
26 trusteed surplus of which one hundred million dollars shall be
27 held jointly for the benefit of the United States domiciled
28 ceding insurers of any member of the group for all years of
29 account.
30 (d) The incorporated members of the group shall not be
31 engaged in any business other than underwriting as a member of
32 the group and shall be subject to the same level of regulation
33 and solvency control by the group's domiciliary regulator as
34 are the unincorporated members of the group.
35 (e) Within ninety days after its financial statements are

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1 due to be filed with the group's domiciliary regulator, the
2 group shall provide to the commissioner an annual certification
3 by the group's domiciliary regulator of the solvency of each
4 underwriter member, or if a certification is unavailable,
5 financial statements, prepared by independent public
6 accountants, of each underwriter member of the group.
7 (4) In the case of a group of incorporated underwriters
8 under common administration, the group shall meet all of the
9 following requirements:
10 (a) Have continuously transacted an insurance business
11 outside the United States for at least three years immediately
12 prior to making application for accreditation.
13 (b) Maintain aggregate policyholders' surplus of at least
14 ten billion dollars.
15 (c) Maintain a trust fund in an amount not less than the
16 group's several liabilities attributable to business ceded by
17 United States domiciled ceding insurers to any member of the
18 group pursuant to reinsurance contracts issued in the name of
19 the group.
20 (d) In addition, maintain a joint trusteed surplus of
21 which one hundred million dollars shall be held jointly for
22 the benefit of United States domiciled ceding insurers of
23 any member of the group as additional security for these
24 liabilities.
25 (e) Within ninety days after the group's financial
26 statements are due to be filed with the group's domiciliary
27 regulator, make available to the commissioner an annual
28 certification of each underwriter member's solvency by the
29 member's domiciliary regulator and financial statements of
30 each underwriter member of the group prepared by the group's
31 independent public accountant.
32 5. Credit shall be allowed when the reinsurance is ceded to
33 an assuming insurer that has been certified by the commissioner
34 as a reinsurer in this state and the assuming reinsurer secures
35 its obligations in accordance with the following requirements:

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1 *a.* In order to be eligible for certification, the assuming
2 insurer shall meet all of the following requirements:
3 (1) The assuming insurer shall be domiciled and licensed to
4 transact insurance or reinsurance in a qualified jurisdiction,
5 as determined by the commissioner pursuant to paragraph *"c"*.
6 (2) The assuming insurer shall maintain minimum capital and
7 surplus, or its equivalent, in an amount to be determined by
8 the commissioner pursuant to rule.
9 (3) The assuming insurer shall maintain financial strength
10 ratings from two or more rating agencies deemed acceptable by
11 the commissioner pursuant to rule.
12 (4) The assuming insurer shall agree to submit to the
13 jurisdiction of this state, appoint the commissioner as the
14 assuming insurer's agent for service of process in this state,
15 and agree to provide security for one hundred percent of the
16 assuming insurer's liabilities attributable to reinsurance
17 ceded by United States ceding insurers, if the assuming insurer
18 resists enforcement of a final United States judgment.
19 (5) The assuming insurer shall agree to meet applicable
20 information filing requirements as determined by the
21 commissioner, both with respect to an initial application for
22 certification and on an ongoing basis.
23 (6) The assuming insurer shall satisfy any other
24 requirements for certification deemed relevant by the
25 commissioner.
26 *b.* An association including incorporated and individual
27 unincorporated underwriters may be a certified reinsurer. In
28 order to be eligible for certification, the association shall
29 satisfy the requirements of paragraph *"a"* and in addition
30 satisfy all of the following requirements:
31 (1) The association shall satisfy the association's minimum
32 capital and surplus requirements through the capital and
33 surplus equivalents (net of liabilities) of the association and
34 its members, which shall include a joint central fund that may
35 be applied to any unsatisfied obligation of the association or

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1 any of its members, in an amount determined by the commissioner
2 to provide adequate protection.
3 (2) The incorporated members of the association shall
4 not be engaged in any business other than underwriting as a
5 member of the association and shall be subject to the same
6 level of regulation and solvency control by the association's
7 domiciliary regulator as are the unincorporated members of the
8 association.
9 (3) Within ninety days after the association's financial
10 statements are due to be filed with the association's
11 domiciliary regulator, the association shall provide to the
12 commissioner an annual certification by the association's
13 domiciliary regulator, of the solvency of each underwriter
14 member, or if a certification is unavailable, financial
15 statements, prepared by an independent public accountant, of
16 each underwriter member of the association.
17 *c.* The commissioner shall create and publish a list of
18 qualified jurisdictions under which an assuming insurer
19 licensed and domiciled in such jurisdiction is eligible to be
20 considered for certification by the commissioner as a certified
21 reinsurer.
22 (1) In order to determine whether the domiciliary
23 jurisdiction of a non-United States insurer is eligible to
24 be recognized as a qualified jurisdiction, the commissioner
25 shall evaluate the appropriateness and effectiveness of the
26 reinsurance supervisory system of the jurisdiction, both
27 initially and on an ongoing basis, and consider the rights,
28 benefits, and the extent of reciprocal recognition afforded
29 by the non-United States jurisdiction to reinsurers licensed
30 and domiciled in the United States. In order to be recognized
31 as a qualified jurisdiction, a jurisdiction must agree to
32 share information and to cooperate with the commissioner with
33 respect to all certified reinsurers domiciled within that
34 jurisdiction. A jurisdiction shall not be recognized as a
35 qualified jurisdiction if the commissioner has determined

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1 that the jurisdiction does not adequately and promptly
2 enforce final United States judgments and arbitration awards.
3 Additional factors may be considered in the discretion of the
4 commissioner.
5 (2) A list of qualified jurisdictions shall be published
6 through the national association of insurance commissioners'
7 committee process. The commissioner shall consider this list
8 in determining qualified jurisdictions. If the commissioner
9 recognizes a jurisdiction as qualified that does not appear on
10 the list of qualified jurisdictions, the commissioner shall
11 provide thoroughly documented justification for the recognition
12 in accordance with criteria to be developed by rule.
13 (3) United States jurisdictions that meet the requirements
14 for accreditation under the national association of insurance
15 commissioners' financial standards and accreditation program
16 shall be recognized as qualified jurisdictions.
17 (4) If a certified reinsurer's domiciliary jurisdiction
18 ceases to be a qualified jurisdiction, the commissioner may,
19 in the commissioner's discretion, suspend the reinsurer's
20 certification indefinitely, in lieu of revocation.
21 *d.* The commissioner shall assign a rating to each
22 certified reinsurer, giving due consideration to the financial
23 strength ratings that have been assigned by rating agencies
24 deemed acceptable to the commissioner pursuant to rule. The
25 commissioner shall publish a list of all certified reinsurers
26 and their ratings.
27 *e.* A certified reinsurer shall secure obligations assumed
28 from United States ceding insurers under this subsection at
29 a level consistent with the certified reinsurer's rating, as
30 specified in rules adopted by the commissioner.
31 (1) In order for a domestic ceding insurer to qualify
32 for full financial statement credit for reinsurance ceded
33 to a certified reinsurer, the certified reinsurer shall
34 maintain security in a form acceptable to the commissioner and
35 consistent with the provisions of section 521B.103, or in a

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1 multibeneficiary trust in accordance with subsection 4, except
2 as otherwise provided in this subsection.
3 (2) If a certified reinsurer maintains a trust to fully
4 secure its obligations subject to subsection 4, and chooses to
5 secure its obligations incurred as a certified reinsurer in the
6 form of a multibeneficiary trust, the certified reinsurer shall
7 maintain separate trust accounts for its obligations incurred
8 under reinsurance agreements issued or renewed as a certified
9 reinsurer with reduced security as permitted by this subsection
10 or comparable laws of other United States jurisdictions and
11 for its obligations subject to subsection 4. It shall be a
12 condition to the grant of certification under this subsection
13 that the certified reinsurer shall bind itself, by the language
14 of the trust and by agreement with the commissioner which has
15 principal regulatory oversight of each such trust account,
16 to fund, upon termination of any such trust account, any
17 deficiency of any other trust account out of the remaining
18 surplus of the terminated trust account.
19 (3) The minimum trusteed surplus requirements provided
20 in subsection 4 are not applicable with respect to a
21 multibeneficiary trust maintained by a certified reinsurer for
22 the purpose of securing obligations under this subsection,
23 except that such a multibeneficiary trust shall maintain a
24 minimum trusteed surplus of ten million dollars.
25 (4) With respect to obligations incurred by a certified
26 reinsurer under this subsection, if the security is
27 insufficient, the commissioner shall reduce the allowable
28 credit by an amount proportionate to the deficiency, and the
29 commissioner has the discretion to impose further reductions
30 in allowable credit upon finding that there is a material risk
31 that the certified reinsurer's obligations will not be paid in
32 full when due.
33 (5) For purposes of this subsection, a certified reinsurer
34 whose certification has been terminated for any reason shall be
35 treated as a certified reinsurer required to secure all of its

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1 obligations.
2 (a) As used in this subsection, the term "terminated"
3 includes revocation, suspension, voluntary surrender, and
4 inactive status.
5 (b) If the commissioner continues to assign a higher rating
6 to a certified reinsurer as permitted by other provisions
7 of this subsection, this requirement does not apply to a
8 certified reinsurer in inactive status or to a reinsurer whose
9 certification has been suspended.
10 *f.* If an assuming insurer applying for certification as a
11 reinsurer in this state has been certified as a reinsurer in
12 another jurisdiction accredited by the national association of
13 insurance commissioners, the commissioner has the discretion
14 to defer to that jurisdiction's certification, and has
15 the discretion to defer to the rating assigned by that
16 jurisdiction, and the assuming insurer shall be considered to
17 be a certified reinsurer in this state.
18 *g.* A certified reinsurer that ceases to assume new
19 business in this state may request to maintain the reinsurer's
20 certification in inactive status in order to qualify for
21 a reduction in the amount of security required for the
22 reinsurer's in-force business. An inactive certified reinsurer
23 shall continue to comply with all applicable requirements
24 of this subsection, and the commissioner shall assign the
25 reinsurer a rating that takes into account, if relevant, the
26 reasons why the reinsurer is not assuming new business.
27 6. Credit shall be allowed when reinsurance is ceded to
28 an assuming insurer that does not meet the requirements of
29 subsection 1, 2, 3, 4, or 5, but only as to the insurance
30 of risks located in jurisdictions where the reinsurance is
31 required by applicable law or regulation of that jurisdiction.
32 7. *a.* If the assuming insurer is not licensed, accredited,
33 or certified to transact insurance or reinsurance in this
34 state, the credit permitted by subsections 3 and 4 shall not be
35 allowed unless the assuming insurer agrees in the reinsurance

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1 agreements to do all of the following:
2 (1) In the event of the failure of the assuming insurer
3 to perform its obligations under the terms of the reinsurance
4 agreement, the assuming insurer, at the request of the ceding
5 insurer, will submit to the jurisdiction of any court of
6 competent jurisdiction in any state of the United States,
7 will comply with all requirements necessary to give the court
8 jurisdiction, and will abide by the final decision of the
9 court or of any appellate court in the event of any appeal,
10 concerning such failure.
11 (2) The assuming insurer will designate the commissioner
12 or a designated attorney as its true and lawful attorney to
13 receive lawful process in any action, suit, or proceeding
14 instituted by or on behalf of the ceding insurer.
15 *b.* This subsection is not intended to conflict with or
16 override the obligation of the parties to a reinsurance
17 agreement to arbitrate their disputes if the obligation to
18 arbitrate is created in the agreement.
19 8. If the assuming insurer does not meet the requirements of
20 subsection 1, 2, or 3, the credit permitted by subsection 4 or
21 5 shall not be allowed unless the assuming insurer agrees in a
22 trust agreement to satisfy the following conditions:
23 *a.* Notwithstanding any other provisions contained in the
24 trust instrument, if the trust fund is inadequate because the
25 trust fund contains an amount less than the amount required by
26 subsection 4, paragraph *"c"*, or if the grantor of the trust has
27 been declared insolvent or has been placed into receivership,
28 rehabilitation, liquidation, or similar proceedings under
29 the laws of the trust's state or country of domicile, the
30 trustee shall comply with an order of the commissioner with
31 regulatory oversight over the trust or with an order of a court
32 of competent jurisdiction directing the trustee to transfer
33 all of the assets of the trust fund to the commissioner with
34 regulatory oversight over the trust.
35 *b.* The assets of the trust shall be distributed, and claims

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1 shall be filed and valued, by the commissioner with regulatory
2 oversight over the trust in accordance with the laws of the
3 state in which the trust is domiciled that are applicable to
4 the liquidation of domestic insurance companies.
5 *c.* If the commissioner with regulatory oversight over the
6 trust determines that the assets of the trust fund or any part
7 of the trust fund are not necessary to satisfy the claims of
8 the United States ceding insurers of the grantor of the trust,
9 the assets of the trust or any part of those assets shall be
10 returned by the commissioner with regulatory oversight over the
11 trust to the trustee for distribution in accordance with the
12 trust agreement.
13 *d.* The grantor shall waive any right otherwise available to
14 the grantor under United States law that is inconsistent with
15 the provisions of this subsection.
16 9. If an accredited or certified reinsurer ceases to
17 meet the requirements of this section for accreditation or
18 certification, the commissioner may suspend or revoke the
19 reinsurer's accreditation or certification.
20 *a.* The commissioner shall give the reinsurer notice and
21 opportunity for hearing prior to such suspension or revocation.
22 The suspension or revocation shall not take effect until after
23 the commissioner's order on hearing unless one of the following
24 applies:
25 (1) The reinsurer waives its right to hearing.
26 (2) The commissioner's order is based on regulatory action
27 by the reinsurer's domiciliary jurisdiction or by the voluntary
28 surrender or termination of the reinsurer's eligibility to
29 transact insurance or reinsurance business in the reinsurer's
30 domiciliary jurisdiction or in the primary certifying state of
31 the reinsurer under subsection 5, paragraph *"f"*.
32 (3) The commissioner finds that an emergency requires
33 immediate action and a court of competent jurisdiction has not
34 stayed the commissioner's action.
35 *b.* While a reinsurer's accreditation or certification is

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1 suspended, a reinsurance contract issued or renewed after the
2 effective date of the suspension does not qualify for credit
3 except to the extent that the reinsurer's obligations under the
4 reinsurance contract are secured in accordance with section
5 521B.103. If a reinsurer's accreditation or certification is
6 revoked, credit for reinsurance shall not be granted after the
7 effective date of the revocation except to the extent that
8 the reinsurer's obligations under the contract are secured
9 in accordance with subsection 5, paragraph *"e"*, or section
10 521B.103.
11 10. *a.* A domestic ceding insurer shall take steps to
12 manage its reinsurance recoverables proportionate to its own
13 book of business. A domestic ceding insurer shall notify the
14 commissioner within thirty days after reinsurance recoverables
15 from any single assuming insurer, or group of affiliated
16 assuming insurers, exceeds fifty percent of the domestic ceding
17 insurer's last reported surplus to policyholders, or after it
18 is determined that reinsurance recoverables from any single
19 assuming insurer, or group of affiliated assuming insurers,
20 is likely to exceed this limit. The notification shall
21 demonstrate that the exposure is safely managed by the domestic
22 ceding insurer.
23 *b.* A domestic ceding insurer shall take steps to diversify
24 its reinsurance program. A domestic ceding insurer shall
25 notify the commissioner within thirty days after ceding to
26 any single assuming insurer, or group of affiliated assuming
27 insurers, more than twenty percent of the domestic ceding
28 insurer's gross written premium in the prior calendar year,
29 or after the domestic ceding insurer has determined that the
30 reinsurance ceded to any single assuming insurer, or group of
31 affiliated assuming insurers, is likely to exceed this limit.
32 The notification shall demonstrate that the exposure is safely
33 managed by the domestic ceding insurer.
34 Sec. 3. NEW SECTION. **521B.103 Limited credit allowed other**
35 **domestic ceding insurers.**

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1 1. An asset or a reduction from liability for reinsurance
2 ceded by a domestic insurer to an assuming insurer not meeting
3 the requirements of section 521B.102, shall be allowed in an
4 amount not exceeding the liabilities carried by the ceding
5 insurer. The reduction shall be in the amount of funds held
6 by or on behalf of the ceding insurer, including funds held in
7 trust for the ceding insurer, under a reinsurance contract with
8 the assuming insurer as security for the payment of obligations
9 under the contract, if the security is held in the United
10 States subject to withdrawal solely by, and under the exclusive
11 control of, the ceding insurer, or in the case of a trust, held
12 in a qualified United States financial institution as defined
13 in section 521B.104, subsection 2.
14 2. The security may be in the form of any of the following:
15 *a.* Cash.
16 *b.* A security listed by the securities valuation office of
17 the national association of insurance commissioners, including
18 those securities deemed exempt from filing as defined by the
19 purposes and procedures manual of the securities valuation
20 office and those securities qualifying as admitted assets.
21 *c.* (1) Clean, irrevocable, unconditional letters of credit,
22 issued or confirmed by a qualified United States financial
23 institution, as defined in section 521B.104, subsection 1,
24 effective no later than December 31 of the year for which the
25 filing is being made, and in the possession of, or in trust
26 for, the ceding insurer on or before the filing date of the
27 ceding insurer's annual statement.
28 (2) A letter of credit meeting applicable standards of
29 issuer acceptability as of the date of the letter of credit's
30 issuance or confirmation shall, notwithstanding the issuing or
31 confirming institution's subsequent failure to meet applicable
32 standards of issuer acceptability, continue to be acceptable
33 as security until the expiration, extension, renewal,
34 modification, or amendment of the letter of credit, whichever
35 occurs first.

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1 *d.* Any other form of security acceptable to the
2 commissioner.
3 Sec. 4. NEW SECTION. **521B.104 Qualified United States**
4 **financial institutions.**
5 1. For purposes of section 521B.103, subsection 2,
6 paragraph *"c"*, a *"qualified United States financial institution"*
7 means an institution that meets all of the following
8 requirements:
9 *a.* Is organized, or in the case of a United States office of
10 a foreign banking organization is licensed, under the laws of
11 the United States or of any state of the United States.
12 *b.* Is regulated, supervised, and examined by United States
13 federal or state authorities having regulatory authority over
14 banks and trust companies.
15 *c.* Has been determined by either the commissioner or the
16 securities valuation office of the national association of
17 insurance commissioners to meet the standards of financial
18 condition and standing as are considered necessary and
19 appropriate to regulate the quality of financial institutions
20 whose letters of credit will be acceptable to the commissioner.
21 2. For purposes of those provisions of this chapter
22 specifying the institutions that are eligible to act as a
23 fiduciary of a trust, a *"qualified United States financial*
24 *institution"* means an institution that meets all of the
25 following requirements:
26 *a.* Is organized, or in the case of a United States branch or
27 agency office of a foreign banking organization is licensed,
28 under the laws of the United States or of any state of the
29 United States, and has been granted authority to operate with
30 fiduciary powers.
31 *b.* Is regulated, supervised, and examined by federal or
32 state authorities having regulatory authority over banks and
33 trust companies.
34 Sec. 5. NEW SECTION. **521B.105 Rules.**
35 The commissioner may adopt rules, pursuant to chapter 17A,

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1 as necessary or convenient to administer this chapter.
2 Sec. 6. NEW SECTION. **521B.106 Applicability.**
3 This chapter applies to all cessions under reinsurance
4 agreements that occur on or after January 1, 2014.
5 Sec. 7. REPEAL. Sections 521B.1 through 521B.5, Code 2013,
6 are repealed.
7 Sec. 8. TRANSITION PROVISION —— APPLICABILITY TO PRIOR
8 CESSIONS. Sections 521B.1 through 521B.5, Code 2013, shall
9 apply to all cessions under reinsurance agreements that occur
10 prior to January 1, 2014.
11 DIVISION II
12 COORDINATING PROVISIONS
13 Sec. 9. Section 508.33A, subsection 5, Code 2013, is amended
14 to read as follows:
15 5. A limited purpose subsidiary life insurance company
16 organized pursuant to this section shall be deemed to be
17 licensed to transact the business of reinsurance for the
18 purposes of section ~~521B.2~~ 521B.102, subsection 1, but may only
19 reinsure risks of its organizing life insurance company and
20 of affiliated companies. A limited purpose subsidiary life
21 insurance company organized pursuant to this section may, upon
22 approval of the commissioner, purchase reinsurance to cede the
23 reinsurance risks assumed by the limited purpose subsidiary
24 life insurance company.
25 Sec. 10. Section 515E.3A, subsection 5, Code 2013, is
26 amended to read as follows:
27 5. Letters of credit used by a risk retention group to
28 meet surplus requirements shall be clean, irrevocable, and
29 unconditionally issued or confirmed by a qualified United
30 States financial institution as defined in section ~~521B.4~~
31 521B.104, subsection 2. The beneficiary of each letter of
32 credit being used shall be the commissioner.
33 DIVISION III
34 EFFECTIVE DATE
35 Sec. 11. EFFECTIVE DATE. This Act takes effect January 1,

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1 2014.
2 EXPLANATION
3 This bill contains new provisions that allow a domestic
4 insurer to cede reinsurance to an assuming insurer and receive
5 credit for such cession as either an asset or a reduction from
6 liability on account of the reinsurance ceded, provided that
7 certain requirements are met. The bill applies to all cessions
8 that occur on or after January 1, 2014, and repeals current
9 provisions relating to credit for reinsurance as of that date.
10 The bill allows a ceding insurer credit when reinsurance is
11 ceded to an assuming insurer that (1) is licensed to transact
12 insurance or reinsurance in this state; (2) is accredited by
13 the commissioner as a reinsurer in this state; (3) is domiciled
14 in, or in the case of a United States branch of an alien
15 assuming insurer, is entered through, a state that employs
16 substantially similar standards for allowing credit as the
17 standards applicable in this state; (4) maintains a sufficient
18 trust fund in a qualified United States financial institution
19 for the payment of valid claims of the ceding insurer; (5) is
20 certified as a reinsurer in this state by the commissioner of
21 insurance; (6) does not meet the foregoing requirements but
22 credit is allowed only as to the insurance of risks located in
23 jurisdictions where the reinsurance is required by the laws of
24 that jurisdiction; (7) even if the insurer is not licensed,
25 accredited or certified to transact insurance or reinsurance
26 in this state, the assuming insurer agrees in reinsurance
27 agreements to submit to the jurisdiction of a United States'
28 court and to receive lawful process through a designated
29 agent; or (8) even if the insurer is not licensed, accredited,
30 or domiciled in a state that employs similar standards, the
31 assuming insurer agrees to satisfy specified conditions in
32 a trust agreement. If an accredited or certified reinsurer
33 ceases to meet the requirements of the bill, the commissioner
34 may suspend or revoke the reinsurer's accreditation or
35 certification upon notice and hearing.

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1 A domestic ceding insurer is required to manage its
2 reinsurance recoverables proportionate to its own book
3 of business. A domestic ceding insurer must notify the
4 commissioner if reinsurance recoverables from any single
5 assuming insurer exceed or are likely to exceed 50 percent
6 of the domestic ceding insurer's last reported surplus to
7 policyholders.
8 A domestic ceding insurer is also required to take steps to
9 diversify its reinsurance program. A domestic ceding insurer
10 must notify the commissioner after ceding, or if it is likely
11 to cede to any single insurer or group of affiliated insurers,
12 more than 20 percent of the domestic ceding insurer's gross
13 written premium in the prior calendar year.
14 The bill allows an asset or reduction from liability for
15 reinsurance ceded by a domestic insurer to an assuming insurer
16 not meeting the foregoing requirements of the bill, in an
17 amount not exceeding the liabilities carried by the ceding
18 insurer. The asset or reduction shall be in the amount of
19 funds held by or on behalf of the ceding insurer, including
20 funds held in trust for the ceding insurer, under a reinsurance
21 contract with the assuming insurer as security for the payment
22 of obligations under the contract, if the security is held in
23 the United States or, in the case of a trust, in a qualified
24 United States financial institution, as defined in the bill.
25 The security may be in the form of cash; a security
26 listed by the securities valuation office of the national
27 association of insurance commissioners, including securities
28 deemed exempt from filing and qualifying as admitted assets;
29 clean, irrevocable, unconditional letters of credit, issued or
30 confirmed by a qualified United States financial institution;
31 or a letter of credit meeting applicable standards of issuer
32 acceptability as specified.
33 The commissioner may adopt rules to administer the new
34 provisions.
35 The bill applies to all cessions under reinsurance

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1 agreements that occur on or after January 1, 2014. Current
2 provisions that allow credits to domestic ceding insurers are
3 applicable to cessions that occur prior to January 1, 2014,
4 and are repealed January 1, 2014. Coordinating amendments are
5 made to internal references in Code sections 508.33A(5) and
6 515E.3A(5). The bill takes effect January 1, 2014.

Senate File 183 - Introduced

SENATE FILE 183
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1128)

A BILL FOR

1 An Act relating to matters under the purview of the credit
2 union division of the department of commerce, and making
3 penalties applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1261SV (1) 85
rn/sc

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Section 1. Section 533.102, subsection 4, Code 2013, is amended to read as follows:

4. *"Credit union service organization"* means a corporation, ~~or~~ limited partnership, or limited liability company organized under state law to provide financial and financial-related services for one or more credit unions, each of which owns part of the capital stock of the credit union service organization, as authorized under section 533.301, subsection 5, paragraph *"f"*, and which corporation, ~~or~~ limited partnership, or limited liability company is subject to examination by the credit union division of the Iowa department of commerce or a federal supervisory agency.

Sec. 2. Section 533.205, subsection 1, paragraph d, Code 2013, is amended to read as follows:

d. A ~~chief~~ financial officer whose title shall be designated by the board.

Sec. 3. Section 533.301, subsections 28 and 29, Code 2013, are amended to read as follows:

28. Sell, to persons in the field of membership, negotiable checks, including traveler's checks; money orders; and other similar money transfer instruments including international and domestic electronic fund transfers and remittance checks.

29. Cash checks and money orders, and send and receive international and domestic electronic fund transfers and remittance transfers, for persons in the field of membership.

Sec. 4. Section 533.401, subsection 3, paragraphs a and b, Code 2013, are amended to read as follows:

a. Notice of ~~the meeting called to consider~~ balloting for the membership vote on the merger was mailed to each member of the merging credit union entitled to vote upon the question at least twenty days prior to the ~~date of the merger meeting~~ scheduled conclusion of the vote.

b. The notice of balloting disclosed the purpose of the ~~meeting~~ vote and properly informed the membership that approval of the merger would be sought pursuant to this section.

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1 Sec. 5. Section 533.401, subsection 9, Code 2013, is amended
2 by striking the subsection.
3 Sec. 6. Section 533.404, subsection 4, Code 2013, is amended
4 by striking the subsection.
5 Sec. 7. Section 533.405, subsection 2, Code 2013, is amended
6 by adding the following new paragraph:
7 NEW PARAGRAPH. *d.* The board of directors shall notify the
8 national credit union administration of the intent to dissolve,
9 as required by federal regulation.
10 Sec. 8. Section 533.405, Code 2013, is amended by adding the
11 following new subsection:
12 NEW SUBSECTION. 4A. *a.* (1) Within ten days of the
13 conclusion of a membership vote approving the voluntary
14 dissolution, the board of directors or the liquidating agent
15 appointed pursuant to subsection 4 shall cause notice, as
16 provided in this subsection, to be given to creditors of the
17 state credit union to present their claims.
18 (2) A copy of the notice of voluntary dissolution shall be
19 mailed to all creditors reflected on the records of the state
20 credit union.
21 *b.* In addition to mailing notice to known creditors, the
22 state credit union shall also publish notice of the voluntary
23 dissolution as follows:
24 (1) State credit unions with assets in excess of $5
25 million as of the month ending immediately prior to the date
26 of the conclusion of the vote by the membership approving
27 the dissolution shall publish the notice once a week for two
28 successive weeks in a newspaper of general circulation in each
29 county in which the state credit union maintains an office or
30 branch for the transaction of business.
31 (2) State credit unions with assets of $5 million or
32 less as of the month ending immediately prior to the date of
33 the conclusion of the vote by the membership approving the
34 dissolution shall publish the notice once in a newspaper of
35 general circulation in each county in which the state credit

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union maintains an office or branch.

c. Mailed and published notices under this subsection shall indicate all of the following:

(1) A creditor shall have thirty days from the date the notice was sent or first published to submit the creditor's claim. The state credit union must receive the claim on or before the thirtieth day, or the claim is barred.

(2) Information that must be included in a claim.

(3) A mailing address where a claim is to be sent.

Sec. 9. Section 533.405, subsections 5 and 6, Code 2013, are amended to read as follows:

5. *a.* Upon such proof as is satisfactory to the superintendent that all ~~assets~~ of the following have occurred, the superintendent shall issue a certificate of dissolution:

(1) Assets have been liquidated from which there is a reasonable expectance of realization~~, that the~~.

(2) The liabilities of the state credit union have been discharged ~~and distribution~~.

(3) Distribution has been made ~~to its members, and that the~~ pursuant to section 533.404, subsection 1.

(4) The liquidation has been completed~~, the superintendent shall issue a certificate of dissolution, which~~.

b. The certificate shall be filed and recorded in the county in which the state credit union has its principal place of business and in the county in which its original articles of incorporation were filed and recorded.

~~*b.*~~ *c.* Upon the ~~issuance~~ filing of a certificate of dissolution, the existence of the state credit union shall cease.

6. *a.* At any time prior to ~~any~~ the final 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. At least twenty days' notice shall be provided between the sending of notice and the scheduled

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1 conclusion of the vote.
2 *b.* Upon the conclusion of the vote, the board of directors
3 shall immediately notify the superintendent of any such action
4 to revoke voluntary dissolution proceedings.
5 EXPLANATION
6 This bill makes specified changes relating to the
7 administration and regulation of state credit unions.
8 The bill adds a limited liability company to the list of
9 business entities encompassed within the definition of "credit
10 union service organization" for purposes of Code chapter
11 533. Additionally, the bill modifies the designation of a
12 specified elected officer within the board of directors of
13 a credit union such that one officer shall be a financial
14 officer whose title shall be designated by the board, rather
15 than a "chief" financial officer as the position is currently
16 described. Also, the bill specifies that credit unions shall
17 be authorized to sell remittance checks to, and send and
18 receive remittance transfers for, persons in the credit union's
19 field of membership.
20 The bill alters one of the requirements for approval by
21 the superintendent of credit unions of a credit union merger.
22 References to a meeting to be held on the question of merger
23 are changed to balloting upon the question. The bill deletes a
24 definition of the terms "merger" or "merge" within the context
25 of a credit union merger.
26 Relating to the dissolution of a credit union, the bill
27 deletes a provision which currently preserves remedies
28 available to or against a credit union or its directors,
29 officers, or members for rights or claims existing or liability
30 incurred prior to a voluntary or involuntary dissolution if
31 an action or other proceeding to enforce the right or claim
32 was commenced within two years after the date of filing of
33 a certificate or decree of dissolution. Also with regard to
34 dissolution, the bill adds that the board of directors of a
35 credit union undergoing dissolution shall notify the national

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1 credit union administration of its intent to dissolve.
2 The bill further modifies voluntary dissolution provisions
3 to establish creditor notification requirements and procedures
4 concerning the presentation of claims and requirements that
5 must be satisfied prior to issuance of a certificate of
6 dissolution.

Senate File 184 - Introduced

SENATE FILE 184
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO SSB 1056)

A BILL FOR

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

TLSB 1225SV (3) 85
pf/nh

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1 Section 1. Section 10A.402, subsection 5, Code 2013, is
2 amended by striking the subsection.
3 Sec. 2. Section 16.182, subsections 1 and 2, Code 2013, are
4 amended to read as follows:
5 1. A senior living revolving loan program fund is created
6 within the authority ~~to further the goal of the senior living~~
7 ~~program as specified in section 249H.2~~. The moneys in the
8 senior living revolving loan program fund shall be used by the
9 authority for the development and operation of a revolving loan
10 program to provide financing to construct affordable assisted
11 living and service-enriched affordable housing for seniors and
12 persons with disabilities, including through new construction
13 or acquisition and rehabilitation.
14 2. Moneys ~~received by the authority from the senior living~~
15 ~~trust fund,~~ transferred by the authority for deposit in the
16 senior living revolving loan program fund, moneys appropriated
17 to the senior living revolving loan program, and any other
18 moneys available to and obtained or accepted by the authority
19 for placement in the senior living revolving loan program fund
20 shall be deposited in the fund. Additionally, payment of
21 interest, recaptures of awards, and other repayments to the
22 senior living revolving loan program fund shall be deposited
23 in the fund. Notwithstanding section 12C.7, subsection
24 2, interest or earnings on moneys in the senior living
25 revolving loan program fund shall be credited to the fund.
26 Notwithstanding section 8.33, moneys that remain unencumbered
27 or unobligated at the end of the fiscal year shall not
28 revert but shall remain available for the same purpose in the
29 succeeding fiscal year.
30 Sec. 3. Section 16.183, subsection 2, Code 2013, is amended
31 to read as follows:
32 2. Moneys ~~received by the authority from the senior living~~
33 ~~trust fund,~~ transferred by the authority for deposit in the
34 home and community-based services revolving loan program fund,
35 moneys appropriated to the home and community-based services

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revolving loan program, and any other moneys available to and obtained or accepted by the authority for placement in the home and community-based services revolving loan program fund shall be deposited in the fund. Additionally, payment of interest, recaptures of awards, and other repayments to the ~~senior living~~ home and community-based services revolving loan program fund shall be deposited in the fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the home and community-based services revolving loan program fund shall be credited to the fund. Notwithstanding section 8.33, moneys that remain unencumbered or unobligated at the end of the fiscal year shall not revert but shall remain available for the same purpose in the succeeding fiscal year.

Sec. 4. Section 22.7, subsection 62, Code 2013, is amended to read as follows:

62. Records ~~of~~ maintained by the department on aging ~~pertaining to clients served by the prevention of elder abuse, neglect, and exploitation program~~ or office of long-term care ombudsman that disclose the identity of a complainant, resident, tenant, or individual receiving services provided by the department on aging, an area agency on aging, or the office of long-term care ombudsman, unless disclosure is otherwise allowed under section 231.42, subsection 12, paragraph *"a"*.

Sec. 5. Section 135C.1, Code 2013, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. *"Certified volunteer long-term care ombudsman"* means a volunteer long-term care ombudsman certified pursuant to section 231.45.

NEW SUBSECTION. 13A. *"Office of long-term care ombudsman"* means the office of long-term care ombudsman established pursuant to section 231.42.

NEW SUBSECTION. 20A. *"State long-term care ombudsman"* means the state long-term care ombudsman appointed pursuant to section 231.42.

Sec. 6. Section 135C.11, subsection 2, Code 2013, is amended

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1 to read as follows:
2 2. The procedure governing hearings authorized by this
3 section shall be in accordance with the rules promulgated by
4 the department. A full and complete record shall be kept
5 of all proceedings, and all testimony shall be reported but
6 need not be transcribed unless judicial review is sought
7 pursuant to section 135C.13. Copies of the transcript may be
8 obtained by an interested party upon payment of the cost of
9 preparing the copies. Witnesses may be subpoenaed by either
10 party and shall be allowed fees at a rate prescribed by the
11 department's rules. The director may, after advising the
12 ~~resident advocate committee established pursuant to section~~
13 ~~135C.25~~ certified volunteer long-term care ombudsman, either
14 proceed in accordance with section 135C.30, or remove all
15 residents and suspend the license or licenses of any health
16 care facility, prior to a hearing, when the director finds that
17 the health or safety of residents of the health care facility
18 requires such action on an emergency basis. The fact that ~~no~~
19 ~~resident advocate committee~~ a certified volunteer long-term
20 care ombudsman has not been appointed for a particular facility
21 shall not bar the director from exercising the emergency powers
22 granted by this subsection with respect to that facility.
23 Sec. 7. Section 135C.13, Code 2013, is amended to read as
24 follows:
25 **135C.13 Judicial review.**
26 Judicial review of any action of the director may be sought
27 in accordance with the terms of the Iowa administrative
28 procedure Act, chapter 17A. Notwithstanding the terms of ~~said~~
29 ~~Act~~ chapter 17A, petitions for judicial review may be filed in
30 the district court of the county where the facility or proposed
31 facility is located, and pending final disposition of the
32 matter the status quo of the applicant or licensee shall be
33 preserved except when the director, with the advice and consent
34 of the ~~resident advocate committee established pursuant to~~
35 ~~section 135C.25~~ certified volunteer long-term care ombudsman,

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1 determines that the health, safety or welfare of the residents
2 of the facility is in immediate danger, in which case the
3 director may order the immediate removal of such residents.
4 The fact that ~~no resident advocate committee~~ a certified
5 volunteer long-term care ombudsman has not been appointed for a
6 particular facility shall not bar the director from exercising
7 the emergency powers granted by this ~~subsection~~ section with
8 respect to that facility.
9 Sec. 8. Section 135C.14, subsection 8, paragraph d, Code
10 2013, is amended to read as follows:
11 *d.* The notification of ~~resident advocate committees~~
12 certified volunteer long-term care ombudsmen by the department
13 of all complaints relating to health care facilities and the
14 involvement of the ~~resident advocate committees~~ certified
15 volunteer long-term care ombudsmen in resolution of the
16 complaints.
17 Sec. 9. Section 135C.20A, subsection 2, Code 2013, is
18 amended to read as follows:
19 2. The report card form shall be developed by the department
20 in cooperation with representatives of the department on
21 aging, the state long-term care ~~resident's advocate~~ ombudsman,
22 representatives of ~~resident advocate committees~~ certified
23 volunteer long-term care ombudsmen, representatives of
24 protection and advocacy entities, consumers, and other
25 interested persons.
26 Sec. 10. Section 135C.20B, subsection 2, paragraph c, Code
27 2013, is amended to read as follows:
28 *c.* Any information submitted by ~~care review committee~~
29 ~~members or~~ residents with regard to the quality of care of the
30 facility.
31 Sec. 11. Section 135C.37, Code 2013, is amended to read as
32 follows:
33 **135C.37 Complaints alleging violations — confidentiality.**
34 A person may request an inspection of a health care facility
35 by filing with the department, ~~resident advocate committee of~~

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1 ~~the facility~~ certified volunteer long-term care ombudsman, or
2 the office of long-term care ~~resident's advocate as established~~
3 ~~pursuant to section 231.42~~ ombudsman, a complaint of an alleged
4 violation of applicable requirements of this chapter or the
5 rules adopted pursuant to this chapter. A person alleging
6 abuse or neglect of a resident with a developmental disability
7 or with mental illness may also file a complaint with the
8 protection and advocacy agency designated pursuant to section
9 135B.9 or section 135C.2. A copy of a complaint filed with ~~the~~
10 ~~resident advocate committee~~ a certified volunteer long-term
11 care ombudsman or the office of long-term care ~~resident's~~
12 ~~advocate~~ ombudsman shall be forwarded to the department. The
13 complaint shall state in a reasonably specific manner the
14 basis of the complaint, and a statement of the nature of the
15 complaint shall be delivered to the facility involved at the
16 time of the inspection. The name of the person who files a
17 complaint with the department, ~~resident advocate committee~~
18 certified volunteer long-term care ombudsman, or the office
19 of long-term care ~~resident's advocate~~ ombudsman shall be kept
20 confidential and shall not be subject to discovery, subpoena,
21 or other means of legal compulsion for its release to a person
22 other than department employees involved in the investigation
23 of the complaint.
24 Sec. 12. Section 135C.38, subsection 1, paragraphs a and c,
25 Code 2013, are amended to read as follows:
26 *a.* Upon receipt of a complaint made in accordance with
27 section 135C.37, the department or ~~resident advocate committee~~
28 certified volunteer long-term care ombudsman shall make a
29 preliminary review of the complaint. Unless the department
30 or ~~committee~~ certified volunteer long-term care ombudsman
31 concludes that the complaint is intended to harass a facility
32 or a licensee or is without reasonable basis, the department or
33 ~~committee~~ certified volunteer long-term care ombudsman shall
34 make or cause to be made an on-site inspection of the health
35 care facility which is the subject of the complaint within the

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1 time period determined pursuant to the following guidelines,
2 which period shall commence on the date of receipt of the
3 complaint:
4 (1) For nursing facilities, an on-site inspection shall be
5 initiated as follows:
6 (a) Within two working days for a complaint determined by
7 the department or ~~committee~~ certified volunteer long-term care
8 ombudsman to be an alleged immediate jeopardy situation.
9 (b) Within ten working days for a complaint determined by
10 the department or ~~committee~~ certified volunteer long-term care
11 ombudsman to be an alleged high-level, nonimmediate jeopardy
12 situation.
13 (c) Within forty-five calendar days for a complaint
14 determined by the department or ~~committee~~ certified volunteer
15 long-term care ombudsman to be an alleged nonimmediate jeopardy
16 situation, other than a high-level situation.
17 (2) For all other types of health care facilities, an
18 on-site inspection shall be initiated as follows:
19 (a) Within two working days for a complaint determined by
20 the department or ~~committee~~ certified volunteer long-term care
21 ombudsman to be an alleged immediate jeopardy situation.
22 (b) Within twenty working days for a complaint determined by
23 the department or ~~committee~~ certified volunteer long-term care
24 ombudsman to be an alleged high-level, nonimmediate jeopardy
25 situation.
26 (c) Within forty-five calendar days for a complaint
27 determined by the department or ~~committee~~ certified volunteer
28 long-term care ombudsman to be an alleged nonimmediate jeopardy
29 situation, other than a high-level situation.
30 *c.* The department may refer to the ~~resident advocate~~
31 ~~committee~~ certified volunteer long-term care ombudsman of a
32 facility any complaint received by the department regarding
33 that facility, for initial evaluation and appropriate action by
34 the ~~committee~~ certified volunteer long-term care ombudsman.
35 Sec. 13. Section 135C.38, subsection 2, paragraphs a and d,

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1 Code 2013, are amended to read as follows:
2 *a.* The complainant shall be promptly informed of the
3 result of any action taken by the department or ~~committee~~
4 certified volunteer long-term care ombudsman in the matter.
5 The complainant shall also be notified of the name, address,
6 and telephone number of the designated protection and advocacy
7 agency if the alleged violation involves a facility with one
8 or more residents with developmental disabilities or mental
9 illness.
10 *d.* A person who is dissatisfied with any aspect of the
11 department's handling of the complaint may contact the office
12 of long-term care ~~resident's advocate, established pursuant to~~
13 ~~section 231.42~~ ombudsman, or may contact the protection and
14 advocacy agency designated pursuant to section 135C.2 if the
15 complaint relates to a resident with a developmental disability
16 or a mental illness.
17 Sec. 14. Section 135C.38, subsections 3 and 4, Code 2013,
18 are amended to read as follows:
19 3. An inspection made pursuant to a complaint filed under
20 section 135C.37 need not be limited to the matter or matters
21 included in the complaint. However, the inspection shall
22 not be a general inspection unless the complaint inspection
23 coincides with a scheduled general inspection or unless in the
24 course of the complaint investigation a violation is evident to
25 the inspector. Upon arrival at the facility to be inspected,
26 the inspector shall show identification to the person in charge
27 of the facility and state that an inspection is to be made,
28 before beginning the inspection. Upon request of either the
29 complainant or the department or ~~committee~~ certified volunteer
30 long-term care ombudsman, the complainant or the complainant's
31 representative or both may be allowed the privilege of
32 accompanying the inspector during any on-site inspection
33 made pursuant to this section. The inspector may cancel the
34 privilege at any time if the inspector determines that the
35 privacy of any resident of the facility to be inspected would

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otherwise be violated. The protection and dignity of the resident shall be given first priority by the inspector and others.

4. If upon an inspection of a facility by its ~~resident advocate committee~~ certified volunteer long-term care ombudsman pursuant to this section, the ~~committee~~ certified volunteer long-term care ombudsman advises the department of any circumstance believed to constitute a violation of this chapter or of any rule adopted pursuant to it, the ~~committee~~ certified volunteer long-term care ombudsman shall similarly advise the facility at the same time. If the facility's licensee or administrator disagrees with the conclusion of the ~~committee~~ certified volunteer long-term care ombudsman regarding the supposed violation, an informal conference may be requested and if requested shall be arranged by the department as provided in section 135C.42 before a citation is issued. If the department thereafter issues a citation pursuant to the ~~committee's~~ certified volunteer long-term care ombudsman's finding, the facility shall not be entitled to a second informal conference on the same violation and the citation shall be considered affirmed. The facility cited may proceed under section 135C.43 if it so desires.

Sec. 15. Section 225C.4, subsection 1, paragraph m, Code 2013, is amended to read as follows:

m. Provide consultation and technical assistance to patients' advocates appointed pursuant to section 229.19, in cooperation with the judicial branch and the ~~resident advocate committees appointed for health care facilities~~ certified volunteer long-term care ombudsmen certified pursuant to section ~~135C.25~~ 231.45.

Sec. 16. Section 227.2, subsection 2, Code 2013, is amended to read as follows:

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 intellectual disability coordinating

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1 board or to its advisory board if the county board of
2 supervisors constitutes ex officio the coordinating board, to
3 the administrator of the county care facility inspected and to
4 its ~~resident advocate committee~~ certified volunteer long-term
5 care ombudsman, and to the department on aging.
6 Sec. 17. Section 227.4, Code 2013, is amended to read as
7 follows:
8 **227.4 Standards for care of persons with mental illness or an**
9 **intellectual disability in county care facilities.**
10 The administrator, in cooperation with the department of
11 inspections and appeals, shall recommend and the mental health
12 and disability services commission created in section 225C.5
13 shall adopt standards for the care of and services to persons
14 with mental illness or an intellectual disability residing in
15 county care facilities. The standards shall be enforced by
16 the department of inspections and appeals as a part of the
17 licensure inspection conducted pursuant to chapter 135C. The
18 objective of the standards is to ensure that persons with
19 mental illness or an intellectual disability who are residents
20 of county care facilities are not only adequately fed, clothed,
21 and housed, but are also offered reasonable opportunities for
22 productive work and recreational activities suited to their
23 physical and mental abilities and offering both a constructive
24 outlet for their energies and, if possible, therapeutic
25 benefit. When recommending standards under this section,
26 the administrator shall designate an advisory committee
27 representing administrators of county care facilities, county
28 mental health and developmental disabilities regional planning
29 councils, and county care facility ~~resident advocate committees~~
30 certified volunteer long-term care ombudsmen to assist in the
31 establishment of standards.
32 Sec. 18. Section 231.4, subsection 1, Code 2013, is amended
33 to read as follows:
34 1. For purposes of this chapter, unless the context
35 otherwise requires:

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1 *a. "Administrative action"* means an action or decision made
2 by an owner, employee, or agent of a long-term care facility,
3 assisted living program, elder group home, or by a governmental
4 agency, which affects the service provided to residents or
5 tenants covered in this chapter.
6 *b. "Assisted living program"* means a program which provides
7 assisted living as defined pursuant to section 231C.2 and which
8 is certified under chapter 231C.
9 *c. "Certified volunteer long-term care ombudsman"* or
10 *"certified volunteer"* means a volunteer long-term care ombudsman
11 certified pursuant to section 231.45.
12 ~~*c.*~~ *d. "Commission"* means the commission on aging.
13 ~~*d.*~~ *e. "Department"* means the department on aging.
14 ~~*e.*~~ *f. "Director"* means the director of the department on
15 aging.
16 ~~*f.*~~ *g. "Elder group home"* means elder group home as defined
17 in section 231B.1 which is certified under chapter 231B.
18 ~~*g.*~~ *h. "Equivalent support"* means in-kind contributions
19 of services, goods, volunteer support time, administrative
20 support, or other support reasonably determined by the
21 department as equivalent to a dollar amount.
22 ~~*h.*~~ *i. "Federal Act"* means the Older Americans Act of 1965,
23 42 U.S.C. § 3001 et seq., as amended.
24 ~~*i.*~~ *j. "Home and community-based services"* means a continua
25 of services available in an individual's home or community
26 which include but are not limited to case management,
27 homemaker, home health aide, personal care, adult day,
28 respite, home delivered meals, nutrition counseling, and other
29 medical and social services which contribute to the health and
30 well-being of individuals and their ability to reside in a home
31 or community-based care setting.
32 ~~*j.*~~ *k. "Legal representative"* means a tenant's legal
33 representative as defined in section 231B.1 or 231C.2, or a
34 guardian, conservator, or attorney in fact of a resident.
35 ~~*k.*~~ *l. "Long-term care facility"* means a long-term care

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unit of a hospital or a facility licensed under section 135C.1 whether the facility is public or private.

m. "Long-term care ombudsman" means an advocate for residents and tenants of long-term care facilities, assisted living programs, and elder group homes who carries out duties as specified in this chapter.

~~*l.*~~ *n. "Older individual"* means an individual who is sixty years of age or older.

o. "Options counseling" means a service involving an interactive process, which may include a needs assessment, directed by the recipient individual and which may include other participants of the individual's choosing and the individual's legal representative, in which the individual receives guidance to make informed choices about long-term living services and supports in order to sustain independent living.

~~*m.*~~ *p. "Resident"* means ~~a resident or tenant of~~ an individual residing in a long-term care facility, ~~assisted living program, or elder group home,~~ excluding facilities licensed primarily to serve persons with an intellectual disability or mental illness.

q. "Tenant" means an individual who receives assisted living services through an assisted living program or an individual who receives elder group home services through an elder group home.

~~*n.*~~ *r. "Unit of general purpose local government"* means the governing body of a city, county, township, metropolitan area, or region within the state that has a population of one hundred thousand or more, that is recognized for areawide planning, and that functions as a political subdivision of the state whose authority is general and not limited to only one function or combination of related functions, or a tribal organization.

Sec. 19. Section 231.23A, subsection 2, Code 2013, is amended to read as follows:

2. The ~~senior internship~~ older American community service

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1 employment program.
2 Sec. 20. Section 231.23A, subsection 7, Code 2013, is
3 amended by striking the subsection.
4 Sec. 21. Section 231.32, Code 2013, is amended by adding the
5 following new subsection:
6 NEW SUBSECTION. 5. Upon designation, an area agency on
7 aging shall be considered an instrumentality of the state and
8 shall adhere to all state and federal mandates applicable to an
9 instrumentality of the state.
10 Sec. 22. Section 231.33, Code 2013, is amended by adding the
11 following new subsection:
12 NEW SUBSECTION. 21. Comply with all applicable
13 requirements of the Iowa public employees' retirement system
14 established pursuant to chapter 97B.
15 Sec. 23. Section 231.41, Code 2013, is amended to read as
16 follows:
17 **231.41 Purpose.**
18 The purpose of this subchapter is to establish and provide
19 for the operation of the office of long-term care ~~resident's~~
20 ~~advocate~~ ombudsman; to carry out, through the office, a state
21 long-term care ombudsman program within the department in
22 accordance with the requirements of the federal Act~~,~~; and to
23 adopt the supporting federal regulations and guidelines for its
24 operation.
25 Sec. 24. Section 231.42, Code 2013, is amended to read as
26 follows:
27 **231.42 Office of long-term care ~~resident's advocate~~ ombudsman**
28 **— duties — penalties for violations.**
29 1. *Office established.* The office of long-term care
30 ~~resident's advocate~~ ombudsman is established within the
31 department, in accordance with ~~section 712 of~~ the federal
32 Act, ~~as codified at 42 U.S.C. § 3058g~~ and state law. The
33 office shall consist of the state long-term care ~~resident's~~
34 ~~advocate and~~ ombudsman, any local long-term care ~~resident's~~
35 ~~advocates~~ ombudsmen, and any certified volunteer long-term care

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ombudsmen.

2. *State long-term care* ~~*resident's advocate*~~ *ombudsman.* The director of the department shall appoint the state long-term care ~~resident's advocate~~ ombudsman who shall do all of the following:

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 an intellectual disability or mental illness.

b. Publicize the office of long-term care ~~resident's advocate~~ ombudsman and provide information and education to consumers, the public, and other agencies about issues related to long-term care in Iowa.

c. Monitor the development and implementation of federal, state, and local laws, regulations, and policies that relate to long-term care in Iowa.

d. Annually report to the governor and general assembly on the activities of the office and make recommendations for improving the health, safety, welfare, and rights of residents and tenants ~~of long-term care facilities, assisted living programs, and elder group homes~~.

e. Cooperate with persons and public or private agencies with regard to, and participate in, inquiries, meetings, or studies that may lead to improvements in the health, safety, welfare, and rights of residents and tenants ~~and the functioning of long-term care facilities, assisted living programs, and elder group homes~~.

~~*f.* Recruit, train, educate, support, and monitor volunteers associated with the office.~~

3. *Local long-term care* ~~*resident's advocates*~~ *ombudsmen.* The local long-term care ~~resident's advocates~~ ombudsmen established

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1 pursuant to this section shall do all of the following:
2 *a.* Accept, investigate, verify, and work to resolve
3 complaints~~, whether reported to or initiated by a long-term~~
4 ~~care resident's advocate,~~ relating to any action or inaction
5 that may adversely affect the health, safety, welfare, or
6 rights of residents or tenants ~~of a long-term care facility,~~
7 ~~assisted living program, or elder group home~~.
8 *b.* Provide information about long-term care, the rights of
9 residents and tenants, payment sources for care, and selection
10 of a long-term care facility, assisted living program, or elder
11 group home to providers, consumers, family members, volunteers,
12 and the public.
13 *c.* Make referrals to appropriate licensing, certifying, and
14 enforcement agencies to assure appropriate investigation of
15 abuse complaints and corrective actions.
16 *d.* Assist in the ~~recruitment,~~ training~~,~~ and education~~,~~
17 ~~support, and monitoring~~ of certified volunteers associated with
18 the office of ~~the~~ long-term care ~~resident's advocate~~ ombudsman.
19 *e.* Make noncomplaint-related visits to long-term care
20 facilities, assisted living programs, and elder group homes
21 to observe daily routines, meals, and activities, and work to
22 resolve complaints if any are identified during these visits.
23 4. *Referrals of abuse, neglect, or exploitation.*
24 *a.* If abuse, neglect, or exploitation of a resident
25 or tenant ~~of a long-term care facility, assisted living~~
26 ~~program, or elder group home~~ is suspected, the state or a
27 local long-term care ~~resident's advocate~~ ombudsman shall, with
28 the permission of the resident or tenant as applicable under
29 federal law, make an immediate referral to the department of
30 inspections and appeals, ~~or~~ the department of human services ~~as~~
31 ~~applicable, and to~~, the department on aging, or the appropriate
32 law enforcement agency, as applicable. The state or a local
33 long-term care ~~resident's advocate~~ ombudsman shall cooperate,
34 if requested, with the department of inspections and appeals,
35 department of human services, department on aging, or any law

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1 enforcement agency pursuant to any investigation of such abuse,
2 neglect, or exploitation.
3 *b.* If the department of inspections and appeals responds
4 to a complaint referred by the state or a local long-term
5 care ~~resident's advocate~~ ombudsman against a long-term care
6 facility, assisted living program, elder group home, or
7 an employee of such entity, copies of related inspection
8 reports, plans of correction, and notice of any citations and
9 sanctions levied against the facility, program, or home shall
10 be forwarded to the office of ~~the~~ long-term care ~~resident's~~
11 ~~advocate~~ ombudsman.
12 5. *Access to long-term care facility, assisted living*
13 *program, or elder group home and residents and tenants.* The
14 state or a local long-term care ~~resident's advocate~~ ombudsman
15 or a ~~trained~~ certified volunteer may enter any long-term care
16 facility, assisted living program, or elder group home at any
17 time with or without prior notice or complaint and shall be
18 granted access to residents and tenants at all times for the
19 purpose of carrying out the duties specified in this section.
20 As used in this section, *"access"* means the right to do all of
21 the following:
22 *a.* Enter any long-term care facility, assisted living
23 program, or elder group home and provide identification.
24 *b.* Seek consent from the resident, tenant, or legal
25 representative to communicate privately and without restriction
26 with any resident, ~~or~~ tenant, or legal representative.
27 *c.* Communicate privately and without restriction with
28 any resident, tenant, or legal representative~~, or other~~
29 ~~representative who consents to communication~~.
30 *d.* Review the ~~clinical~~ medical, social, or other records of
31 a resident or tenant.
32 *e.* Observe all resident or tenant areas of a long-term care
33 facility, assisted living program, or ~~housing establishment~~
34 elder group home except the living area of any resident or
35 tenant who protests the observation.

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6. *Access to medical and ~~personal~~ social records.*

a. The state or a local long-term care ~~resident's advocate~~ ombudsman shall have access to the medical and ~~personal~~ social records of ~~an individual who is~~ a resident or tenant ~~of a long-term care facility, assisted living program, or elder group home retained by the facility, program, or home.~~, if any of the following applies:

(1) The state or local long-term care ombudsman or certified volunteer long-term care ombudsman has the permission of the resident or tenant, or the legal representative of the resident or tenant.

(2) The resident or tenant is unable to consent to the access and has no legal representative.

(3) Access to the records is necessary to investigate a complaint if all of the following apply:

(a) A legal representative of the resident or tenant refuses to give the permission.

(b) The state or local long-term care ombudsman or a certified volunteer long-term care ombudsman has reasonable cause to believe that the legal representative is not acting in the best interest of the resident or tenant.

(c) The local long-term care ombudsman or a certified volunteer long-term care ombudsman obtains the approval of the state long-term care ombudsman.

b. Records may be reproduced by the state or a local long-term care ~~resident's advocate~~ ombudsman.

c. Upon request of the state or a local long-term care ~~resident's advocate~~ ombudsman, a long-term care facility, assisted living program, or elder group home shall provide the name, address, and telephone number of the legal representative or next of kin of any resident or tenant.

d. A long-term care facility, assisted living program, or elder group home or personnel of such a facility, program, or home who discloses records in compliance with this section and the procedures adopted pursuant to this section shall not be

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1 liable for such disclosure.
2 7. *Access to administrative records.*
3 *a.* Pursuant to the federal Act, the state or a local
4 long-term care ombudsman or a certified volunteer shall have
5 access to the administrative records, policies, and documents
6 of the long-term care facility, assisted living program, or
7 elder group home, which are accessible to residents, tenants,
8 or the general public.
9 *b.* Pursuant to the federal Act, the state or a local
10 long-term care ombudsman or a certified volunteer shall have
11 access to, and upon request, copies of, all licensing and
12 certification records maintained by the state with respect to
13 a long-term care facility, assisted living program, or elder
14 group home.
15 ~~7.~~ 8. *Interference prohibited — penalties.*
16 *a.* An officer, owner, director, or employee of a long-term
17 care facility, assisted living program, or elder group home who
18 intentionally prevents, interferes with, or attempts to impede
19 the work of the state or a local long-term care ~~resident's~~
20 ~~advocate~~ ombudsman or a certified volunteer is subject to a
21 penalty imposed by the director of not more than one thousand
22 five hundred dollars for each violation. If the director
23 imposes a penalty for a violation under this paragraph,
24 no other state agency shall impose a penalty for the same
25 interference violation. Any moneys collected pursuant to this
26 subsection shall be deposited in the general fund of the state.
27 *b.* The office of ~~the~~ long-term care ~~resident's advocate~~
28 ombudsman shall adopt rules specifying procedures for notice
29 and appeal of penalties imposed pursuant to this subsection.
30 *c.* The director, in consultation with the office of ~~the~~
31 long-term care ~~resident's advocate~~ ombudsman, shall notify
32 the county attorney of the county in which the long-term care
33 facility, assisted living program, or elder group home is
34 located, or the attorney general, of any violation of this
35 subsection.

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1 ~~8.~~ 9. *Retaliation prohibited — penalties.* An officer,
2 owner, director, or employee of a long-term care facility,
3 assisted living program, or elder group home shall not
4 retaliate against any person for having filed a complaint with,
5 or provided information to, the state or a local long-term
6 care ~~resident's advocate~~ ombudsman or a certified volunteer.
7 A person who retaliates or discriminates in violation of this
8 subsection is guilty of a simple misdemeanor.
9 ~~9.~~ 10. *Change in operations.* A long-term care facility,
10 assisted living program, or elder group home shall inform the
11 office of ~~the~~ long-term care ~~resident's advocate~~ ombudsman
12 in writing at least thirty days prior to any change in
13 operations, programs, services, licensure, or certification
14 that affects residents or tenants, including but not limited
15 to the intention to close, decertify, or change ownership. In
16 an emergency situation, or when a long-term care facility,
17 assisted living program, or elder group home is evacuated, the
18 department of inspections and appeals shall notify the office
19 of ~~the state~~ long-term care ~~resident's advocate~~ ombudsman.
20 ~~10.~~ 11. *Immunity.* The state or a local long-term care
21 ~~resident's advocate~~ ombudsman, certified volunteer, or any
22 representative of the office participating in the good faith
23 performance of their official duties shall have immunity from
24 any civil or criminal liability that otherwise might result by
25 reason of taking, investigating, or pursuing a complaint under
26 this section.
27 ~~11.~~ 12. *Confidentiality.*
28 *a.* Information relating to any complaint made to or
29 investigation by the state or a local long-term care ~~resident's~~
30 ~~advocate~~ ombudsman or certified volunteer that discloses the
31 identity of a complainant, resident, or tenant~~, or~~; information
32 related to a resident's or tenant's ~~personal~~ social or medical
33 records~~,~~; or files maintained by the state long-term care
34 ombudsman program that disclose the identity of a complainant,
35 resident, or tenant, shall remain confidential ~~except as~~

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1 ~~follows~~ and shall not be disclosed unless any of the following
2 applies:
3 ~~*a.* If permission is granted by the director in consultation~~
4 ~~with the state long-term care resident's advocate.~~
5 ~~*b.* If disclosure is authorized in writing by the complainant~~
6 ~~and the resident, tenant, or the individual's guardian or legal~~
7 ~~representative.~~
8 ~~*c.* If disclosure is necessary for the provision of services~~
9 ~~to a resident or tenant, or the resident or tenant is unable to~~
10 ~~express written or oral consent.~~
11 ~~*d.* If ordered by a court.~~
12 (1) The complainant, resident, tenant, or a legal
13 representative consents to the disclosure and the consent is
14 given in writing.
15 (2) The complainant, resident, or tenant gives consent
16 orally and the consent is documented contemporaneously in a
17 writing made by the state long-term care ombudsman or a local
18 long-term care ombudsman.
19 (3) The disclosure is required by a court order.
20 *b.* The department shall adopt rules pursuant to chapter 17A
21 to administer this subsection.
22 ~~12.~~ 13. *Posting of state long-term care* ~~*resident's advocate*~~
23 *ombudsman information.* Every long-term care facility, assisted
24 living program, and elder group home shall post information
25 in a prominent location that includes the name, address, and
26 telephone number, and a brief description of the services
27 provided by the office of ~~the~~ long-term care ~~resident's~~
28 ~~advocate~~ ombudsman. The information posted shall be approved
29 or provided by the office of ~~the~~ long-term care ~~resident's~~
30 ~~advocate~~ ombudsman.
31 Sec. 25. Section 231.45, Code 2013, is amended to read as
32 follows:
33 **231.45 Certified volunteer long-term care ~~resident's advocate~~**
34 **ombudsman program.**
35 1. The department shall establish a certified volunteer

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long-term care ~~resident's advocate~~ ombudsman program in accordance with the federal Act to provide assistance to the state and local long-term care ~~resident's advocates~~ ombudsmen.

2. The department shall develop and implement a certification process for volunteer long-term care ~~resident's advocates~~ ombudsmen including but not limited to an application process, provision for background checks, classroom or on-site training, orientation, and continuing education.

3. ~~The~~ Unless specifically excluded, the provisions of section 231.42 relating to local long-term care ~~resident's advocates~~ ombudsmen shall apply to certified volunteer long-term care ~~resident's advocates~~ ombudsmen.

4. The department shall adopt rules pursuant to chapter 17A to administer this section.

Sec. 26. Section 231.51, subsections 1, 3, and 4, Code 2013, are amended to read as follows:

1. The department shall direct and administer the older American community service employment program as authorized by the federal Act in coordination with the department of workforce development ~~and the economic development authority~~.

3. Funds appropriated to the department from the United States department of labor shall be distributed to ~~local projects~~ subgrantees in accordance with federal requirements.

4. The department shall require such uniform reporting and financial accounting by ~~area agencies on aging and local projects~~ subgrantees as may be necessary to fulfill the purposes of this section.

Sec. 27. Section 231.53, Code 2013, is amended to read as follows:

231.53 Coordination with Workforce Investment Act.

The ~~senior internship~~ older American community service employment program shall be coordinated with the federal Workforce Investment Act administered by the department of workforce development.

Sec. 28. Section 231.56A, Code 2013, is amended to read as

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1 follows:
2 **231.56A Prevention of elder abuse, neglect, and exploitation**
3 **program.**
4 1. The department shall administer the prevention of elder
5 abuse, neglect, and exploitation program in accordance with the
6 requirements of the federal Act. The purpose of the program
7 is to carry out activities for intervention in, investigation
8 of, and response to elder abuse, neglect, and exploitation
9 including financial exploitation.
10 ~~2. The target population of the program shall be any~~
11 ~~older individual residing in Iowa who is at risk of or who~~
12 ~~is experiencing abuse, neglect, or exploitation including~~
13 ~~financial exploitation.~~
14 ~~3. The contractor implementing the program shall identify~~
15 ~~emergency shelter and support services, state funding,~~
16 ~~outcomes, reporting requirements, and approved community~~
17 ~~resources from which services may be obtained.~~
18 ~~4. The contractor shall implement the program and shall~~
19 ~~coordinate the provider network through the use of referrals or~~
20 ~~other engagement of community resources to provide services to~~
21 ~~older individuals.~~
22 ~~5.~~ 2. The department shall adopt rules to implement this
23 section.
24 Sec. 29. Section 231.64, Code 2013, is amended to read as
25 follows:
26 **231.64 Aging and disability resource center ~~program~~.**
27 1. The aging and disability resource center ~~program~~ shall
28 be administered by the department consistent with the federal
29 Act. The department shall designate participating entities
30 to establish a coordinated system for providing all of the
31 following:
32 *a.* Comprehensive information, referral, and assistance
33 regarding the full range of available public and private
34 long-term care programs, options, service providers, and
35 resources within a community, including information on the

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1 availability of integrated long-term care.
2 *b.* ~~Personal~~ Options counseling to assist individuals in
3 assessing their existing or anticipated long-term care needs
4 and developing and implementing a plan for long-term care
5 designed to meet their specific needs and circumstances.
6 The plan for long-term care may include support with
7 person-centered care transitions to assist consumers and family
8 caregivers with transitions between home and care settings.
9 *c.* Consumer access to the range of publicly-supported
10 long-term care programs for which consumers may be eligible, by
11 serving as a convenient point of entry for such programs.
12 2. The aging and disability resource center ~~program~~
13 shall assist older individuals, persons with disabilities
14 age eighteen or older, family caregivers, and people who
15 inquire about or request assistance on behalf of members of
16 these groups, as they seek long-term care living services and
17 community supports.
18 Sec. 30. Section 231B.1, subsection 10, Code 2013, is
19 amended to read as follows:
20 10. *"Tenant advocate"* means the office of ~~the~~ long-term care
21 ~~resident's advocate~~ ombudsman established in section 231.42.
22 Sec. 31. Section 231C.2, subsection 15, Code 2013, is
23 amended to read as follows:
24 15. *"Tenant advocate"* means the office of long-term care
25 ~~resident's advocate~~ ombudsman established in section 231.42.
26 Sec. 32. Section 235B.6, subsection 2, paragraph e,
27 subparagraph (10), Code 2013, is amended to read as follows:
28 (10) The state or a local long-term care ~~resident's advocate~~
29 ombudsman if the victim resides in ~~a long-term care facility~~
30 or the alleged perpetrator is an employee of a long-term care
31 facility as defined in section 231.4.
32 Sec. 33. Section 669.14, subsection 12, Code 2013, is
33 amended to read as follows:
34 12. Any claim based upon the actions of a ~~resident advocate~~
35 ~~committee member~~ certified volunteer long-term care ombudsman

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1 in the performance of duty if the action is undertaken and
2 carried out in good faith.
3 Sec. 34. REPEAL. Sections 135C.25, 231.44, 231.52, and
4 231B.19, Code 2013, are repealed.
5 Sec. 35. REPEAL. Chapter 249H, Code 2013, is repealed.
6 EXPLANATION
7 This bill includes provisions relating to programs and
8 services under the purview of the department on aging (IDA).
9 The bill eliminates a provision relating to the duties
10 of the administrator of the investigations division of the
11 department of inspections and appeals. The provision directs
12 the administrator to coordinate investigations relative to the
13 operations of IDA. The language potentially conflicts with the
14 autonomy of the office of state long-term care ombudsman.
15 The bill amends the language relating to confidential
16 records under the purview of IDA. The bill replaces the
17 protection of records of IDA pertaining to only one program, to
18 instead protect documents maintained by IDA or the office of
19 long-term care ombudsman that identify a complainant, resident,
20 or individual pertaining to assistance provided by IDA, an area
21 agency on aging, or the office, unless otherwise exempt from
22 confidentiality protections.
23 The bill changes the term "resident advocate" to ombudsman
24 throughout the Code, removes references to "care review
25 committee", which no longer exists, and changes references in
26 the Code to conform with changes made with the enactment of
27 Code section 231.45 by the 2012 general assembly by replacing
28 "resident advocate committee" with "certified volunteer
29 long-term care ombudsman" throughout the Code.
30 The bill includes new definitions for "long-term care
31 ombudsman", "options counseling", and "tenant" in Code chapter
32 231 (department on aging — older Iowans); includes a provision
33 establishing that area agencies on aging are instrumentalities
34 of the state based on a number of opinions of the attorney
35 general (1980 Op. Att'y Gen 51; 1980 Op. Att'y Gen 317; 1984

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1 Op. Att´y Gen 140; 1988 Op. Att´y Gen 1; and 1993 Op. Att´y
2 Gen 71); and includes a conforming provision to the provision
3 in Code chapter 97B (Iowa public employees´ retirement system
4 (IPERS)) in Code chapter 231 including area agencies on aging
5 in the definition of "employer" under IPERS.
6 The bill amends provisions relating to confidentiality
7 regarding complaints and investigations, and relating to access
8 of the state or local long-term care ombudsman and certified
9 volunteers to the locations of long-term care facilities,
10 assisted living programs, and elder group homes as well as to
11 medical, social, and administrative records of residents and
12 tenants of these entities to carry out their duties, consistent
13 with the federal Older Americans Act.
14 The bill deletes a reference to the economic development
15 authority, which is no longer involved in the community service
16 employment program; changes the terminology relating to the
17 senior internship program, which has been replaced by the older
18 American community service employment program; and aligns
19 provisions relating to the prevention of elder abuse, neglect,
20 and exploitation in accordance with the federal Older Americans
21 Act.
22 The bill repeals Code chapter 249H, relating to the senior
23 living program, but retains the senior living revolving loan
24 program fund. The senior living trust fund was depleted at the
25 end of FY 2011.

Senate File 185 - Introduced

SENATE FILE 185
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 1046)

A BILL FOR

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

TLSB 1260SV (1) 85
mm/sc

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1 Section 1. Section 423.3, subsection 57, paragraph d, Code
2 2013, is amended to read as follows:
3 *d. "Food and food ingredients"* means substances, whether
4 in liquid, concentrated, solid, frozen, dried, or dehydrated
5 form, that are sold for ingestion or chewing by humans and are
6 consumed for their taste or nutritional value. *"Food and food*
7 *ingredients"* includes beverage-grade carbon dioxide gas.
8 EXPLANATION
9 This bill relates to the administration of the sales and use
10 taxes under the streamlined sales and use tax agreement.
11 Iowa is a member of the streamlined sales and use tax
12 agreement, which is an effort to administer state sales and
13 use taxes in all participating states according to the same
14 simplified system. Under the agreement, Iowa must periodically
15 make changes in the administration of the sales and use
16 taxes in order to remain in compliance. The governing board
17 of the streamlined sales and use tax agreement considers
18 beverage-grade carbon dioxide gas to be a "food and food
19 ingredient".
20 This bill amends the definition of "food and food
21 ingredients" to include beverage-grade carbon dioxide gas.

Senate File 186 - Introduced

SENATE FILE 186
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1094)

A BILL FOR

1 An Act relating to funds transfers under the uniform commercial
2 code, and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1120SV (1) 85
da/rj

S.F. 186

Section 1. Section 554.12108, Code 2013, is amended to read as follows:

554.12108 ~~Exclusion of consumer transactions governed by federal law~~ Relationship to Electronic Fund Transfer Act.

1. ~~This~~ Except as provided in subsection 2, this article does not apply to a funds transfer any part of which is governed by the Electronic Fund Transfer Act of 1978, 15 U.S.C. § 1693 et seq.

2. This article applies to a funds transfer that is a remittance transfer as defined in the Electronic Fund Transfer Act, 15 U.S.C. § 1693o-1, unless the remittance transfer is an electronic fund transfer as defined in the Electronic Fund Transfer Act, 15 U.S.C. § 1693a.

3. In a funds transfer to which this article applies, in the event of an inconsistency between an applicable provision of this article and an applicable provision of the Electronic Fund Transfer Act, the provision of the Electronic Fund Transfer Act governs to the extent of the inconsistency.

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

EXPLANATION

SUMMARY. This bill amends Code chapter 554, Article 12, by providing that its provisions apply to a "remittance transfer" as defined in the federal Electronic Fund Transfer Act of 1978, "EFTA", 15 U.S.C. § 1693 et seq., unless any provision of the federal statute (or associated regulation) also applies.

BACKGROUND — ARTICLE 4A AND THE EFTA. Article 4A of the Uniform Commercial Code, recommended by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission) and the American Law Institute, regulate the electronic transfer of payment orders made through a wire service between commercial parties, such as from one bank to another. By contrast, the EFTA regulates electronic fund transfers involving consumers (e.g., transactions using automatic teller machines). In Iowa, Article 4A is codified as Article 12

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1 of the Uniform Commercial Code, and Code section 554.12101
2 provides the exception for the EFTA (i.e., transactions
3 affecting consumers).
4 BACKGROUND — REMITTANCE TRANSFER. According to the Uniform
5 Law Commission's official comment, its recommended amendment
6 to Section 4A.108 is in to response to the "Dodd-Frank Wall
7 Street Reform and Consumer Protection Act of 2010" (Public
8 Law 111-203). That Act in part amends the EFTA, and requires
9 the new federal Bureau of Consumer Financial Protection to
10 adopt implementing regulations effective February 7, 2013 (77
11 Federal Register No. 25 (February 7, 2012), p. 6194). Part of
12 the new federal Act and its accompanying regulations create
13 new compliance requirements to protect consumers who transfer
14 moneys from the United States to a foreign destination (15
15 U.S.C. § 1693 et seq.), which is referred to as a "remittance
16 transfer". Specifically, the EFTA now defines this as an
17 electronic transfer of funds requested by a sender (consumer)
18 located in any state to a designated recipient that is
19 initiated by a "remittance transfer provider" (a person or
20 financial institution) who provides such services in the normal
21 course of business (15 U.S.C. § 1693o-1(g)).
22 EXCEPTION CARVE OUT. While the EFTA regulates some
23 remittance transfers, it does not address all classes of
24 such transactions, including types of a funds transfer which
25 have been covered under Article 4A. Therefore, when the
26 implementing federal regulations become effective on February
27 7, 2013, some remittance transfers will not be covered either
28 by federal law (EFTA) or state law (Article 12 is Iowa's
29 version of Article 4A). The bill provides that a funds
30 transfer that is a remittance transfer but not an electronic
31 fund transfer under the EFTA will still be governed under
32 Article 4A (Iowa's Article 12).
33 EFFECTIVE DATE. The bill goes into effect immediately upon
34 enactment.

Senate File 187 - Introduced

SENATE FILE 187
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1097)

A BILL FOR

1 An Act relating to the transmission of court records by the
2 clerk of the district court to the clerk of the supreme
3 court in an appeal.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1491SV (1) 85
jm/nh

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1 Section 1. NEW SECTION. **602.8103A Transmission of record**
2 **on appeal.**
3 1. *a.* The clerk of the district court shall be solely
4 responsible for transmitting the record on appeal to the
5 clerk of the supreme court in civil and criminal proceedings.
6 The clerk of the district court shall only transmit the
7 record to the clerk of the supreme court upon the request
8 of the appellee, appellant, the attorney for the appellee or
9 appellant, or the appellate court.
10 *b.* The requirements of paragraph *"a"* shall not be delegated
11 to another party. The appellee, appellant, the attorney for
12 the appellee or appellant, or any agent of the appellee or
13 appellant shall not transmit any part of the appellate record
14 to the clerk of the supreme court.
15 2. For purposes of this section, the *"record on appeal"*
16 consists of the original documents and exhibits filed in
17 district court, transcripts of the proceedings, and a certified
18 copy of the docket and court calendar entries prepared by
19 the clerk of the district court in the case under appeal.
20 Exhibits of unusual size or bulk are not required to be
21 transmitted by the clerk of the district court unless requested
22 by the appellee, appellant, the attorney for the appellee or
23 appellant, or the appellate court.
24 3. If a request is made pursuant to subsection 1, within
25 seven days of the filing of the final briefs in the appeal, the
26 clerk of the district court shall transmit any of the remaining
27 record to the clerk of the supreme court.
28 Sec. 2. REPEAL. Section 625A.7, Code 2013, is repealed.
29 EXPLANATION
30 This bill relates to the transmission of court records by the
31 clerk of the district court to the clerk of the supreme court
32 in an appeal.
33 The bill specifies that the clerk of the district court shall
34 be solely responsible for transmitting the record on appeal to
35 the clerk of the supreme court. The bill requires the clerk of

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1 the district court to only transmit the record to the clerk of
2 the supreme court upon the request of the appellee, appellant,
3 the attorney for the appellee or appellant, or the appellate
4 court.
5 The bill specifies the record on appeal shall consist of
6 the original documents and exhibits filed in district court,
7 transcripts of the proceedings, and a certified copy of the
8 docket and court calendar entries prepared by the clerk of the
9 district court in the case under appeal.
10 Under the bill, exhibits of unusual size or bulk are not
11 required to be transmitted by the clerk of the district court
12 unless requested by the appellee, appellant, the attorney for
13 the appellee or appellant, or the appellate court.
14 The bill also requires that the clerk of the district court
15 transmit any of the remaining record to the clerk of the
16 supreme court within seven days after the final briefs have
17 been filed in the appeal.

Senate File 188 - Introduced

SENATE FILE 188
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1095)

A BILL FOR

1 An Act relating to an application for the immediate return of
2 seized property.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1368SV (1) 85
rh/sc

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1 Section 1. Section 809.3, Code 2013, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 3A. The application shall be signed by the
4 claimant under penalty of perjury.
5 EXPLANATION
6 This bill relates to an application for the immediate return
7 of seized property under Code chapter 809.
8 Current law provides that any person claiming a right to
9 immediate possession of seized property may make an application
10 for the return of the seized property in the office of the
11 clerk of court for the county in which the property was seized.
12 The application must state the specific item or items sought,
13 the nature of the claimant's interest in the property, and the
14 grounds upon which the claimant seeks to have the property
15 immediately returned. "Seized property" means property taken
16 or held by any law enforcement agency without the consent of
17 the person, if any, who had possession or a right to possession
18 of the property at the time it was taken into custody.
19 The bill requires that the claimant sign the application
20 under penalty of perjury.

Senate File 189 - Introduced

SENATE FILE 189
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1079)

A BILL FOR

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

TLSB 1269SV (1) 85
av/nh

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Senate File 190 - Introduced

SENATE FILE 190
BY DANIELSON

A BILL FOR

1 An Act creating a task force to provide a statewide assessment
2 of veterans' and military service members' needs.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1816XS (2) 85
aw/sc

S.F. 190

1 Section 1. VETERANS' NEEDS ASSESSMENT TASK FORCE.
2 1. The department of veterans affairs shall convene a task
3 force of stakeholders to conduct a veterans' needs assessment.
4 In addition, the needs assessment shall include an assessment
5 of the needs of current members of the national guard, reserve,
6 or regular component of the armed forces of the United States.
7 2. Membership on the task force shall include
8 representatives of the commission of veterans affairs, the
9 county commissions of veteran affairs, the military division
10 of the department of public defense, the department of human
11 services, the department of workforce development, the Iowa
12 finance authority, the council on homelessness, the community
13 colleges, and the board of regents.
14 3. The task force shall develop a statewide evaluation
15 system to assess the needs of veterans and service members.
16 Items for consideration by the task force shall include but not
17 be limited to the following:
18 a. Access to benefits.
19 b. Employment.
20 c. Education.
21 d. Housing and homelessness.
22 e. Financial literacy and poverty.
23 f. Health, mental health, and other health-related systems.
24 g. Family needs.
25 h. Substance abuse.
26 i. Infrastructure for the provision of services to veterans
27 and members.
28 4. The task force shall survey veterans' and members' needs
29 throughout the different counties and regions of the state and
30 shall submit a report containing findings and recommendations
31 to the general assembly by January 15, 2014.
32 5. The department of veterans affairs shall provide staff
33 assistance and administrative support to the task force.
34 EXPLANATION
35 This bill creates a veterans' needs assessment task force

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1 convened by the department of veterans affairs. The task force
2 shall conduct a veterans' needs assessment which also addresses
3 the needs of current members of the national guard, reserve,
4 or regular component of the armed forces of the United States.
5 The task force shall collaborate to survey veterans' and
6 service members' needs throughout the state and shall submit a
7 report containing findings and recommendations to the general
8 assembly by January 15, 2014.
9 Membership on the task force shall include representatives
10 of the commission of veterans affairs, the county commissions
11 of veteran affairs, the military division of the department
12 of public defense, the department of human services, the
13 department of workforce development, the Iowa finance
14 authority, the council on homelessness, the community colleges,
15 and the board of regents.

Senate File 191 - Introduced

SENATE FILE 191
BY DOTZLER, BOLKCOM, DVORSKY, GRONSTAL, JOCHUM, BLACK, McCOY, QUIRMBACH, MATHIS, SCHOENJAHN, HATCH, HART, RAGAN, SODDERS, PETERSEN, TAYLOR, HORN, WILHELM, BRASE, DEARDEN, and COURTNEY

(COMPANION TO HF 38 BY HUNTER)

A BILL FOR

1 An Act relating to wage payment collection issues arising
2 between employers and individuals who provide services to
3 employers, providing penalties and remedies, and including
4 effective date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1215XS (3) 85
je/rj

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Section 1. Section 91A.5, subsection 1, unnumbered paragraph 1, Code 2013, is amended to read as follows:

An employer shall have the burden to establish that a deduction from employee wages is lawful. An employer shall not withhold or divert any portion of an employee's wages unless:

Sec. 2. Section 91A.5, subsection 1, paragraph b, Code 2013, is amended to read as follows:

b. The employer ~~has~~ obtains advance written authorization from the employee to so deduct for any lawful purpose accruing to the benefit of the employee.

Sec. 3. Section 91A.6, subsection 1, Code 2013, is amended to read as follows:

1. An employer shall ~~after being notified by the commissioner pursuant to subsection 2~~ do the following:

a. Notify its employees in writing at the time of hiring what wages and regular paydays are designated by the employer.

b. Notify its employees in writing whose wages are determined based on a task, piece, mile, or load basis about the method used to calculate wages and when the wages are earned by the employees.

~~*b.*~~ *c.* Notify, at least one pay period prior to the initiation of any changes, its employees of any changes in the arrangements specified in this subsection ~~1~~ that reduce wages or alter the regular paydays. The notice shall either be in writing or posted at a place where employee notices are routinely posted.

~~*c.*~~ *d.* Make available to its employees upon written request, a written statement enumerating employment agreements and policies with regard to vacation pay, sick leave, reimbursement for expenses, retirement benefits, severance pay, or other comparable matters with respect to wages. Notice of such availability shall be given to each employee in writing or by a notice posted at a place where employee notices are routinely posted.

~~*d.*~~ *e.* Establish, maintain, and preserve for three

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1 calendar years the payroll records showing the hours worked,
2 wages earned, and deductions made for each employee and
3 any employment agreements entered into between an employer
4 and employee. Failure to do so shall raise a rebuttable
5 presumption that the employer did not pay the required minimum
6 wage under section 91D.1.
7 Sec. 4. Section 91A.6, subsection 2, Code 2013, is amended
8 by striking the subsection.
9 Sec. 5. Section 91A.6, subsection 4, Code 2013, is amended
10 by striking the subsection and inserting in lieu thereof the
11 following:
12 4. *a.* On each regular payday, the employer shall send to
13 each employee by mail or shall provide at the employee's normal
14 place of employment during normal employment hours a statement
15 showing the wages earned by the employee, the deductions made
16 for the employee, and the following information, as applicable:
17 (1) For each employee paid in whole or in part on an hourly
18 basis, the statement shall show the hours the employee worked.
19 (2) For each employee paid based on a percentage of sales or
20 based on a percentage of revenue generated for the employer,
21 the statement shall include a list of the amount of each sale
22 or the amount of revenue during the pay period.
23 (3) For each employee whose pay is based on the number
24 of miles or loads performed, the statement shall include the
25 applicable number performed during the pay period.
26 *b.* An employer who provides each employee access to view an
27 electronic statement of the employee's earnings and provides
28 the employee free and unrestricted access to a printer to print
29 the employee's statement of earnings, if the employee chooses,
30 is in compliance with this subsection.
31 Sec. 6. Section 91A.8, Code 2013, is amended to read as
32 follows:
33 **91A.8 Damages recoverable by an employee.**
34 When it has been shown that an employer has ~~intentionally~~
35 failed to pay an employee wages or reimburse expenses pursuant

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to section 91A.3, whether as the result of a wage dispute or otherwise, the employer shall be liable to the employee for ~~any~~ the unpaid wages or unreimbursed expenses ~~that are so intentionally failed to be paid or reimbursed~~, plus liquidated damages, court costs, and any ~~attorney's~~ attorney fees incurred in recovering the unpaid wages or unreimbursed expenses and determined to have been usual and necessary. ~~In other instances the employer shall be liable only for unpaid wages or expenses, court costs and usual and necessary attorney's fees incurred in recovering the unpaid wages or expenses.~~

Sec. 7. Section 91A.10, subsection 5, Code 2013, is amended to read as follows:

~~5. An employer shall not discharge or in any other manner discriminate against any employee because the employee has filed a complaint, assigned a claim, or brought an action under this section or has cooperated in bringing any action against an employer.~~

5. *a.* An employer or other person shall not discharge or in any other manner discriminate or retaliate against any of the following:

(1) An employee or other person for exercising any right provided under this chapter or any rules adopted pursuant to this chapter.

(2) Another employee or person for providing assistance to an employee or providing information regarding the employee or person.

(3) Another employee or person for testifying or planning to testify in any investigation or proceeding regarding the employee or person.

b. Taking adverse action against an employee or other person within ninety days of an employee's or other person's engaging in any of the activities in paragraph "*a*" raises a presumption that such action was retaliation, which may be rebutted by evidence that such action was taken for other permissible reasons.

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1 *c.* Any employee may file a complaint with the commissioner
2 alleging discharge, ~~or~~ discrimination, or retaliation within
3 thirty days after such violation occurs. Upon receipt of the
4 complaint, the commissioner shall cause an investigation to be
5 made to the extent deemed appropriate. If the commissioner
6 determines from the investigation that the provisions of this
7 subsection have been violated, the commissioner shall bring
8 an action in the appropriate district court against such
9 person. The district court shall have jurisdiction, for cause
10 shown, to restrain violations of this subsection and order all
11 appropriate relief including rehiring or reinstatement of the
12 employee to the former position with back pay.
13 Sec. 8. Section 91A.10, Code 2013, is amended by adding the
14 following new subsection:
15 NEW SUBSECTION. 6. A civil action to enforce subsection 5
16 may also be maintained in any court of competent jurisdiction
17 by the commissioner or by any party injured by a violation
18 of subsection 5. An employer or other person who retaliates
19 against an employee or other person in violation of subsection
20 5 shall be required to pay the employee or other person
21 an amount set by the commissioner or a court sufficient to
22 compensate the employee or other person and to deter future
23 violations, but not less than one hundred fifty dollars for
24 each day that the violation occurred.
25 Sec. 9. NEW SECTION. **91A.15 Commissions earned date.**
26 An employer shall not require that a person be a current
27 employee to be paid a commission that the person otherwise
28 earned.
29 Sec. 10. EFFECTIVE DATE. This Act takes effect January 1,
30 2014.
31 EXPLANATION
32 This bill relates to employers and individuals who perform
33 labor and wage payment collection.
34 Code section 91A.5 is amended to provide that the employer
35 has the burden to establish that a deduction from employees'

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1 wages is lawful and that the employer must obtain written
2 authorization for the deduction from the employee in advance.
3 Code section 91A.6(1) is amended to remove the requirement
4 that an employer be notified by the division of labor services
5 of the department of workforce development before the employer
6 is required to fulfill the requirements in subsection 1
7 relating to employee wage and benefit information. In new
8 Code section 91A.6(1)(b), the employer is required to notify
9 employees in writing whose wages are determined based on
10 a task, piece, mile, or load basis about the method used
11 to calculate wages, when wages are earned. Code section
12 91A.6(1)(e) is amended to establish a rebuttable presumption
13 that an employer did not pay the minimum wage if the employer
14 does not maintain proper payroll records.
15 Current Code section 91A.6(2), setting out certain employer
16 compliance procedures, is stricken.
17 Code section 91A.6(4) is amended so that the employer
18 must send to each employee by mail, or at the place of
19 business during the employee's working hours a statement of
20 the employee's earnings, deductions made, and as applicable
21 the following: for an employee paid hourly, the number of
22 hours worked during the pay period; for an employee paid on a
23 percentage of sales or revenue generated, a list of sales or
24 amount of revenue during the pay period; and for an employee
25 paid based on the number of miles or loads performed, the
26 applicable number performed during the pay period. An employer
27 who provides an electronic statement and gives employees free
28 and unrestricted access to print out the statement is in
29 compliance with the Code section.
30 In Code section 91A.8, when any specified violation of Code
31 chapter 91A occurs, even if unintentional, an employer shall be
32 liable for unpaid wages or expenses plus liquidated damages,
33 court costs, and attorney fees incurred in recovering wages.
34 Code section 91A.10(5), which covers retaliatory actions
35 by employers or others, is expanded to cover persons other

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1 than employees who act under Code chapter 91A with respect
2 to an employee. A 90-day period is established during which
3 any action against an employee or other person is rebuttably
4 presumed to be retaliatory. New subsection 6 is created in
5 Code section 91A.10 to allow the commissioner or any injured
6 party to maintain a civil action in any court of proper
7 jurisdiction. An employer who retaliates against an employee
8 or other person shall compensate the injured party an amount
9 set by the commissioner or the court, but not less than $150
10 for each day of the violation.
11 In new Code section 91A.15, an employer shall not require
12 that an individual be a current employee to be paid an earned
13 commission.
14 The bill takes effect January 1, 2014.

Senate File 192 - Introduced

SENATE FILE 192
BY BOWMAN

A BILL FOR

1 An Act relating to flood prevention by providing for the
2 alteration of a water channel in connection with a project
3 for highway construction or improvement.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1431XS (2) 85
dea/sc

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Section 1. Section 306.27, Code 2013, is amended to read as follows:

306.27 Changes for safety, economy, ~~and~~ utility, and flood prevention.

1. The ~~state~~ department of transportation as to primary roads and the boards of supervisors as to secondary roads on their own motion may change the course of any part of any road or stream, watercourse, or dry run and may pond water in order to avoid the construction and maintenance of bridges, or to avoid grades, or railroad crossings, or to straighten a road, or to cut off dangerous corners, turns or intersections on the highway, or to widen a road above statutory width, or for the purpose of preventing the encroachment of a stream, watercourse, or dry run upon the highway. The department and the board of supervisors shall conduct their proceedings under this subsection in the manner and form prescribed in chapter 6B, except that the board of supervisors may use the form prescribed in sections 306.28 to 306.37 for the condemnation of right-of-way that is contiguous to existing road right-of-way and necessary for the maintenance, safety improvement, or upgrade of the existing secondary road.

2. The department of transportation as to primary roads and the boards of supervisors as to secondary roads may straighten, deepen, or otherwise improve any channel, river, stream, or other watercourse as necessary to prevent future flooding of property in the path of the channel, river, stream, or watercourse which may occur as a result of a highway project. The department and the board of supervisors shall conduct their proceedings under this subsection in the manner and form prescribed in chapter 6B.

3. Changes made under this section are subject to chapter 455B and chapter 459, subchapters II and III.

Sec. 2. Section 331.304, subsection 8, Code 2013, is amended to read as follows:

8. The power to take private property for public use shall

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1 only be exercised by counties for public purposes which are
2 reasonable and necessary as an incident to the powers and
3 duties conferred upon counties, and in accordance with chapters
4 6A and 6B. Section 306.19 is also applicable to condemnation
5 of right-of-way for secondary roads. ~~Sections~~ Section 306.27,
6 subsection 1, and sections 306.28 through 306.37 are applicable
7 to the condemnation of right-of-way that is contiguous to
8 existing road right-of-way and necessary for the maintenance,
9 safety improvement, or upgrade of the existing secondary road.
10 EXPLANATION
11 Under current law, the department of transportation as
12 to primary roads and county boards of supervisors as to
13 secondary roads are authorized to change the course of any
14 stream, watercourse, or dry run and to pond water in order to
15 facilitate a highway project, to improve a highway, or to avoid
16 flooding of a highway. Changes made to any watercourse by the
17 department or a board of supervisors are subject to existing
18 statutes and rules under the purview of the department of
19 natural resources.
20 This bill allows the department or a board of supervisors to
21 straighten, deepen, or otherwise improve any channel, river,
22 stream, or other watercourse if a highway project results in
23 a situation that might contribute to flooding in areas that
24 are not part of the highway right-of-way. The department and
25 boards of supervisors are authorized to use procedures under
26 eminent domain for this purpose.

Senate File 193 - Introduced

SENATE FILE 193
BY MATHIS

A BILL FOR

1 An Act relating to state requirements for county and
2 multicounty juvenile detention homes.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1713XS (1) 85
jp/rj

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1 Section 1. Section 232.142, subsections 3, 5, and 6, Code
2 2013, are amended to read as follows:
3 3. A county or multicounty juvenile detention home approved
4 pursuant to this section shall receive financial aid from the
5 state ~~in a manner approved by the director~~ in accordance with
6 the requirements established in this section for the juvenile
7 detention transition fund and in appropriations made to provide
8 such aid. Aid paid by the state shall be at least ten percent
9 and not more than fifty percent of the total ~~cost~~ costs of the
10 establishment, improvements, operation, and maintenance of the
11 home.
12 5. The director shall approve annually all such homes
13 established and maintained under the provisions of this
14 chapter. A home shall not be approved unless it complies with
15 minimal rules and standards adopted by the director and has
16 been inspected by the department of inspections and appeals.
17 The statewide number of beds in the homes approved by the
18 director shall not exceed the number of beds in approved homes
19 as of July 1, 2012.
20 6. *a.* A juvenile detention home fund is created in the
21 state treasury under the authority of the department. The
22 fund shall consist of moneys deposited in the fund pursuant
23 to sections 321.218A and 321A.32A. The moneys in the fund
24 shall be used for the costs of the establishment, improvement,
25 operation, and maintenance of county or multicounty juvenile
26 detention homes in accordance with annual appropriations made
27 by the general assembly from the fund for these purposes.
28 *b.* For purposes of allocating moneys among the juvenile
29 detention homes of this state in accordance with this
30 subsection, a detention home's costs shall reflect only those
31 costs attributed to the children placed in the detention
32 home from a court in the judicial district in this state in
33 which the detention home is located and any of the following
34 placements:
35 (1) The placement is from another judicial district in

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1 this state but the child's residence is located closer to the
2 detention home of placement than to the detention home serving
3 the other judicial district from which the child was placed.
4 (2) The placement is from another judicial district in this
5 state and the court ordering the placement has determined that
6 placing the child in the detention home serving such judicial
7 district would be detrimental to the child's well-being or is
8 not in the best interests of the child.
9 EXPLANATION
10 This bill relates to county and multicounty juvenile
11 detention homes in this state.
12 Under current law in Code section 232.142, the juvenile
13 detention homes are subject to approval by the director of the
14 department of human services (DHS). The Code section requires
15 the state to pay financial aid to the juvenile detention homes
16 in an amount that is at least 10 percent and not more than 50
17 percent of the total cost of the establishment, improvements,
18 operation, and maintenance of the home. The Code section also
19 deposits into a juvenile detention home fund civil penalties
20 assessed when the department of transportation suspends,
21 revokes, or bars a person's driver's license or nonresident
22 operating privilege pursuant to Code section 321.218A for
23 a conviction under Code chapter 321 (motor vehicle law) or
24 pursuant to Code section 321A.32 for failure to have motor
25 vehicle liability insurance or other financial responsibility
26 as required under Code chapter 321A. The moneys in the fund
27 are to be used for the costs of the detention homes.
28 The bill links the percentage requirements for the aid
29 provided to the juvenile detention homes to the requirements
30 established for the juvenile detention home fund, limits the
31 statewide number of beds in the homes approved by the director
32 to the number of beds in approved homes as of July 1, 2012,
33 and limits juvenile detention home costs that can be included
34 in the calculation of state aid to those costs attributed to
35 children placed from judicial districts in this state.

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1 With two exceptions, only costs attributed to the children
2 placed in the detention home from a court in the judicial
3 district in which the detention home is located can be used for
4 allocating moneys from the fund. The two exceptions are when
5 the placement is from another judicial district in this state
6 but the child's residence is located closer to the detention
7 home of placement than to the detention home serving the
8 judicial district from which the child was placed and when the
9 placement is from another judicial district in this state and
10 the court ordering the placement has determined that placing
11 the child in the detention home serving such judicial district
12 would be detrimental to the child's well-being or is not in the
13 best interests of the child.

Senate File 194 - Introduced

SENATE FILE 194
BY BOLKCOM

A BILL FOR

1 An Act requiring consumer labeling information for food,
2 providing penalties, and including effective date
3 provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1460XS (5) 85
da/nh

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1 Section 1. NEW SECTION. **189B.1 Short title.**
2 This chapter shall be known and may be cited as the *"Consumer*
3 *Labeling Information for Food Act"*.
4 Sec. 2. NEW SECTION. **189B.2 Purpose.**
5 The purpose of this chapter is to allow Iowans greater
6 access to information about the food they and their families
7 consume, recognizing that such information is indispensable to
8 the exercise of informed consumer choice in a free and open
9 marketplace.
10 Sec. 3. NEW SECTION. **189B.3 Definitions.**
11 As used in this chapter, unless the context otherwise
12 requires:
13 1. *"Department"* means the department of agriculture and land
14 stewardship.
15 2. *"Food item"* means any raw, cooked, or processed edible
16 substance used or intended for use or sale in whole or in part
17 for human consumption.
18 3. *"Genetic engineering"* means the process of producing an
19 organism in which genetic material has been changed through the
20 application of any of the following:
21 *a.* An in vitro nucleic acid technique, which includes
22 but is not limited to recombinant deoxyribonucleic acid,
23 direct injection of nucleic acid into cells or organelles,
24 encapsulation, gene deletion, and doubling.
25 *b.* A method of fusing cells beyond the taxonomic family that
26 overcomes natural physiological reproductive or recombinant
27 barriers, and that does not utilize techniques used in
28 traditional breeding and selection such as conjugation,
29 transduction, or hybridization.
30 4. *"Grocery store"* means a food establishment licensed
31 pursuant to section 137F.6 which operates as a business selling
32 food items to the public for off-premises preparation or
33 consumption.
34 Sec. 4. NEW SECTION. **189B.4 Labeling standards.**
35 1. A person manufacturing a packaged food item that the

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1 person offers for sale to a grocery store shall disclose
2 whether the food item was or may have been subjected to genetic
3 engineering when produced.
4 2. The disclosure required in subsection 1 shall be printed
5 on a label. To every extent possible, the label shall be
6 placed in a clear and conspicuous manner on or in proximity
7 to the food item. The label for a packaged food item shall
8 resemble a label listing food ingredients required for that
9 food item or comparable food item pursuant to 21 C.F.R. pt.
10 101.
11 Sec. 5. NEW SECTION. **189B.5 Exceptions — presumption.**
12 1. This chapter does not apply to any of the following:
13 *a.* A person who is a small business as defined in section
14 15.102.
15 *b.* Meat, fish, or poultry only because it originated from an
16 animal which consumed genetically engineered feed.
17 *c.* An alcoholic beverage as defined in section 123.3.
18 2. A food item is presumed exempt from the requirements of
19 section 189B.4 if the food item is any of the following:
20 *a.* Labeled organic pursuant to chapter 190C.
21 *b.* Certified by a third party as not produced using
22 genetically engineered products, as provided by rules adopted
23 by the department.
24 Sec. 6. NEW SECTION. **189B.6 Rules.**
25 The department shall adopt rules as necessary to implement
26 and enforce this chapter. The department may adopt rules
27 establishing labeling standards for specific food items, or a
28 category of food items, that differ from the labeling standards
29 provided in section 189B.4 as long as such standards provide
30 reasonable notice to the consumer of the information required
31 to be disclosed pursuant to that section.
32 Sec. 7. NEW SECTION. **189B.7 Penalties.**
33 A person manufacturing a packaged food item who fails to
34 comply with the labeling standards in section 189B.4 is subject
35 to a civil penalty of not more than one hundred dollars for

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1 each packaged food item that is unlabeled and ultimately sold
2 or offered for sale at a grocery store in this state. However,
3 the person shall not be subject to a civil penalty of more
4 than ten thousand dollars for the sale or offer for sale of a
5 single manufactured lot of packaged food items if the person
6 did not know that the packaged food items were subjected to
7 genetic engineering or the failure to comply with the labeling
8 standards was due to a malfunction of the manufacturing process
9 or inadvertence.
10 Sec. 8. EFFECTIVE DATE. This Act takes effect five hundred
11 and forty days after approved by the governor.
12 EXPLANATION
13 This bill requires food items to be labeled with information
14 that identifies the food items as genetically engineered. The
15 department of agriculture and land stewardship is responsible
16 for administering and enforcing the bill's provisions. A
17 person manufacturing a packaged food item for sale to a grocery
18 store must disclose whether it was or may have been subjected
19 to genetic engineering when produced. The disclosure must
20 appear on a printed label. The label on a package must be based
21 on federal ingredient labeling standards. The bill creates an
22 exception for a small business which has either fewer than 20
23 employees or an annual gross income of less than $4 million.
24 Certain food items are exempted, including meat, fish,
25 or poultry that was fed with genetically engineered feed
26 and alcoholic beverages. Certain food items are presumed
27 not to have been genetically engineered including foods
28 labeled organic or certified by a third party. A person
29 manufacturing a packaged food item who fails to comply with
30 the labeling standards, is subject to civil penalties. The
31 civil penalty equals $100 per food item that is not labeled in
32 compliance with the bill's provisions. However, under certain
33 circumstances a manufacturer's civil penalty is capped at
34 $10,000 for the sale or offer for sale of a single manufactured
35 lot of packaged food items.

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1 The bill takes effect 540 days after approval by the
2 governor.

Senate File 195 - Introduced

SENATE FILE 195
BY ANDERSON and FEENSTRA

A BILL FOR

1 An Act relating to requirements for state purchasing from
2 prison industries.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2073XS (2) 85
ec/nh

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1 Section 1. Section 904.808, subsection 1, Code 2013, is
2 amended by adding the following new paragraph:
3 NEW PARAGRAPH. *c.* When a comparable bid for a similar
4 product has been received from an Iowa-based business and
5 the director or agency head of the applicable department or
6 agency of state government has determined the product from the
7 Iowa-based business is comparable or of better value in both
8 quality and price to a similar product available from Iowa
9 state industries.
10 Sec. 2. Section 904.808, subsection 3, Code 2013, is amended
11 to read as follows:
12 3. A department or agency of the state ~~shall~~ may cooperate
13 and enter into agreements, if possible, for the provision of
14 products and services under an inmate work program established
15 by the state director under section 904.703.
16 EXPLANATION
17 Code section 904.808(1) is amended to provide that a
18 department or agency of state government is not required to
19 purchase a product from Iowa state industries if a comparable
20 bid for a similar product of comparable or better value has
21 been received from an Iowa-based business.
22 Code section 904.808(3), requiring a department or agency of
23 the state to cooperate and enter into agreements, if possible,
24 for the provision of products and services under an inmate work
25 program, is amended to provide that a department or agency may
26 cooperate and enter into such agreements.

Senate Joint Resolution 4 - Introduced

SENATE JOINT RESOLUTION 4
BY TAYLOR

(COMPANION TO HJR 7 BY HEATON)

SENATE JOINT RESOLUTION

A Joint Resolution relating to the location and exhibition of the statue of James Harlan, currently on display in the United States capitol.

WHEREAS, James Harlan was an early president of Iowa Wesleyan College; and

WHEREAS, Mr. Harlan's home was and final resting place is in Mount Pleasant, Iowa; and

WHEREAS, House Joint Resolution 16, enacted in 2011, provides for the relocation of the James Harlan statue from Washington, D.C., to the Iowa statehouse; NOW THEREFORE, BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2043SS (1) 85
jr/rj

S.J.R. 4

1 Section 1. PERMANENT LOAN AND PERPETUAL EXHIBITION.
2 1. Upon the replacement of the statue of James Harlan in the
3 United States capitol, that statue shall be the property of the
4 State of Iowa.
5 2. The provisions of 2011 Iowa Acts, chapter 136 (House
6 Joint Resolution 16) notwithstanding, upon return of the
7 James Harlan statue to Iowa, the department of administrative
8 services shall negotiate an agreement with Iowa Wesleyan
9 College for the permanent loan of the statue to the college for
10 perpetual exhibition.
11 3. The agreement shall provide for the perpetual exhibition
12 of the James Harlan statue at a suitable location on the campus
13 of Iowa Wesleyan College and for its care and maintenance by
14 the college.
15 EXPLANATION
16 Under federal law, each state is allowed to place two statues
17 of its noted personages in the United States capitol. House
18 Joint Resolution 16, enacted in 2011, provides for the exchange
19 of the statue of James Harlan with a statue of Dr. Norman
20 Borlaug.
21 This joint resolution revises House Joint Resolution 16 by
22 providing that the State of Iowa will place the James Harlan
23 statue on permanent loan to Iowa Wesleyan College. The college
24 must provide for the perpetual exhibition of the statue and
25 provide for its care and maintenance.

Senate Study Bill 1162 - Introduced

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

A BILL FOR

1 An Act relating to prescription authority for certain
2 psychologists and making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1862SC (4) 85
ad/nh

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1 Section 1. Section 123.3, subsection 35, Code 2013, is
2 amended to read as follows:
3 35. *"Pharmacy"* means a drug store in which drugs and
4 medicines are exposed for sale and sold at retail, or in which
5 prescriptions of licensed physicians and surgeons, dentists,
6 prescribing psychologists, or veterinarians are compounded and
7 sold by a registered pharmacist.
8 Sec. 2. Section 124.101, subsection 26, paragraph a, Code
9 2013, is amended to read as follows:
10 *a.* A physician, dentist, podiatric physician, prescribing
11 psychologist, veterinarian, scientific investigator or
12 other person licensed, registered, or otherwise permitted to
13 distribute, dispense, conduct research with respect to, or to
14 administer a controlled substance in the course of professional
15 practice or research in this state.
16 Sec. 3. Section 147.107, subsections 1 and 2, Code 2013, are
17 amended to read as follows:
18 1. A person, other than a pharmacist, physician,
19 dentist, podiatric physician, prescribing psychologist, or
20 veterinarian who dispenses as an incident to the practice of
21 the practitioner's profession, shall not dispense prescription
22 drugs or controlled substances.
23 2. *a.* A pharmacist, physician, dentist, ~~or~~ podiatric
24 physician, or prescribing psychologist who dispenses
25 prescription drugs, including but not limited to controlled
26 substances, for human use, may delegate nonjudgmental
27 dispensing functions to staff assistants only when verification
28 of the accuracy and completeness of the dispensing is
29 determined by the pharmacist or practitioner in the
30 pharmacist's or practitioner's physical presence. However, the
31 physical presence requirement does not apply when a pharmacist
32 or practitioner is utilizing an automated dispensing system or
33 when a pharmacist is utilizing a tech-check-tech program, as
34 defined in section 155A.3. When using an automated dispensing
35 system the pharmacist or practitioner shall utilize an

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1 internal quality control assurance plan that ensures accuracy
2 for dispensing. When using a tech-check-tech program the
3 pharmacist shall utilize an internal quality control assurance
4 plan, in accordance with rules adopted by the board of
5 pharmacy, that ensures accuracy for dispensing. Verification
6 of automated dispensing and tech-check-tech accuracy and
7 completeness remains the responsibility of the pharmacist or
8 practitioner and shall be determined in accordance with rules
9 adopted by the board of pharmacy, the board of medicine, the
10 dental board, ~~and~~ the board of podiatry, and the board of
11 psychology for their respective licensees.
12 *b.* A dentist, physician, ~~or~~ podiatric physician, or
13 prescribing psychologist who dispenses prescription drugs,
14 other than drug samples, pursuant to this subsection, shall
15 report the fact that they dispense prescription drugs with the
16 practitioner's respective board at least biennially.
17 *c.* A physician, dentist, ~~or~~ podiatric physician, or
18 prescribing psychologist who dispenses prescription drugs,
19 other than drug samples, pursuant to this subsection, shall
20 offer to provide the patient with a written prescription that
21 may be dispensed from a pharmacy of the patient's choice or
22 offer to transmit the prescription orally, electronically, or
23 by facsimile in accordance with section 155A.27 to a pharmacy
24 of the patient's choice.
25 Sec. 4. NEW SECTION. **148.13A Authority of board as to**
26 **supervising physicians under chapter 154B.**
27 The board of medicine shall establish by rule specific
28 procedures for consulting with and considering the advice of
29 the board of psychology in determining whether to initiate
30 a disciplinary proceeding under chapter 17A against a
31 licensed physician in a matter involving the supervision of a
32 psychologist prescribing medication pursuant to a conditional
33 prescription certificate under chapter 154B.
34 Sec. 5. Section 154B.1, Code 2013, is amended to read as
35 follows:

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1 **154B.1 ~~Definition~~ Definitions.**
2 As used in this chapter, unless the context otherwise
3 requires:
4 1. *"Board"* means the board of psychology created under
5 chapter 147.
6 2. *"Collaborative relationship"* means a cooperative
7 working relationship between a prescribing psychologist or a
8 psychologist with a conditional prescription certificate and a
9 licensed physician in the provision of patient care, including
10 diagnosis and cooperation in the management and delivery of
11 physical and mental health care.
12 3. *"Conditional prescription certificate"* means a document
13 issued by the board to a licensed psychologist that permits
14 the holder to prescribe psychotropic medication under the
15 supervision of a licensed physician pursuant to this chapter.
16 4. *"Practice of psychology"* means the application of
17 established principles of learning, motivation, perception,
18 thinking, and emotional relations to problems of behavior
19 adjustment, group relations, and behavior modification,
20 by persons trained in psychology for compensation or other
21 personal gain. The application of principles includes~~,~~ but
22 is not limited to: Counseling and the use of psychological
23 remedial measures with persons, in groups or individually,
24 with adjustment or emotional problems in the areas of work,
25 family, school, and personal relationships; measuring and
26 testing personality, intelligence, aptitudes, public opinion,
27 attitudes, and skills; and the teaching of such subject matter,
28 and the conducting of research on the problems relating to
29 human behavior.
30 5. *"Prescribing psychologist"* means a licensed psychologist
31 who holds a valid prescription certificate.
32 6. *"Prescription certificate"* means a document issued by the
33 board to a licensed psychologist that permits the holder to
34 prescribe psychotropic medication pursuant to this chapter.
35 7. *"Psychotropic medication"* means a controlled substance

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1 or dangerous drug that may not be dispensed or administered
2 without a prescription and whose primary indication for use
3 has been approved by the federal food and drug administration
4 for the treatment of mental disorders and is listed as a
5 psychotherapeutic agent in drug facts and comparisons or in the
6 American hospital formulary service.
7 Sec. 6. NEW SECTION. **154B.9 Drugs — medicines.**
8 1. Except as provided in subsections 2 and 3, a psychologist
9 shall not administer or prescribe drugs or medicine.
10 2. A licensed psychologist holding a conditional
11 prescription certificate may prescribe psychotropic medication
12 under the supervision of a licensed physician pursuant to this
13 chapter.
14 3. A prescribing psychologist may prescribe psychotropic
15 medication pursuant to this chapter.
16 Sec. 7. NEW SECTION. **154B.10 Conditional prescription**
17 **certificate.**
18 1. An applicant for a conditional prescription certificate
19 shall be granted a certificate by the board if the applicant
20 satisfies all of the following requirements:
21 *a.* Holds a current license to practice psychology in this
22 state.
23 *b.* Completed pharmacological training from an institution
24 approved by the board or from a provider of continuing
25 education approved by the board.
26 *c.* Passed a national certification examination approved by
27 the board that tested the applicant's knowledge of pharmacology
28 in the diagnosis, care, and treatment of mental disorders.
29 *d.* Within five years immediately preceding the date of
30 application, successfully completed an organized program of
31 education consisting of intensive didactic instruction of no
32 fewer than four hundred fifty classroom hours in at least the
33 following core areas of instruction:
34 (1) Neuroscience.
35 (2) Pharmacology.

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1 (3) Psychopharmacology.
2 (4) Physiology.
3 (5) Appropriate and relevant physical and laboratory
4 assessment.
5 *e.* Within five years immediately preceding the date of
6 application, has been certified by the applicant's supervising
7 psychiatrist or physician as having successfully completed
8 a supervised and relevant clinical experience of no less
9 than an eighty-hour practicum in clinical assessment and
10 pathophysiology and an additional supervised practicum of at
11 least four hundred hours treating no fewer than one hundred
12 patients with mental disorders. The practica shall have been
13 supervised by a psychiatrist or other appropriately trained
14 physician. The board shall determine whether the practica is
15 sufficient to competently train the applicant in the treatment
16 of a diverse patient population.
17 *f.* Possesses malpractice insurance in place that will cover
18 the applicant during the period the conditional prescription
19 certificate is in effect.
20 *g.* Meets all other requirements, as determined by rules
21 adopted by the board, for obtaining a conditional prescription
22 certificate.
23 2. A conditional prescription certificate is valid for two
24 years, at the end of which the holder may apply again pursuant
25 to the provisions of subsection 1.
26 3. A psychologist with a conditional prescription
27 certificate may prescribe psychotropic medication under the
28 supervision of a licensed physician subject to all of the
29 following conditions:
30 *a.* The psychologist shall continue to hold a current license
31 to practice psychology in this state and continue to maintain
32 malpractice insurance.
33 *b.* The psychologist shall inform the board of the name of
34 the physician under whose supervision the psychologist will
35 prescribe psychotropic medication and promptly inform the board

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1 of any change of the supervising physician.
2 *c.* A physician supervising a psychologist prescribing
3 psychotropic medication pursuant to a conditional prescription
4 certificate shall be subject to disciplinary action pursuant to
5 section 148.13A for the acts and omissions of the psychologist
6 while under the physician's supervision. This provision
7 does not relieve the psychologist from liability for the
8 psychologist's acts and omissions.
9 Sec. 8. NEW SECTION. **154B.11 Prescription certificate.**
10 1. An applicant for a prescription certificate shall be
11 granted a certificate by the board if the applicant satisfies
12 all of the following requirements:
13 *a.* Possesses a conditional prescription certificate and has
14 successfully completed one year of prescribing psychotropic
15 medication as certified by the supervising licensed physician.
16 *b.* Holds a current license to practice psychology in this
17 state.
18 *c.* Possesses malpractice insurance that will cover the
19 applicant as a prescribing psychologist.
20 *d.* Meets all other requirements, as determined by rules
21 adopted by the board, for obtaining a prescription certificate.
22 2. A psychologist with a prescription certificate may
23 prescribe psychotropic medication pursuant to the provisions of
24 this chapter subject to the following conditions:
25 *a.* The psychologist continues to hold a current license to
26 practice psychology in this state and maintains malpractice
27 insurance.
28 *b.* The psychologist annually satisfies the continuing
29 education requirements for prescribing psychologists, as
30 determined by the board, which shall be no fewer than twenty
31 hours each year.
32 Sec. 9. NEW SECTION. **154B.12 Prescribing practices.**
33 1. A prescribing psychologist or a psychologist with
34 a conditional prescription certificate may administer and
35 prescribe psychotropic medication within the scope of the

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1 psychologist's profession, including the ordering and review of
2 laboratory tests in conjunction with the prescription, for the
3 treatment of mental disorders.
4 2. When prescribing psychotropic medication for a
5 patient, the prescribing psychologist or the psychologist
6 with a conditional prescription certificate shall maintain
7 an ongoing collaborative relationship with the licensed
8 physician who oversees the patient's general medical care to
9 ensure that necessary medical examinations are conducted,
10 the psychotropic medication is appropriate for the patient's
11 medical condition, and significant changes in the patient's
12 medical or psychological condition are discussed.
13 3. A prescription written by a prescribing psychologist or a
14 psychologist with a conditional prescription certificate shall
15 meet all of the following requirements:
16 *a.* Comply with applicable state and federal laws.
17 *b.* Be identified as issued by the psychologist as
18 "psychologist certified to prescribe".
19 *c.* Include the psychologist's board-assigned identification
20 number.
21 4. A prescribing psychologist or a psychologist with
22 a conditional prescription certificate shall not delegate
23 prescriptive authority to any other person. Records of all
24 prescriptions shall be maintained in patient records.
25 5. When authorized to prescribe controlled substances, a
26 prescribing psychologist or a psychologist with a conditional
27 prescription certificate shall file with the board in a
28 timely manner all individual federal drug enforcement agency
29 registration and numbers. The board shall maintain current
30 records on every psychologist, including federal registration
31 and numbers.
32 Sec. 10. NEW SECTION. **154B.13 Board duties regarding**
33 **prescription certificates and conditional prescription**
34 **certificates.**
35 1. The board shall adopt rules providing for the

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1 procedures to obtain a conditional prescription certificate,
2 a prescription certificate, and renewals of a prescription
3 certificate. The board may set reasonable application and
4 renewal fees.
5 2. The board shall adopt rules establishing the grounds for
6 denial, suspension, or revocation of conditional prescription
7 certificates and prescription certificates, including a
8 provision for suspension or revocation of a license to practice
9 psychology upon suspension or revocation of a certificate.
10 3. The board shall provide to the board of pharmacy an
11 annual list of prescribing psychologists and psychologists
12 with conditional prescription certificates that contains
13 the information agreed upon between the board and the board
14 of pharmacy. The board shall promptly notify the board of
15 pharmacy of psychologists who are added to or removed from the
16 list.
17 4. The board shall adopt other rules as necessary to
18 administer this chapter.
19 Sec. 11. Section 155A.3, subsection 35, Code 2013, is
20 amended to read as follows:
21 35. *"Practitioner"* means a physician, dentist, podiatric
22 physician, prescribing psychologist, veterinarian, or other
23 person licensed or registered to distribute or dispense a
24 prescription drug or device in the course of professional
25 practice in this state or a person licensed by another state
26 in a health field in which, under Iowa law, licensees in this
27 state may legally prescribe drugs.
28 Sec. 12. Section 155A.23, subsection 1, paragraph c, Code
29 2013, is amended to read as follows:
30 *c.* For the purpose of obtaining a prescription drug or
31 device, falsely assuming the title of or claiming to be
32 a manufacturer, wholesaler, pharmacist, pharmacy owner,
33 physician, dentist, podiatric physician, prescribing
34 psychologist, veterinarian, or other authorized person.
35 Sec. 13. Section 155A.24, subsection 14, Code 2013, is

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1 amended to read as follows:
2 14. This section does not prevent a licensed practitioner of
3 medicine, dentistry, podiatry, nursing, psychology, veterinary
4 medicine, optometry, or pharmacy from acts necessary in the
5 ethical and legal performance of the practitioner's profession.
6 EXPLANATION
7 This bill grants prescription authority to certain licensed
8 psychologists under Code chapter 154B.
9 The bill adds definitions of "board", "collaborative
10 relationship", "conditional prescription certificate",
11 "prescribing psychologist", "prescription certificate", and
12 "psychotropic medication" to the Code chapter.
13 The bill allows a licensed psychologist holding a
14 conditional prescription certificate and a prescribing
15 psychologist, defined as a licensed psychologist who holds
16 a valid prescription certificate, to prescribe psychotropic
17 medication. However, the psychologist holding a conditional
18 prescription certificate may only prescribe psychotropic
19 medication under the supervision of a licensed physician.
20 The bill sets the requirements for a psychologist to obtain
21 a conditional prescription certificate or a prescription
22 certificate. A conditional prescription certificate is
23 valid for two years and a psychologist may reapply for the
24 certificate. To receive a prescription certificate, a
25 psychologist must complete one year of prescribing psychotropic
26 medication as supervised by a licensed physician. The licensed
27 physician may be subject to disciplinary action for the
28 acts and omissions of the psychologist under the physician's
29 supervision. A psychologist must maintain licensure as
30 a psychologist and malpractice insurance to retain the
31 prescription certificate or the conditional prescription
32 certificate.
33 The bill provides that a prescribing psychologist or
34 psychologist with a conditional prescription certificate may
35 administer and prescribe psychotropic medication within the

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1 scope of the person's profession. The prescribing psychologist
2 or psychologist with a conditional prescription certificate
3 must maintain a relationship with the patient's licensed
4 physician when prescribing psychotropic medication for the
5 patient.
6 The bill states that a prescription written by a
7 prescribing psychologist or a psychologist with a conditional
8 prescription certificate must comply with state and federal
9 law, be identified as issued by a "psychologist certified to
10 prescribe", and include the psychologist's board-assigned
11 identification number. A prescribing psychologist or
12 psychologist with a conditional prescription certificate
13 may not delegate the prescriptive authority to any other
14 person, and records of the prescriptions must be maintained
15 in the patient's records. The prescribing psychologist or
16 psychologist with a conditional prescription certificate must
17 also file federal drug enforcement agency registrations and
18 numbers with the board.
19 The bill instructs the board of psychology to adopt rules
20 providing for the procedures for obtaining a conditional
21 prescription certificate, a prescription certificate, and
22 renewal of the prescription certificate. The board may
23 also set a reasonable application and renewal fee. The
24 board must adopt rules regarding the denial, suspension,
25 or revocation of conditional prescription certificates and
26 prescription certificates. The board must provide the board of
27 pharmacy with an annual list of prescribing psychologists and
28 psychologists with conditional prescription certificates and
29 promptly notify the board of pharmacy of psychologists who are
30 added to or removed from the list.
31 A prescribing psychologist may be subject to criminal and
32 civil penalties and licensing sanctions under Code chapters
33 124, 147, 154B, and 155A.
34 The bill makes conforming changes in Code chapters 123, 124,
35 147, and 155A.

Senate Study Bill 1163 - Introduced

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

A BILL FOR

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

TLSB 1877XC (8) 85
kh/sc

S.F. _____

1 Section 1. Section 262.1, Code 2013, is amended to read as
2 follows:
3 **262.1 Membership.**
4 The state board of regents consists of nine members, ~~eight~~
5 seven of whom shall be selected from the state at large solely
6 with regard to their qualifications and fitness to discharge
7 the duties of the office. The eighth member shall be selected
8 by the faculty of the institutions of higher learning governed
9 by the board, and the ninth member shall be a student enrolled
10 on a full-time basis in good standing at either the graduate
11 or undergraduate level at one of the institutions listed in
12 section 262.7, subsection 1, 2, or 3, at the time of the
13 member's appointment. Not more than five members shall be of
14 the same political party.
15 Sec. 2. Section 262.2, Code 2013, is amended to read as
16 follows:
17 **262.2 Appointment — term of office.**
18 The members, except for the eighth member who is selected as
19 specified in section 262.1, shall be appointed by the governor
20 subject to confirmation by the senate. Prior to appointing the
21 ninth member as specified in section 262.1, the governor shall
22 consult with the appropriate student body government at the
23 institution at which the proposed appointee is enrolled. The
24 term of each member of the board shall be for six years, unless
25 the ninth member, appointed in accordance with section 262.1,
26 graduates or is no longer enrolled at an institution of higher
27 education under the board's control, at which time the term of
28 the ninth member shall expire one year from the date on which
29 the member graduates or is no longer enrolled in an institution
30 of higher education under the board's control. However, if
31 within that year the ninth member reenrolls in any institution
32 of higher education under the board's control on a full-time
33 basis and is a student in good standing at either the graduate
34 or undergraduate level, the term of the ninth member shall
35 continue in effect. The terms of three members of the board

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1 shall begin and expire in each odd-numbered year as provided
2 in section 69.19.
3 Sec. 3. NEW SECTION. **262.3 Board and board office —**
4 **prohibited activities.**
5 1. A member of the state board of regents, the executive
6 director of the board, and professional staff employed for
7 the administration of the board's office shall not have any
8 business or financial relationship with any person employed by
9 an institution governed by the board.
10 2. A member of the state board of regents, while holding
11 office, the executive director of the board, and a member of
12 the professional staff employed for the administration of the
13 board's office shall not be a member of a political committee,
14 participate in partisan political activities, be a candidate
15 for a partisan elective office, or be identified as an
16 advocate or opponent of issues subject to debate by the general
17 assembly, except as otherwise provided by law, and shall not
18 contribute to a political campaign fund, except that a member
19 of the board, the executive director, or a member of the
20 professional staff may designate on the checkoff portion of the
21 state or federal income tax return, or both, a party or parties
22 to which a contribution is made pursuant to the checkoff.
23 3. A person who registers as a lobbyist pursuant to section
24 68B.36 on behalf of a person who is a member of the state
25 board of regents or on behalf of that member's business or
26 employer shall not, within two years after the termination of
27 such service or employment as a lobbyist, become a lobbyist,
28 state relations officer, or governmental liaison for any
29 office, program, or department of an institution governed or
30 administered by the board.
31 Sec. 4. Section 262.6, Code 2013, is amended to read as
32 follows:
33 **262.6 Vacancies.**
34 Vacancies shall be filled in the same manner in which regular
35 appointments are required to be made. ~~If the ninth member~~

S.F. _____

1 ~~resigns prior to the expiration of the term, the individual~~
2 ~~appointed to fill the vacancy shall meet the requirements for~~
3 ~~the ninth member specified in section 262.1. Other vacancies~~
4 ~~occurring prior to the expiration of the ninth member's term~~
5 ~~shall be filled in the same manner as the original appointments~~
6 ~~for those vacancies.~~
7 Sec. 5. Section 262.8, Code 2013, is amended to read as
8 follows:
9 **262.8 Meetings — public forums — public readings.**
10 1. The board shall meet four times a year. Special meetings
11 may be called by the board, by the president of the board, or
12 by the executive director of the board upon written request of
13 any five members thereof.
14 2. Each regular meeting of the state board of regents
15 shall begin with at least thirty minutes for public comment if
16 requested by members of the public. A member of the public
17 shall be granted up to five minutes to make comments and may be
18 granted more time by a member of the board.
19 3. At least two members of the state board of regents
20 shall hold public forums at which issues relating to the
21 activities of the board and the institutions the board governs
22 can be discussed and addressed. The forums shall provide
23 the community with opportunities to pose questions, receive
24 answers, and make comments. The board shall divide the
25 state into at least six geographic regions, including but
26 not limited to northwest, southwest, north central, south
27 central, northeast, and southeast Iowa, and shall hold a forum
28 in accordance with this subsection in each region at least
29 quarterly. Notice of a forum shall be prominently posted on
30 the board's internet site at least two weeks prior to the date
31 of the forum.
32 4. The board shall hold public readings of a proposal at two
33 regular meetings of the board before the board takes action on
34 a proposal before the board if the proposal affects an academic
35 program at an institution governed by the board, or if the

S.F. _____

1 estimated cost of the proposal is one hundred thousand dollars
2 or more. A quorum of the board must be physically present at
3 any board meeting that includes a public reading required by
4 this subsection. The affirmative vote of a majority of the
5 membership of the board is necessary for any action to be taken
6 by the board on a proposal subject to this subsection.
7 Sec. 6. Section 262.9C, subsections 2 and 5, Code 2013, are
8 amended to read as follows:
9 2. The target span of control aggregate ratio of supervisory
10 employees to other employees shall be one to ~~fifteen~~ fourteen.
11 The target span of control ratio shall not apply to employees
12 involved with direct patient care, faculty, and employees in
13 other areas of the institutions that must maintain different
14 span of control ratios due to federal or state regulations.
15 5. The state board of regents shall present an interim
16 report to the governor and general assembly on or before April
17 1, 2010, ~~with~~ and annual updates thereafter, detailing the
18 effects of the policy on the composition of the workforce, cost
19 savings, efficiencies, and outcomes. In addition, the report
20 and annual updates shall identify those departments within each
21 institution ~~under the control of~~ governed by the board granted
22 an exception by the board to the policy as provided in this
23 section.
24 Sec. 7. Section 262.12, Code 2013, is amended to read as
25 follows:
26 **262.12 Committees and administrative offices under board.**
27 1. The board of regents shall also have and exercise
28 all the powers necessary and convenient for the effective
29 administration of its office and of the institutions under
30 its control, and to this end may create such committees,
31 offices and agencies from its own members or others, and employ
32 persons to staff the same, fix their compensation and tenure
33 and delegate thereto, or to the administrative officers and
34 faculty of the institutions under its control, such part of the
35 authority and duties vested by statute in the board, and shall

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1 formulate and establish such rules, outline such policies and
2 prescribe such procedures therefor, all as may be desired or
3 determined by the board as recorded in their minutes.
4 2. The board of regents shall publish on its internet
5 site specific criteria, including qualification requirements
6 and preferences, for electing a president of any institution
7 of higher learning governed by the board pursuant to section
8 262.9, subsection 2.
9 EXPLANATION
10 This bill relates to activities and duties of the state
11 board of regents, the executive director of the board, and
12 the professional staff employed for the administration of the
13 board's office.
14 Currently, the board consists of nine members appointed
15 by the governor, eight of whom are selected from the state
16 at large, and the ninth is a student enrolled at a regents
17 university. The bill provides that the eighth member shall be
18 selected by the faculty of the regents universities.
19 The bill provides that the board and its executive director
20 and professional staff in the board's office are prohibited
21 from having any business or financial relationship with any
22 person employed by an institution governed by the board. The
23 bill also restricts a member of the board and the board's
24 professional staff from participating in political activities
25 or be identified as an advocate or opponent of issues subject
26 to debate by the general assembly, except the member or staff
27 may designate an income tax checkoff.
28 If a proposal before the board affects an institution's
29 academic program or if its estimated cost is $100,000 or
30 more, the bill requires that the board hold public readings
31 of the proposal at two regular meetings of the board before
32 taking action on the proposal. A quorum of the board must be
33 physically present at these meetings, and the proposal must
34 receive the affirmative vote of a majority of the membership
35 for any action to be taken on the proposal.

S.F. _____

1 At least two members of the board shall hold public forums in
2 each of at least six geographic regions of the state quarterly.
3 Notice of a forum must be prominently posted on the board's
4 internet site at least two weeks prior to the date of the
5 forum.
6 Each regular board meeting shall begin with at least 30
7 minutes for public comment if requested by members of the
8 public. A member of the public shall be granted up to five
9 minutes to make comments and may be granted more time by a
10 member of the board.
11 A person who registers as a lobbyist on behalf of a person
12 who is a member of the board or on behalf of that member's
13 business or employer shall not within two years after the
14 termination of such service or employment as a lobbyist become
15 a lobbyist, state relations officer, or governmental liaison
16 for any office, program, or department of an institution
17 governed or administered by the board.
18 The bill reduces the target span of control aggregate ratio
19 of supervisory employees to other employees at the institutions
20 governed by the board from 1 to 15 to 1 to 14.
21 The board must publish on its internet site specific
22 criteria for electing a president of a regents university.
23 The bill includes conforming changes.

Senate Study Bill 1164 - Introduced

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

A BILL FOR

1 An Act requiring the development and use of a standard form for
2 prior authorization of prescription drug benefits.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2161SC (2) 85
av/nh

S.F. _____

1 Section 1. NEW SECTION. **505.26 Prior authorization for**
2 **prescription drug benefits — standard form.**
3 1. The commissioner shall develop, by rule, a standard prior
4 authorization form for use by health carriers that require
5 prior authorization for prescription drug benefits pursuant to
6 a health benefit plan, by January 1, 2014.
7 2. Prior to development of the standard prior authorization
8 form, the commissioner shall hold at least one public hearing
9 to gather input in developing the standard form from interested
10 parties.
11 3. The standard prior authorization form shall meet all of
12 the following requirements:
13 *a.* Not exceed two pages in length.
14 *b.* Be available in an electronic format.
15 *c.* Be transmissible in an electronic format.
16 4. Health carriers shall use and accept the standard prior
17 authorization form beginning on July 1, 2014. Health care
18 providers shall use and submit the standard prior authorization
19 form, when prior authorization is required by a health benefit
20 plan, beginning on July 1, 2014.
21 5. If a health carrier fails to use or accept the standard
22 prior authorization form or to respond to a health care
23 provider request for prior authorization of prescription drug
24 benefits within forty-eight hours of the health care provider's
25 submission of the form, the request for prior authorization
26 shall be considered to be approved.
27 6. As used in this section:
28 *a.* *"Facility"* means an institution providing health care
29 services or a health care setting, including but not limited
30 to hospitals and other licensed inpatient centers, ambulatory
31 surgical or treatment centers, skilled nursing centers,
32 residential treatment centers, diagnostic, laboratory, and
33 imaging centers, and rehabilitation and other therapeutic
34 health settings.
35 *b.* *"Health benefit plan"* means a policy, contract,

S.F. _____

1 certificate, or agreement offered or issued by a health carrier
2 to provide, deliver, arrange for, pay for, or reimburse any of
3 the costs of health care services.
4 *c. "Health care professional"* means a physician or other
5 health care practitioner licensed, accredited, registered, or
6 certified to perform specified health care services consistent
7 with state law.
8 *d. "Health care provider"* or *"provider"* means a health care
9 professional or a facility.
10 *e. "Health care services"* means services for the diagnosis,
11 prevention, treatment, cure, or relief of a health condition,
12 illness, injury, or disease.
13 *f. "Health carrier"* means an entity subject to the
14 insurance laws and regulations of this state, or subject
15 to the jurisdiction of the commissioner, including an
16 insurance company offering sickness and accident plans, a
17 health maintenance organization, a nonprofit health service
18 corporation, a plan established pursuant to chapter 509A
19 for public employees, or any other entity providing a plan
20 of health insurance, health care benefits, or health care
21 services. *"Health carrier"* includes, for purposes of this
22 section, an organized delivery system.
23 EXPLANATION
24 This bill requires the development and use of a standard form
25 to obtain prior authorization for prescription drug benefits
26 under a health benefit plan.
27 The bill requires the commissioner of insurance to develop,
28 by rule, a standard form by January 1, 2014. Before developing
29 the form, the commissioner is required to hold at least one
30 public hearing to obtain input from interested parties on the
31 form. The form must not exceed two pages in length and must be
32 available and transmissible in an electronic format.
33 Health carriers are required to use and accept the standard
34 prior authorization form, and health care providers are
35 required to use and submit the form, beginning on July 1, 2014.

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1 If a health carrier fails to use or accept the standard form
2 or to respond to a health care provider's request for prior
3 authorization of prescription drug benefits within 48 hours of
4 the provider's submission of the form, the request shall be
5 considered to be granted.

Senate Study Bill 1165 - Introduced

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

A BILL FOR

1 An Act relating to the issuance of a search warrant to
2 authorize the placement, tracking, monitoring, and removal
3 of a global positioning device.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1944SC (1) 85
jm/rj

S.F. _____

1 Section 1. Section 808.1, subsection 1, Code 2013, is
2 amended to read as follows:
3 1. *"Search warrant"* means an order in writing ~~pursuant~~
4 ~~to the requirements of section 808.3~~, in the name of the
5 state, signed by a magistrate, and directed to a peace officer
6 commanding the officer to search a person, premises, or thing,
7 issued pursuant to the requirements of section 808.3, or to
8 place, track, monitor, or remove a global positioning device,
9 issued pursuant to the requirements of section 808.3A.
10 Sec. 2. NEW SECTION. **808.3A Application for search warrant**
11 **— global positioning device.**
12 A peace officer may make application to a judicial
13 officer for the issuance of a search warrant to authorize
14 the placement, tracking, monitoring, or removal of a global
15 positioning device, supported by a peace officer's oath
16 or affirmation, which includes facts, information, and
17 circumstances tending to establish sufficient grounds for
18 granting the peace officer's application, and probable cause
19 for believing the grounds exist. Upon a finding of probable
20 cause to issue such a warrant, the judicial officer shall issue
21 a warrant, signed by the judicial officer with the judicial
22 officer's name of office, directed to any peace officer,
23 commanding that the peace officer place, track, monitor, or
24 remove the global positioning device.
25 EXPLANATION
26 This bill relates to the issuance of a search warrant
27 regarding the use of a global positioning device.
28 The bill authorizes a peace officer to make an application
29 to a judicial officer for the issuance of a search warrant to
30 authorize the placement, tracking, monitoring, or removal of
31 a global positioning device, if the application is supported
32 by the peace officer's oath and affirmation, including other
33 facts and circumstances that establish sufficient grounds for
34 granting the peace officer's application, and probable cause
35 for believing the grounds exist. Upon a finding of probable

S.F. _____

1 cause to issue a search warrant, the judicial officer shall
2 issue the search warrant, commanding that the peace officer
3 place, track, monitor, or remove the global positioning device.
4 Current law only allows a special state agent, defined in
5 Code section 808B.1 as a peace officer of the department of
6 public safety, to make an application to a judicial officer for
7 the issuance of a search warrant for the placement, tracking,
8 or monitoring of a global positioning device in Code section
9 808B.5(12).

Senate Study Bill 1166 - Introduced

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

A BILL FOR

1 An Act relating to interrogations of students in public and
2 nonpublic schools.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1455XC (2) 85
rh/nh

S.F. _____

1 Section 1. NEW SECTION. **280.18 Interrogations in schools.**
2 1. For purposes of this section:
3 *a. "Law enforcement officer"* means a state patrol officer
4 or a regularly employed member of a police force of a city or
5 county, including but not limited to a sheriff's office, who is
6 responsible for the prevention and detection of a crime and the
7 enforcement of the criminal laws of this state.
8 *b. "School"* means a public or nonpublic school as defined
9 in section 280.2.
10 *c. "School official"* means a licensed school employee or an
11 unlicensed school employee employed for security or supervision
12 purposes including but not limited to school resource officers.
13 2. Any interrogation of a student in a school by a law
14 enforcement officer or by a school official at the invitation
15 or direction of a law enforcement officer who is not a school
16 official shall not take place without the presence of the
17 student's parent or legal guardian.
18 EXPLANATION
19 This bill relates to interrogations of students in both
20 public and nonpublic schools.
21 The bill provides that any interrogation of a student in a
22 school by a law enforcement officer or by a school official at
23 the invitation or direction of a law enforcement officer who is
24 not a school official shall not take place without the presence
25 of the student's parent or legal guardian.
26 Under the bill, "law enforcement officer" means a state
27 patrol officer or a regularly employed member of a police force
28 of a city or county, including but not limited to a sheriff's
29 office, who is responsible for the prevention and detection of
30 a crime and the enforcement of the criminal laws of this state,
31 "school" means a public or nonpublic school as defined in Code
32 section 280.2, and "school official" means a licensed school
33 employee or an unlicensed school employee employed for security
34 or supervision purposes including but not limited to school
35 resource officers.

Senate Study Bill 1167 - Introduced

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

A BILL FOR

1 An Act relating to the service of notice of no-contact orders
2 and protective orders.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1750XC (5) 85
rh/rj

S.F. _____

1 Section 1. Section 236.3, subsection 3, Code 2013, is
2 amended to read as follows:
3 3. *a.* The filing fee and court costs for an order for
4 protection and in a contempt action under this chapter shall be
5 waived for the plaintiff.
6 *b.* The clerk of court, the sheriff of any county in this
7 state, and other law enforcement and corrections officers shall
8 perform their duties relating to service of process without
9 charge to the plaintiff. When an order for protection is
10 entered by the court, the court may direct the defendant to pay
11 to the clerk of court the fees for the filing of the petition
12 and reasonable costs of service of process if the court
13 determines the defendant has the ability to pay the plaintiff's
14 fees and costs. In lieu of personal service of an order for
15 protection issued pursuant to this section, the sheriff of any
16 county in this state, and other law enforcement and corrections
17 officers may serve a defendant with a short-form notification
18 pursuant to section 664A.4A.
19 Sec. 2. NEW SECTION. **664A.4A Short-form notification —**
20 **no-contact order or protective order.**
21 1. In lieu of personal service of a no-contact order or a
22 protective order on a person whose activities are restrained
23 by the order, a sheriff of any county in this state or any
24 peace officer or corrections officer in this state may serve
25 the person with a short-form notification pursuant to this
26 section to effectuate service of an unserved no-contact order
27 or protective order.
28 2. Service of a short-form notification under this section
29 shall be allowed during traffic stops and other contacts with
30 the person by a sheriff, peace officer, or corrections officer
31 in this state in the course of performing official duties.
32 The person may be detained for a reasonable period of time to
33 complete the short-form notification process.
34 3. When the short-form notification process is complete,
35 the sheriff, peace officer, or corrections officer serving the

S.F. _____

1 notification shall file a copy of the notification with the
2 clerk of the district court. The filing shall indicate the
3 date and time the notification was served on the person.
4 4. The short-form notification shall be on a form
5 prescribed by the state court administrator. The state court
6 administrator shall prescribe rules relating to the content
7 and distribution of the form to appropriate law enforcement
8 agencies in this state. The form shall include but not be
9 limited to all of the following statements:
10 *a.* The person shall have no contact with the protected
11 party.
12 *b.* The person is responsible for obtaining a full copy of
13 the no-contact order or the protective order from the county
14 sheriff of the county in which the order was entered or from
15 the clerk of the district court.
16 *c.* The terms and conditions of the no-contact order or
17 protective order are enforceable, and the person is subject to
18 arrest for violating the no-contact order or the protective
19 order.
20 EXPLANATION
21 This bill relates to the service of notice of no-contact
22 orders and protective orders.
23 The bill provides that, in lieu of personal service of a
24 no-contact order or a protective order, a sheriff of any county
25 in this state or any peace officer or corrections officer in
26 this state may serve the person subject to the order with a
27 short-form notification to effectuate service of an unserved
28 no-contact order or protective order. The bill allows service
29 of a short-form notification during traffic stops and other
30 contacts with the person by a sheriff, peace officer, or
31 corrections officer in the course of performing official
32 duties. The detention of the person shall be for a reasonable
33 period of time to complete the short-form notification process.
34 When the short-form notification process is complete, the
35 sheriff, peace officer, or corrections officer serving the

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1 notification shall file a copy of the notification with the
2 clerk of the district court which shall indicate the date and
3 time the notification was served on the person. The short-form
4 notification shall be on a form prescribed by the state court
5 administrator. The state court administrator shall prescribe
6 rules relating to the content and distribution of the form to
7 the appropriate law enforcement agencies in this state. The
8 form shall include but not be limited to statements that the
9 person shall have no contact with the protected party, is
10 responsible for obtaining a full copy of the no-contact order
11 or protective order from the county sheriff of the county in
12 which the order was entered or from the clerk of the district
13 court, and that the terms and conditions of the no-contact
14 order or protective order are enforceable, and the person
15 is subject to arrest for violating the no-contact order or
16 protective order.

Senate Study Bill 1168 - Introduced

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

A BILL FOR

1 An Act relating to the duties and responsibilities of insurance
2 producers under insurance policies or contracts.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2115SC (1) 85
av/nh

S.F. _____

1 Section 1. Section 522B.1, Code 2013, is amended by adding
2 the following new subsections:
3 NEW SUBSECTION. 7A. *"Intended beneficiary"* means a person
4 who is not listed as a beneficiary of an insurance policy or
5 contract in the records of the insurer.
6 NEW SUBSECTION. 12A. *"Policy owner"* means the person who
7 is identified as the legal owner of an insurance policy or
8 contract under the terms of the insurance policy or contract,
9 or who is otherwise vested with legal title to the insurance
10 policy or contract through a valid assignment completed in
11 accordance with the terms of the insurance policy or contract
12 and is properly recorded as the legal owner of the policy or
13 contract in the records of the insurer. *"Policy owner"* does
14 not include a person who has a mere beneficial interest in an
15 insurance policy or contract.
16 Sec. 2. Section 522B.11, subsection 7, Code 2013, is amended
17 by striking the subsection and inserting in lieu thereof the
18 following:
19 7. *a.* Unless otherwise specified in this chapter, the
20 duties and responsibilities of an insurance producer are
21 limited to using reasonable care, diligence, and judgment in
22 procuring the insurance requested of the insurance producer by
23 the policy owner.
24 *b.* An insurance producer has no duty to change the
25 beneficiary of an insurance policy or contract unless clear
26 written evidence of the policy owner's intent to name an
27 intended beneficiary as a beneficiary of the policy or contract
28 is presented to the insurance producer or insurer in the manner
29 required by the policy or contract, prior to the payment of any
30 insurance benefits under the policy or contract. Such evidence
31 shall be provided in the same manner as a claim for benefits
32 under the policy or contract.
33 *c.* An insurance producer is not in the business of supplying
34 information to others and has no duty to provide advice or
35 information unless the insurance producer holds oneself out as

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1 an insurance specialist, consultant, or counselor and receives
2 compensation for consultation and advice apart from commissions
3 paid by an insurer.
4 *d.* An insurance producer may agree to accept additional
5 duties and responsibilities not specified in this chapter. Any
6 agreement by an insurance producer to accept such additional
7 duties and responsibilities shall be in writing and signed by
8 the insurance producer and the policy owner.
9 *e.* The general assembly declares that the holdings of
10 Langwith v. Am. Nat´l Gen. Ins. Co., 793 N.W.2d 215 (Iowa 2010)
11 and Pitts v. Farm Bureau Life Ins. Co., 818 N.W.2d 91 (Iowa
12 2012) are abrogated to the extent that they impose higher or
13 greater duties and responsibilities on insurance producers than
14 those set forth in this subsection.
15 EXPLANATION
16 This bill relates to the duties and responsibilities of
17 insurance producers licensed under Code chapter 522B.
18 The bill provides that an "intended beneficiary" of an
19 insurance policy or contract is a person who is not listed as
20 a beneficiary in the insurer´s records. A "policy owner" is
21 defined as the person who is identified as the legal owner of
22 an insurance policy or contract under the terms of the policy
23 or contract, or who is otherwise vested with legal title to
24 the policy or contract through a valid assignment completed
25 in accordance with the terms of the policy or contract and is
26 properly recorded as the legal owner in the records of the
27 insurer. "Policy owner" does not include a person who has a
28 mere beneficial interest in an insurance policy or contract.
29 The bill provides that unless otherwise specified in Code
30 chapter 522B, the duties and responsibilities of an insurance
31 producer are limited to using reasonable care, diligence,
32 and judgment in procuring the insurance requested by the
33 policy owner. An insurance producer has no duty to change the
34 beneficiary of an insurance policy or contract unless clear
35 written evidence of such intent is presented to the insurance

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1 producer or insurer in the manner required in the policy or
2 contract, prior to the payment of insurance benefits. The
3 evidence must be provided in the same manner as a claim for
4 benefits.
5 The bill provides that an insurance producer is not in the
6 business of providing information to others and has no duty to
7 provide advice or information unless the insurance producer
8 holds oneself out as an insurance specialist, consultant,
9 or counselor and receives compensation for consultation
10 and advice apart from commissions paid by an insurer. An
11 insurance producer may agree to accept additional duties and
12 responsibilities pursuant to a written agreement signed by the
13 insurance producer and the policy owner.
14 The bill declares the intent of the general assembly to
15 abrogate the holdings of two recent cases decided by the Iowa
16 supreme court to the extent that those holdings impose higher
17 or greater duties and responsibilities on insurance producers
18 than those set forth in the bill.

Senate Study Bill 1169 - Introduced

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

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 1488XC (8) 85
da/nh

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DIVISION I
PRINCIPAL PROVISIONS

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

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

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

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

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

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

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

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

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

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

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

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

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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 2013, is amended to read as
21 follows:
22 **490.141 Notice or other communication.**
23 1. Notice under this chapter must be in writing unless oral
24 notice is reasonable ~~under~~ in the circumstances. ~~Notice by~~
25 ~~electronic transmission is written notice.~~ Unless otherwise
26 agreed between the sender and the recipient, words in a notice
27 or other communication under this chapter must be in English.
28 2. ~~Notice~~ A notice or other communication may be
29 ~~communicated in person; by mail or other~~ given or sent by
30 any method of delivery~~; or by telephone, voice mail, or~~
31 ~~other~~, except that electronic ~~means~~ transmissions must be in
32 accordance with this section. If these ~~forms of personal~~
33 ~~notice~~ methods of delivery are impracticable, a notice or
34 other communication may be communicated by a newspaper of
35 general circulation in the area where published; or by radio,

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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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1 the following apply:
2 *a.* The electronic transmission enters an information
3 processing system that the recipient has designated or uses
4 for the purposes of receiving electronic transmissions or
5 information of the type sent, and from which the recipient is
6 able to retrieve the electronic transmission.
7 *b.* The electronic transmission is in a form capable of being
8 processed by that system.
9 7. Receipt of an electronic acknowledgment from an
10 information processing system described in subsection 6,
11 paragraph *"a"*, establishes that an electronic transmission was
12 received but, by itself, does not establish that the content
13 sent corresponds to the content received.
14 8. An electronic transmission is received under this
15 section even if no individual is aware of its receipt.
16 ~~5.~~ 9. ~~Except as provided in subsection 3, written notice,~~
17 Notice or other communication if in a comprehensible form or
18 manner, is effective at the earliest of any of the following:
19 *a.* ~~When received.~~ If in physical form, the earliest of
20 when it is actually received or when it is left at any of the
21 following:
22 (1) A shareholder's address shown on the corporation's
23 record of shareholders maintained by the corporation under
24 section 490.1601, subsection 3.
25 (2) A director's residence or usual place of business.
26 (3) The corporation's principal place of business.
27 *b.* ~~Five days after its deposit in the United States mail,~~
28 ~~if~~ If mailed ~~postpaid~~ by United States mail postage prepaid
29 and correctly addressed to a shareholder, upon deposit in the
30 United States mail.
31 *c.* ~~On the date shown on the~~ If mailed by United States
32 mail postage prepaid and correctly addressed to a recipient
33 other than a shareholder, the earliest of when it is actually
34 received or as follows:
35 (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 ~~6. Oral notice is effective when communicated if~~
5 ~~communicated in a comprehensible manner.~~
6 (2) Five days after it is deposited in the United States
7 mail.
8 *d.* If an electronic transmission, when it is received as
9 provided in subsection 6.
10 *e.* If oral, when communicated.
11 10. A notice or other communication may be in the form of
12 an electronic transmission that cannot be directly reproduced
13 in paper form by the recipient through an automated process
14 used in conventional commercial practice only if all of the
15 following apply:
16 *a.* The electronic transmission is otherwise retrievable in
17 perceivable form.
18 *b.* The sender and the recipient have consented in writing to
19 the use of such form of electronic transmission.
20 ~~7.~~ 11. If this chapter prescribes ~~notice~~ requirements for
21 notices or other communications in particular circumstances,
22 those requirements govern. If articles of incorporation or
23 bylaws prescribe ~~notice~~ requirements for notices or other
24 communications, not inconsistent with this section or other
25 provisions of this chapter, those requirements govern. The
26 articles of incorporation or bylaws may authorize or require
27 delivery of notices of meetings of directors by electronic
28 transmission.
29 Sec. 4. NEW SECTION. **490.143 Qualified director.**
30 1. For purposes of this chapter, a *"qualified director"*
31 is a director who takes action under any of the following
32 provisions, if at the time action is to be taken any of the
33 following applies:
34 *a.* Under section 490.744, the director does not have any of
35 the following:

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

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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 2013, is amended to read as follows:

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

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

490.703 Court-ordered meeting.

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

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

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

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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 2013, is amended to read as
17 follows:
18 **490.704 Action without meeting.**
19 1. Unless otherwise provided in the articles of
20 incorporation, any action required or permitted by this chapter
21 to be taken at a shareholders' meeting may be taken without
22 a meeting or vote, and, except as provided in subsection
23 5, without prior notice, if one or more written consents
24 describing the action taken are signed by the holders of
25 outstanding shares having not less than ninety percent of the
26 votes entitled to be cast at a meeting at which all shares
27 entitled to vote on the action were present and voted, and are
28 delivered to the corporation for inclusion in the minutes or
29 filing with the corporate records.
30 2. ~~A written consent shall bear the date of signature of~~
31 ~~each shareholder who signs the consent and no written consent~~
32 ~~is effective to take the corporate action referred to in~~
33 ~~the consent unless, within sixty days of the earliest dated~~
34 ~~consent delivered in the manner required by this section to the~~
35 ~~corporation, written consents signed by a sufficient number~~

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

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

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

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

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

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

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

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

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

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

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

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

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

490.720 Shareholders' list for meeting.

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

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

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

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1 the notice states conspicuously that cumulative voting is
2 authorized.
3 *b.* A shareholder who has the right to cumulate the
4 shareholder's votes gives notice to the corporation not less
5 than forty-eight hours before the time set for the meeting of
6 the shareholder's intent to cumulate votes during the meeting,
7 and if one shareholder gives this notice all other shareholders
8 in the same voting group participating in the election are
9 entitled to cumulate their votes without giving further notice.
10 Sec. 19. Section 490.742, subsection 2, Code 2013, is
11 amended to read as follows:
12 2. Ninety days have expired from the date delivery of
13 the demand was made, unless the shareholder has earlier been
14 notified that the demand has been rejected by the corporation
15 or unless irreparable injury to the corporation would result by
16 waiting for the expiration of the ninety-day period.
17 Sec. 20. Section 490.744, Code 2013, is amended to read as
18 follows:
19 **490.744 Dismissal.**
20 1. A derivative proceeding shall be dismissed by the court
21 on motion by the corporation if one of the groups specified
22 in subsection 2 or ~~6~~ 5 has determined in good faith after
23 conducting a reasonable inquiry upon which its conclusions are
24 based that the maintenance of the derivative proceeding is
25 not in the best interests of the corporation. A corporation
26 moving to dismiss on this basis shall submit in support of the
27 motion a short and concise statement of the reasons for its
28 determination.
29 2. Unless a panel is appointed pursuant to subsection ~~6~~ 5,
30 the determination in subsection 1 shall be made by ~~one~~ any of
31 the following:
32 *a.* A majority vote of ~~independent~~ qualified directors
33 present at a meeting of the board of directors if the
34 ~~independent~~ qualified directors constitute a quorum.
35 *b.* A majority vote of a committee consisting of two or more

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

490.807 Resignation of directors.

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

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

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

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

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1 if it is filled by the shareholders, and only the directors
2 elected by that voting group are entitled to fill the vacancy
3 if it is filled by the directors.
4 Sec. 26. NEW SECTION. **490.826 Submission of matters for**
5 **shareholder vote.**
6 A corporation may agree to submit a matter to a vote of its
7 shareholders even if, after approving the matter, the board of
8 directors determines it no longer recommends the matter.
9 Sec. 27. Section 490.830, Code 2013, is amended by adding
10 the following new subsection:
11 NEW SUBSECTION. 2A. In discharging board or committee
12 duties a director shall disclose, or cause to be disclosed,
13 to the other board or committee members information which
14 the director knows is not already known by them but is known
15 by the director to be material to the discharge of their
16 decision-making or oversight functions, except that disclosure
17 is not required to the extent that the director reasonably
18 believes that doing so would violate a duty imposed under law,
19 a legally enforceable obligation of confidentiality, or a
20 professional ethics rule.
21 Sec. 28. Section 490.831, subsection 1, paragraph a,
22 subparagraph (1), Code 2013, is amended to read as follows:
23 (1) No defense interposed by the director based on any of
24 the following precludes liability:
25 (a) A provision in the articles of incorporation authorized
26 by section 490.202, subsection 2, paragraph *"d"*~~, or the~~.
27 (b) The protection afforded by section ~~490.832 if~~
28 ~~interposed as a bar to the proceeding by the director, does not~~
29 ~~preclude liability~~ 490.861 for action taken in compliance with
30 section 490.862 or 490.863.
31 (c) The protection afforded by section 490.870.
32 Sec. 29. Section 490.831, subsection 3, paragraphs a and b,
33 Code 2013, are amended to read as follows:
34 *a.* In any instance where fairness is at issue, such
35 as consideration of the fairness of a transaction to the

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

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

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

490.841 ~~Duties~~ Functions of officers.

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

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

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

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

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

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

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

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

a. By the board of directors as follows:

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

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

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

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

490.855 Determination and authorization of indemnification.

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

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

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

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

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

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

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

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

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

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

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1 corporation's interest in the opportunity is taken in
2 compliance with the procedures set forth in section ~~490.832~~
3 490.862, as if the decision being made concerned a director's
4 conflicting interest transaction.
5 *b.* Shareholders' action disclaiming the corporation's
6 interest in the opportunity is taken in compliance with the
7 procedure set forth in section ~~490.832~~ 490.863, as if the
8 decision being made concerned a director's conflicting interest
9 transaction; except that, rather than making the ~~disclosure~~
10 *"required disclosure"* as ~~required~~ defined in section ~~490.832~~
11 490.860, in each case the director shall have made prior
12 disclosure to those acting on behalf of the corporation of all
13 material facts concerning the business opportunity that are
14 then known to the director.
15 Sec. 44. Section 490.1003, subsection 2, Code 2013, is
16 amended to read as follows:
17 2. *a.* Except as provided in sections 490.1005, 490.1007,
18 and 490.1008, after adopting the proposed amendment, the board
19 of directors must submit the amendment to the shareholders for
20 their approval. The board of directors must also transmit to
21 the shareholders a recommendation that the shareholders approve
22 the amendment, unless any of the following apply:
23 (1) The board of directors makes a determination that
24 because of conflicts of interest or other special circumstances
25 it should not make such a recommendation~~, in which case the~~.
26 (2) Section 490.826 applies.
27 *b.* If paragraph *"a"*, subparagraph (1) or (2), applies, the
28 board ~~of directors~~ must transmit to the shareholders the basis
29 for ~~the determination~~ so proceeding.
30 Sec. 45. Section 490.1104, subsection 2, Code 2013, is
31 amended to read as follows:
32 2. *a.* Except as provided in subsection 7 and in section
33 490.1105, after adopting the plan of merger or share exchange
34 the board of directors must submit the plan to the shareholders
35 for their approval. The board of directors must also transmit

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

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1 a resolution by the board of directors authorizing the
2 disposition. After adoption of such a resolution, the board
3 of directors shall submit the proposed disposition to the
4 shareholders for their approval. The board of directors shall
5 also transmit to the shareholders a recommendation that the
6 shareholders approve the proposed disposition, unless ~~the~~ any
7 of the following apply:
8 (1) The board of directors makes a determination that
9 because of conflicts of interest or other special circumstances
10 it should not make such a recommendation~~, in which case~~.
11 (2) Section 490.826 applies.
12 *b.* If paragraph *"a"*, subparagraph (1) or (2), applies, the
13 board ~~of directors~~ shall transmit to the shareholders the basis
14 for ~~that determination~~ so proceeding.
15 Sec. 49. Section 490.1301, Code 2013, is amended by adding
16 the following new subsection:
17 NEW SUBSECTION. 5A. *"Interested transaction"* means a
18 corporate action described in section 490.1302, subsection 1,
19 other than a merger pursuant to section 490.1105, involving an
20 interested person in which any of the shares or assets of the
21 corporation are being acquired or converted. As used in this
22 definition, all of the following apply:
23 *a.* *"Beneficial owner"* means any person who, directly
24 or indirectly, through any contract, arrangement, or
25 understanding, other than a revocable proxy, has or shares the
26 power to vote, or to direct the voting of, shares; except that
27 a member of a national securities exchange is not deemed to be
28 a beneficial owner of securities held directly or indirectly
29 by it on behalf of another person solely because the member is
30 the record holder of the securities if the member is precluded
31 by the rules of the exchange from voting without instruction
32 on contested matters or matters that may affect substantially
33 the rights or privileges of the holders of the securities to
34 be voted. When two or more persons agree to act together for
35 the purpose of voting their shares of the corporation, each

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

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1 in the corporate action, become a director of the acquiring
2 entity in the corporate action or one of its affiliates, rights
3 and benefits as a director that are provided on the same basis
4 as those afforded by the acquiring entity generally to other
5 directors of such entity or such affiliate.
6 Sec. 50. Section 490.1302, subsection 2, paragraph a, Code
7 2013, is amended by striking the paragraph and inserting in
8 lieu thereof the following:
9 *a.* Appraisal rights shall not be available for the holders
10 of shares of any class or series of shares which is any of the
11 following:
12 (1) A covered security under section 18(b)(1)(A) or (B) of
13 the federal Securities Act of 1933, as amended.
14 (2) Traded in an organized market and has at least two
15 thousand shareholders and a market value of at least twenty
16 million dollars, exclusive of the value of such shares held by
17 the corporation's subsidiaries, senior executives, directors,
18 and beneficial shareholders owning more than ten percent of
19 such shares.
20 (3) Issued by an open-end management investment company
21 registered with the United States securities and exchange
22 commission under the federal Investment Company Act of 1940 and
23 may be redeemed at the option of the holder at net asset value.
24 Sec. 51. Section 490.1302, subsection 2, paragraph b,
25 subparagraph (1), Code 2013, is amended to read as follows:
26 (1) The record date fixed to determine the shareholders
27 entitled to receive notice of~~, and to vote at,~~ the meeting
28 of shareholders to act upon the corporate action requiring
29 appraisal rights.
30 Sec. 52. Section 490.1302, subsection 2, paragraph d, Code
31 2013, is amended by striking the paragraph and inserting in
32 lieu thereof the following:
33 *d.* Paragraph *"a"*, shall not be applicable and appraisal
34 rights shall be available pursuant to subsection 1 for the
35 holders of any class or series of shares where the corporate

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

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

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

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

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

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

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

490.1321 Notice of intent to demand payment.

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

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

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1 the proposed action is effectuated.
2 *b.* Not vote, or cause or permit to be voted, any shares of
3 such class or series in favor of the proposed action.
4 2. If a corporate action specified in section 490.1302,
5 subsection 1, is to be approved by less than unanimous written
6 consent, a shareholder who wishes to assert appraisal rights
7 with respect to any class or series of shares must not sign a
8 consent in favor of the proposed action with respect to that
9 class or series of shares.
10 3. A shareholder who ~~does not~~ fails to satisfy the
11 requirements of subsection 1 or 2, is not entitled to payment
12 under this part.
13 Sec. 57. Section 490.1322, subsection 1, Code 2013, is
14 amended to read as follows:
15 1. If proposed corporate action requiring appraisal rights
16 under section 490.1302, subsection 1, becomes effective, the
17 corporation must ~~deliver~~ send a written appraisal notice
18 and the form required by subsection 2, paragraph *"a"*, to
19 all shareholders who satisfied the requirements of section
20 490.1321, subsection 1, or section 490.1321, subsection 2. In
21 the case of a merger under section 490.1105, the parent must
22 deliver ~~a written~~ an appraisal notice and form to all record
23 shareholders who may be entitled to assert appraisal rights.
24 Sec. 58. Section 490.1322, subsection 2, unnumbered
25 paragraph 1, Code 2013, is amended to read as follows:
26 The appraisal notice must be ~~sent~~ delivered no earlier than
27 the date the corporate action specified in section 490.1302,
28 subsection 1, became effective and no later than ten days after
29 such date and must do all of the following:
30 Sec. 59. Section 490.1322, subsection 2, paragraph a, Code
31 2013, is amended to read as follows:
32 *a.* ~~Be accompanied by~~ Supply a form that specifies does all
33 of the following:
34 (1) Specifies the first date of any announcement to
35 shareholders made prior to the date the corporate action became

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1 effective of the ~~first announcement to shareholders of the~~
2 principal terms of the proposed corporate action ~~and requires~~,
3 if any.
4 (2) If such announcement was made, requires the shareholder
5 asserting appraisal rights to certify whether beneficial
6 ownership of those shares for which appraisal rights are
7 asserted was acquired before that date.
8 (3) Requires the shareholder asserting appraisal rights to
9 certify ~~whether or not beneficial ownership of those shares for~~
10 ~~which appraisal rights are asserted was acquired before that~~
11 ~~date, and~~ that ~~the~~ such shareholder did not vote for or consent
12 to the transaction.
13 Sec. 60. Section 490.1322, subsection 2, paragraph b,
14 subparagraph (2), Code 2013, is amended to read as follows:
15 (2) A date by which the corporation must receive the form,
16 which date shall not be fewer than forty nor more than sixty
17 days after the date the appraisal notice ~~and form are~~ is sent
18 under subsection 1, and state that the shareholder shall have
19 waived the right to demand appraisal with respect to the
20 shares unless the form is received by the corporation by such
21 specified date.
22 Sec. 61. Section 490.1323, subsections 1 and 3, Code 2013,
23 are amended to read as follows:
24 1. A shareholder who receives notice pursuant to section
25 490.1322 and who wishes to exercise appraisal rights must
26 ~~certify on~~ sign and return the form sent by the corporation
27 and, in the case of certificated shares, deposit the
28 shareholder's certificates in accordance with the terms of
29 the notice by the date referred to in the notice pursuant to
30 section 490.1322, subsection 2, paragraph "*b*", subparagraph
31 (2). In addition, if applicable, the shareholder must certify
32 on the form whether the beneficial owner of such shares
33 acquired beneficial ownership of the shares before the date
34 required to be set forth in the notice pursuant to section
35 490.1322, subsection 2, paragraph "*a*". If a shareholder fails

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

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

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

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

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

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

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

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

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

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

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

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

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1 first election was filed, unless they otherwise agree or the
2 court otherwise directs. After an election has been filed by
3 the corporation or one or more shareholders, the proceeding
4 under section 490.1430, subsection ~~2~~ 1, paragraph "b", shall
5 not be discontinued or settled, nor shall the petitioning
6 shareholder sell or otherwise dispose of the shareholder's
7 shares, unless the court determines that it would be equitable
8 to the corporation and the shareholders, other than the
9 petitioner, to permit such discontinuance, settlement, sale, or
10 other disposition.
11 4. If the parties are unable to reach an agreement as
12 provided for in subsection 3, the court, upon application of
13 any party, shall stay the section 490.1430, subsection ~~2~~ 1,
14 paragraph "b", proceedings and determine the fair value of the
15 petitioner's shares as of the day before the date on which the
16 petition under section 490.1430, subsection ~~2~~ 1, paragraph
17 "b", was filed or as of such other date as the court deems
18 appropriate under the circumstances.
19 5. Upon determining the fair value of the shares, the
20 court shall enter an order directing the purchase upon such
21 terms and conditions as the court deems appropriate, which may
22 include payment of the purchase price in installments, where
23 necessary in the interests of equity, provision for security
24 to assure payment of the purchase price and any additional
25 costs, fees, and expenses as may have been awarded, and, if
26 the shares are to be purchased by shareholders, the allocation
27 of shares among them. In allocating petitioner's shares among
28 holders of different classes of shares, the court shall attempt
29 to preserve the existing distribution of voting rights among
30 holders of different classes insofar as practicable and may
31 direct that holders of a specific class or classes shall not
32 participate in the purchase. Interest may be allowed at the
33 rate and from the date determined by the court to be equitable,
34 but if the court finds that the refusal of the petitioning
35 shareholder to accept an offer of payment was arbitrary or

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

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

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

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

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

a. The name of the corporation.

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

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

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

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

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

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

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

490.1602 Inspection of records by shareholders.

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

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

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

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

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

b. Accounting records of the corporation.

c. The record of shareholders.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Senate Study Bill 1170 - Introduced

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

A BILL FOR

1 An Act relating to insurance holding company systems.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1267DP (7) 85
av/nh

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1 DIVISION I
2 INSURANCE HOLDING COMPANY SYSTEMS
3 Section 1. NEW SECTION. **521A.101 Definitions.**
4 As used in this chapter, unless the context otherwise
5 requires:
6 1. *"Affiliate of"* or person affiliated with, a specific
7 person, is a person that directly, or indirectly through one or
8 more intermediaries, controls, or is controlled by, or is under
9 common control with, the person specified.
10 2. *"Commissioner"* means the commissioner of insurance.
11 3. *"Control"*, including the terms *"controlling"*, *"controlled*
12 *by"*, and *"under common control with"*, means possession, direct
13 or indirect, of the power to direct or cause the direction
14 of the management and policies of a person, whether through
15 the ownership of voting securities, by contract other than
16 a commercial contract for goods or nonmanagement services,
17 or otherwise, unless the power is the result of an official
18 position with or corporate office held by the person.
19 Control shall be presumed to exist if any person, directly
20 or indirectly, owns, controls, holds with the power to vote,
21 or holds proxies representing, ten percent or more of the
22 voting securities of any other person. This presumption may be
23 rebutted by a showing made in the manner provided in section
24 521A.104, subsection 11, that control does not exist in fact.
25 The commissioner may determine, after furnishing all persons in
26 interest notice and opportunity to be heard and making specific
27 findings of fact to support the determination, that control
28 exists in fact, notwithstanding the absence of a presumption
29 to that effect.
30 4. *"Domestic insurer"* means an insurer organized or created
31 under the laws of this state.
32 5. *"Insurance holding company system"* means two or more
33 affiliated persons, one or more of which is an insurer.
34 6. *"Insurer"* means a company qualified and licensed by the
35 insurance division to transact the business of insurance in

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1 this state by certificate issued pursuant to chapter 508, 512B,
2 514, 514B, 515, 515E, or 520, except that it shall not include
3 agencies, authorities, or instrumentalities of the United
4 States, its possessions and territories, the commonwealth of
5 Puerto Rico, the District of Columbia, or a state or political
6 subdivision of a state.
7 7. *"Enterprise risk"* means any activity, circumstance,
8 event, or series of events, involving one or more affiliates
9 of an insurer that, if not remedied promptly, is likely to
10 have a material adverse effect upon the financial condition or
11 liquidity of the insurer or the insurer's insurance holding
12 company system as a whole, including but not limited to
13 anything that would cause the insurer's risk-based capital to
14 fall into a company-action-level event as set forth in section
15 521E.3 for insurers or section 521F.4 for health organizations,
16 or would cause the insurer to be in hazardous financial
17 condition as set forth in 191 IAC ch. 110.
18 8. A *"person"* is an individual, a corporation, a limited
19 liability company, a partnership, an association, a joint
20 stock company, a trust, an unincorporated organization, or
21 any similar entity or any combination of the foregoing acting
22 in concert, but does not include a joint venture partnership
23 exclusively engaged in owning, managing, leasing, or developing
24 real or tangible personal property.
25 9. A *"securityholder"* of a specified person is one who owns
26 any security of the specified person, including common stock,
27 preferred stock, debt obligations, and any other security
28 convertible into or evidencing the right to acquire any of the
29 foregoing.
30 10. A *"subsidiary"* of a specified person is an affiliate
31 controlled by such person directly or indirectly through one
32 or more intermediaries.
33 11. A *"supervisory college"* is a temporary or permanent
34 forum for communication and cooperation between regulators
35 charged with supervision of an insurer or its affiliates.

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1 12. *"Ultimate controlling person"* means a person that is not
2 controlled by any other person.
3 13. The term *"voting security"* shall include any security
4 convertible into or evidencing a right to acquire a voting
5 security.
6 Sec. 2. NEW SECTION. **521A.102 Subsidiaries of insurers.**
7 1. *Authorization.* A domestic insurer, either by itself
8 or in cooperation with one or more persons, may organize or
9 acquire one or more subsidiaries. The subsidiaries may conduct
10 any kind of business or businesses and their authority to do
11 so shall not be limited by reason of the fact that they are
12 subsidiaries of a domestic insurer.
13 2. *Additional investment authority.* In addition to
14 investments in common stock, preferred stock, debt obligations
15 and other securities permitted under all other sections of this
16 subtitle, a domestic insurer may also:
17 *a.* Invest, in common stock, preferred stock, debt
18 obligations, and other securities of one or more subsidiaries,
19 amounts which do not exceed the lesser of ten percent of the
20 insurer's assets or fifty percent of the insurer's surplus as
21 regards policyholders, provided that after such investments the
22 insurer's surplus as regards policyholders is reasonable in
23 relation to the insurer's outstanding liabilities and adequate
24 to meet its financial needs. In calculating the amount of
25 such investments, investments in domestic or foreign insurance
26 subsidiaries and health maintenance organizations shall be
27 excluded and both of the following shall be included:
28 (1) Total net moneys or other consideration expended
29 and obligations assumed in the acquisition or formation
30 of a subsidiary, including all organizational expenses and
31 contributions to capital and surplus of the subsidiary whether
32 or not represented by the purchase of capital stock or issuance
33 of other securities.
34 (2) All amounts expended in acquiring additional common
35 stock, preferred stock, debt obligations, and other securities;

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1 and all contributions to the capital or surplus of a subsidiary
2 subsequent to its acquisition or formation.
3 *b.* Invest any amount in common stock, preferred stock, debt
4 obligations and other securities of one or more subsidiaries
5 engaged or organized to engage exclusively in the ownership
6 and management of assets authorized as investments for the
7 insurer, provided that each such subsidiary agrees to limit
8 its investments in any asset so that such investments will not
9 cause the amount of the total investment of the insurer to
10 exceed any of the investment limitations specified in paragraph
11 *"a"* or in chapters 511, 515, 518A, and 520. For the purposes of
12 this lettered paragraph *"b"*, *"total investment of the insurer"*
13 shall include both:
14 (1) Any direct investment by the insurer in an asset.
15 (2) The insurer's proportionate share of any investment
16 in an asset by any subsidiary of the insurer, which shall
17 be calculated by multiplying the amount of the subsidiary's
18 investment by the percentage of the insurer's ownership of the
19 subsidiary.
20 *c.* With the approval of the commissioner, invest any greater
21 amount in common stock, preferred stock, debt obligations,
22 or other securities of one or more subsidiaries, provided
23 that after the investment the insurer's surplus as regards
24 policyholders is reasonable in relation to the insurer's
25 outstanding liabilities and adequate to meet its financial
26 needs.
27 *d.* Invest, reinvest, and trade in financial instruments as
28 defined in section 511.8, subsection 22, for its own account,
29 that of its parent, any subsidiary of its parent, or any
30 affiliate or subsidiary.
31 3. *Exemption from investment restrictions.* Investments
32 in common stock, preferred stock, debt obligations, or other
33 securities of subsidiaries made pursuant to subsection 2 shall
34 not be subject to any of the otherwise applicable restrictions
35 or prohibitions contained in this chapter applicable to such

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1 investments of insurers.
2 4. *Qualification of investment — when determined.* Whether
3 any investment pursuant to subsection 2 meets the applicable
4 requirements of that subsection is to be determined before the
5 investment is made by calculating the applicable investment
6 limitations as though the investment had already been made,
7 taking into account the then outstanding principal balance on
8 all previous investments in debt obligations, and the value
9 of all previous investments in equity securities as of the
10 day they were made, net of any return of capital invested,
11 excluding dividends.
12 5. *Cessation of control.* If an insurer ceases to control
13 a subsidiary, it shall dispose of any investment therein
14 made pursuant to this section within three years from the
15 time of the cessation of control or within such further time
16 as the commissioner may prescribe, unless at any time after
17 the investment has been made, the investment has met the
18 requirements for investment under any other section of this
19 chapter, and the insurer has so notified the commissioner.
20 Sec. 3. NEW SECTION. **521A.103 Acquisition of control of or**
21 **merger with domestic insurer.**
22 1. *Filing requirements.*
23 *a.* A person, other than the issuer, shall not make a
24 tender offer for or a request or invitation for tenders of,
25 or enter into any agreement to exchange securities for, seek
26 to acquire, or acquire, in the open market or otherwise,
27 any voting security of a domestic insurer if, after the
28 consummation thereof, the person would, directly or indirectly,
29 or by conversion or by exercise of any right to acquire, be in
30 control of the insurer, and a person shall not enter into an
31 agreement to merge with or otherwise to acquire control of a
32 domestic insurer unless, at the time the offer, request, or
33 invitation is made or the agreement is entered into, or prior
34 to the acquisition of the securities if no offer or agreement
35 is involved, the person has filed with the commissioner and has

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1 sent to the insurer, a statement containing the information
2 required by this section and such offer, request, invitation,
3 agreement, or acquisition has been approved by the commissioner
4 in the manner prescribed in this chapter.
5 *b.* For purposes of this section, a controlling person of
6 a domestic insurer seeking to divest the person's controlling
7 interest in the domestic insurer in any manner, shall file with
8 the commissioner, with a copy to the insurer, confidential
9 notice of the controlling person's proposed divestiture at
10 least thirty days prior to the cessation of control. The
11 commissioner shall determine those instances in which a
12 party seeking to divest a controlling interest in a domestic
13 insurer, shall be required to file for and obtain approval
14 of the transaction. The information filed shall remain
15 confidential until the conclusion of the transaction unless
16 the commissioner, in the commissioner's discretion, determines
17 that confidential treatment of the information will interfere
18 with enforcement of this section. If the statement required in
19 paragraph *"a"* has been filed, this paragraph does not apply.
20 *c.* For purposes of this section, a *"domestic insurer"* shall
21 include any person controlling a domestic insurer unless the
22 person, as determined by the commissioner, is either directly
23 or through its affiliates primarily engaged in business other
24 than the business of insurance. For purposes of this section,
25 *"person"* does not include a securities broker holding, in the
26 usual and customary broker's function, less than twenty percent
27 of the voting securities of an insurer or of any person that
28 controls an insurer.
29 2. *Content of statement.*
30 *a.* The statement to be filed with the commissioner shall be
31 made under oath or affirmation and shall contain the following
32 information:
33 (1) The name and address of each person by whom or on whose
34 behalf the merger or other acquisition of control referred
35 to in subsection 1 is to be effected, hereinafter called the

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1 *"acquiring party"*.
2 (a) If the person is an individual, the individual's
3 principal occupation and all offices and positions held during
4 the past five years, and any conviction of crimes other than
5 minor traffic violations during the past ten years.
6 (b) If the person is not an individual, a report of the
7 nature of its business operations during the past five years
8 or for such lesser period as the person and any predecessors
9 shall have been in existence; an informative description of the
10 business intended to be done by the person and the person's
11 subsidiaries; and a list of all individuals who are or who have
12 been selected to become directors or executive officers of the
13 person, or who perform or will perform functions appropriate to
14 such positions. Such list shall include for each individual
15 listed the information required by subparagraph division (a).
16 (2) The source, nature and amount of the consideration used
17 or to be used in effecting the merger or other acquisition
18 of control, a description of any transaction in which funds
19 were or are to be obtained for any such purpose, including
20 a pledge of the insurer's stock or the stock of any of its
21 subsidiaries or controlling affiliates, and the identity of
22 persons furnishing the consideration. However, if a source
23 of the consideration is a loan made in the lender's ordinary
24 course of business, the identity of the lender shall remain
25 confidential, if the person filing the statement so requests.
26 (3) Fully audited financial information as to the earnings
27 and financial condition of each acquiring party for the
28 preceding five fiscal years of each such acquiring party,
29 or for such lesser period as the acquiring party and any
30 predecessors of the acquiring party have been in existence, and
31 similar unaudited information as of a date not earlier than
32 ninety days prior to the filing of the statement.
33 (4) Any plans or proposals which each acquiring party may
34 have to liquidate the insurer, to sell the insurer's assets
35 or merge or consolidate it with any person, or to make any

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1 other material change in the insurer's business or corporate
2 structure or management.
3 (5) The number of shares of any security referred to in
4 subsection 1 which each acquiring party proposes to acquire,
5 and the terms of the offer, request, invitation, agreement, or
6 acquisition referred to in subsection 1, and a statement as to
7 the method by which the fairness of the proposal was arrived
8 at.
9 (6) The amount of each class of any security referred to
10 in subsection 1 which is beneficially owned or concerning
11 which there is a right to acquire beneficial ownership by each
12 acquiring party.
13 (7) A full description of any contracts, arrangements,
14 or understandings with respect to any security referred to
15 in subsection 1 in which any acquiring party is involved,
16 including but not limited to transfer of any of the securities,
17 joint ventures, loan or option arrangements, puts or calls,
18 guarantees of loans, guarantees against loss or guarantees
19 of profits, division of losses or profits, or the giving
20 or withholding of proxies. The description shall identify
21 the persons with whom such contracts, arrangements, or
22 understandings have been entered into.
23 (8) A description of the purchase of any security
24 referred to in subsection 1 during the twelve calendar months
25 preceding the filing of the statement, by any acquiring party,
26 including the dates of purchase, names of the purchasers, and
27 consideration paid or agreed to be paid.
28 (9) A description of any recommendations to purchase any
29 security referred to in subsection 1 made during the twelve
30 calendar months preceding the filing of the statement, by any
31 acquiring party, or by anyone based upon interviews or at the
32 suggestion of the acquiring party.
33 (10) Copies of all tender offers for, requests or
34 invitations for tenders of, exchange offers for, and agreements
35 to acquire or exchange any securities referred to in subsection

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1 l, and, if distributed, of additional soliciting material
2 relating to the securities.
3 (11) The terms of any agreement, contract, or understanding
4 made with any broker-dealer as to solicitation of securities
5 referred to in subsection 1 for tender, and the amount of
6 any fees, commissions, or other compensation to be paid to
7 broker-dealers with regard to the securities.
8 (12) An agreement by the person required to file a statement
9 as provided in subsection 1, that the person will provide the
10 annual enterprise risk report, specified in section 521A.104,
11 subsection 12, for so long as the person's control over the
12 insurer exists.
13 (13) An acknowledgment by the person required to file a
14 statement as provided in subsection 1 that the person and all
15 subsidiaries within the person's control in the insurance
16 company holding system will provide information to the
17 commissioner upon request as necessary to evaluate enterprise
18 risk to the insurer.
19 (14) Additional information as the commissioner may by rule
20 prescribe as necessary or appropriate for the protection of
21 policyholders of the insurer or in the public interest.
22 *b.* If the person required to file the statement referred
23 to in subsection 1 is a partnership, limited partnership,
24 syndicate, or other group, the commissioner may require that
25 the information required by paragraph "*a*", subparagraphs (1)
26 through (14) shall be given with respect to each partner
27 of the partnership or limited partnership, each member of
28 the syndicate or group, and each person who controls the
29 partner or member. If any partner, member, or person is a
30 corporation or the person required to file the statement
31 referred to in subsection 1 is a corporation, the commissioner
32 may require that the information required by paragraph "*a*",
33 subparagraphs (1) through (14) shall be given with respect to
34 the corporation, each officer and director of the corporation,
35 and each person who is directly or indirectly the beneficial

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1 owner of more than ten percent of the outstanding voting
2 securities of the corporation.
3 *c.* If any material change occurs in the facts set forth
4 in the statement filed with the commissioner and sent to the
5 insurer pursuant to this section, an amendment setting forth
6 the change, together with copies of all documents and other
7 material relevant to the change, shall be filed with the
8 commissioner and sent to the insurer within two business days
9 after the person learns of the change.
10 3. *Alternative filing materials.* If any offer, request,
11 invitation, agreement, or acquisition referred to in subsection
12 1 is proposed to be made by means of a registration statement
13 under the federal Securities Act of 1933, as amended, or in
14 circumstances requiring the disclosure of similar information
15 under the federal Securities Exchange Act of 1934, as amended,
16 or under a state law requiring similar registration or
17 disclosure, the person required to file the statement referred
18 to in subsection 1 may utilize such documents in furnishing the
19 information called for by that statement.
20 4. *Approval by the commissioner — hearings.*
21 *a.* The commissioner shall approve any merger or other
22 acquisition of control referred to in subsection 1 if, after
23 a public hearing on such merger or acquisition of control,
24 the applicant has demonstrated to the commissioner all of the
25 following:
26 (1) After the merger or change of control, the domestic
27 insurer referred to in subsection 1 will be able to satisfy the
28 requirements for the issuance of a license to write the line or
29 lines of insurance for which it is presently licensed.
30 (2) The effect of the merger or other acquisition of control
31 will not substantially lessen competition in insurance in this
32 state or tend to create a monopoly.
33 (3) The financial condition of any acquiring party will not
34 jeopardize the financial stability of the insurer, or prejudice
35 the interest of its policyholders.

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1 (4) The plans or proposals which the acquiring party has to
2 liquidate the insurer, sell its assets, or consolidate or merge
3 the insurer with any person, or to make any other material
4 change in the insurer's business or corporate structure or
5 management, are not unfair or unreasonable to policyholders of
6 the insurer and are not contrary to the public interest.
7 (5) The competence, experience, and integrity of those
8 persons who would control the operation of the insurer are
9 sufficient to indicate that the interests of policyholders of
10 the insurer and of the public will not be jeopardized by the
11 merger or other acquisition of control.
12 (6) The merger or other acquisition of control is not likely
13 to be hazardous or prejudicial to the members of the public
14 that buy insurance.
15 *b.* The public hearing referred to in paragraph "*a*" shall
16 be held within thirty days after the statement required by
17 subsection 1 is filed, and at least twenty days' notice of
18 the public hearing shall be given by the commissioner to the
19 person filing the statement. Not less than seven days' notice
20 of the public hearing shall be given by the person filing the
21 statement to the insurer and to such other persons as may be
22 designated by the commissioner. The commissioner shall make a
23 determination within the forty-five-day period preceding the
24 effective date of the proposed transaction. At the hearing,
25 the person filing the statement, the insurer, any person to
26 whom notice of hearing was sent, and any other person whose
27 interests may be affected shall have the right to present
28 evidence, examine and cross-examine witnesses, and offer oral
29 and written arguments and in connection therewith shall be
30 entitled to conduct discovery proceedings in the same manner as
31 is allowed in the district court of this state. All discovery
32 proceedings shall be concluded not later than three days prior
33 to the commencement of the public hearing.
34 *c.* If the proposed merger or acquisition of control will
35 require the approval of the commissioner of insurance from

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1 more than one jurisdiction, the public hearing referred to in
2 paragraph *"a"* may be held on a consolidated basis upon request
3 of the person filing the statement required in subsection 1.
4 Such a person may file the statement required in subsection 1
5 with the national association of insurance commissioners within
6 five days of making the request for a public hearing. The
7 commissioner may opt out of participating in a consolidated
8 hearing, and shall provide notice to the person requesting
9 the consolidated hearing of the opt-out within ten days of
10 receipt of the statement required in subsection 1. A hearing
11 conducted on a consolidated basis shall be public and shall
12 be held within the United States before the commissioners
13 of the jurisdictions in which the insurers are domiciled.
14 The commissioners shall hear and receive evidence. A
15 commissioner may attend a consolidated hearing in person or by
16 telecommunication.
17 *d.* The commissioner may retain, at the acquiring party's
18 expense, any attorneys, actuaries, accountants, or other
19 experts not otherwise a part of the commissioner's staff as may
20 be reasonably necessary to assist the commissioner in reviewing
21 the proposed merger or acquisition of control.
22 5. *Exemptions.* The provisions of this section shall
23 not apply to any offer, request, invitation, agreement, or
24 acquisition which the commissioner by order shall exempt as not
25 having been made or entered into for the purpose and not having
26 the effect of changing or influencing the control of a domestic
27 insurer or as otherwise not comprehended within the purposes of
28 this section.
29 6. *Violations.* The following shall be violations of this
30 section:
31 *a.* The failure to file any statement, amendment, or other
32 material required to be filed pursuant to subsection 1 or 2.
33 *b.* The effectuation or any attempt to effectuate an
34 acquisition of control of, divestiture of, or merger with, a
35 domestic insurer unless the commissioner has given approval

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1 thereto.
2 7. *Jurisdiction — consent to service of process.* The courts
3 of this state are hereby vested with jurisdiction over every
4 person not resident, domiciled, or authorized to do business
5 in this state who files a statement with the commissioner
6 under this section, and over all actions involving such
7 person arising out of violations of this section, and each
8 such person shall be deemed to have performed acts equivalent
9 to and constituting an appointment by the person of the
10 commissioner to be the person's true and lawful attorney upon
11 whom may be served all lawful process in any action, suit, or
12 proceeding arising out of violations of this section. Copies
13 of all lawful process shall be served on the commissioner and
14 transmitted by registered or certified mail by the commissioner
15 to the person at the person's last known address.
16 Sec. 4. NEW SECTION. **521A.104 Registration of insurers.**
17 1. *Registration.*
18 *a.* An insurer authorized to do business in this state
19 which is a member of an insurance holding company system shall
20 register with the commissioner, except a foreign insurer
21 subject to registration requirements and standards adopted by
22 statute or regulation in the jurisdiction of its domicile which
23 are substantially similar to those contained in this section
24 and all of the following:
25 (1) Section 521A.105, subsection 1, paragraph *"a"*, section
26 521A.105, subsection 2, and section 521A.105, subsection 4.
27 (2) Section 521A.105, subsection 1, paragraph *"b"*, or a
28 provision requiring each registered insurer to keep current
29 the information required to be disclosed in its registration
30 statement by reporting all material changes or additions within
31 fifteen days after the end of the month in which it learns of
32 each change or addition.
33 *b.* An insurer subject to registration under this section
34 shall register within fifteen days after it becomes subject
35 to registration and annually thereafter by March 31 of each

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1 year for the previous calendar year, unless the commissioner
2 for good cause shown extends the time for registration, and
3 then within the extended time. The commissioner may require
4 any insurer authorized to do business in the state which is a
5 member of an insurance holding company system, and which is
6 not subject to registration under this section, to furnish
7 a copy of the registration statement, the summary specified
8 in subsection 3, or other information filed by the insurance
9 company with the insurance regulatory authority of the
10 company's domiciliary jurisdiction.
11 2. *Information and form required.* Every insurer subject
12 to registration shall file a registration statement with the
13 commissioner on a form and in a format prescribed by the
14 national association of insurance commissioners, which shall
15 contain current information about:
16 *a.* The capital structure, general financial condition,
17 ownership, and management of the insurer and any person
18 controlling the insurer.
19 *b.* The identity and relationship of every member of the
20 insurance holding company system.
21 *c.* The following agreements in force, and transactions
22 currently outstanding or which have occurred during the last
23 calendar year, between the insurer and its affiliates:
24 (1) Loans, other investments, or purchases, sales, or
25 exchanges of securities of the affiliates by the insurer or of
26 the insurer by its affiliates.
27 (2) Purchases, sales, or exchanges of assets.
28 (3) Transactions not in the ordinary course of business.
29 (4) Guarantees or undertakings for the benefit of an
30 affiliate which result in an actual contingent exposure of the
31 insurer's assets to liability, other than insurance contracts
32 entered into in the ordinary course of the insurer's business.
33 (5) All management agreements, service contracts, and
34 cost-sharing arrangements.
35 (6) Reinsurance agreements.

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1 (7) Dividends and other distributions to shareholders.
2 (8) Consolidated tax allocation agreements.
3 *d.* A pledge of the insurer's stock, including stock of
4 a subsidiary or controlling affiliate, for a loan made to a
5 member of the insurance holding company system.
6 *e.* If requested by the commissioner, the insurer shall
7 include financial statements of or within an insurance
8 holding company system, including all affiliates. Financial
9 statements may include but are not limited to annual audited
10 financial statements filed with the United States securities
11 and exchange commission pursuant to the federal Securities Act
12 of 1933, as amended, or the federal Securities Exchange Act
13 of 1934, as amended. An insurer required to file financial
14 statements pursuant to this paragraph may satisfy the request
15 by providing the commissioner with the most recently filed
16 parent corporation financial statements that have been filed
17 with the securities and exchange commission.
18 *f.* Other matters concerning transactions between registered
19 insurers and any affiliates as may be included from time to
20 time in any registration forms adopted or approved by the
21 commissioner.
22 *g.* Statements that the insurer's board of directors
23 oversees corporate governance and internal controls and that
24 the insurer's officers or senior management have approved,
25 implemented, and continue to maintain and monitor corporate
26 governance and internal control procedures.
27 *h.* Any other information required by the commissioner by
28 rule.
29 3. *Summary of changes to registration statement.* All
30 registration statements shall contain a summary outlining
31 all items in the current registration statement representing
32 changes from the prior registration statement.
33 4. *Materiality.* Information need not be disclosed on the
34 registration statement if the information is not material for
35 the purposes of this section. Unless the commissioner by rule

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1 or order provides otherwise, sales, purchases, exchanges, loans
2 or extensions of credit, or investments or guarantees involving
3 one-half of one percent or less of an insurer's admitted assets
4 as of the thirty-first day of December next preceding are not
5 material for purposes of this section.
6 5. *Reporting of dividends to shareholders.* Subject
7 to section 521A.105, subsection 2, a registered insurer
8 shall report to the commissioner all dividends and other
9 distributions to shareholders within fifteen days following
10 the declaration of the dividends or distributions. The report
11 shall also include a schedule setting forth all dividends or
12 other distributions made within the previous twelve months.
13 6. *Information of insurers.* Any person within an insurance
14 holding company system subject to registration is required to
15 provide complete and accurate information to an insurer if the
16 information is reasonably necessary to enable the insurer to
17 comply with the provisions of this chapter.
18 7. *Termination of registration.* The commissioner shall
19 terminate the registration of any insurer that demonstrates
20 that it no longer is a member of an insurance holding company
21 system.
22 8. *Consolidated filing.* The commissioner may require or
23 allow two or more affiliated insurers subject to registration
24 to file a consolidated registration statement.
25 9. *Alternative registration.* The commissioner may allow an
26 insurer authorized to do business in this state which is part
27 of an insurance holding company system to register on behalf
28 of any affiliated insurer which is required to register under
29 subsection 1 and to file all information and material required
30 to be filed under this section.
31 10. *Exemptions.* The provisions of this section shall not
32 apply to any insurer, information, or transaction if, and to
33 the extent that, the commissioner by rule, regulation, or order
34 exempts the same from the provisions of this section.
35 11. *Disclaimer.* Any person may file with the commissioner

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1 a disclaimer of affiliation with any authorized insurer, or an
2 insurer or any member of an insurance holding company system
3 may file a disclaimer of affiliation with any person. The
4 disclaimer shall fully disclose all material relationships and
5 the basis for affiliation between the person and the insurer
6 as well as the basis for disclaiming the affiliation. A
7 disclaimer of affiliation shall be deemed to have been allowed,
8 unless the commissioner within thirty days following receipt
9 of a complete disclaimer, notifies the filing party that the
10 disclaimer is disallowed. If a disclaimer is disallowed,
11 the commissioner shall grant a request for administrative
12 hearing on the disallowance made by the party that filed the
13 disclaimer. The disclaiming party shall be relieved of the
14 party's duty to register under this section if the disclaimer
15 is deemed allowed or is allowed by the commissioner pursuant
16 to this subsection.
17 12. *Enterprise risk filing.*
18 *a.* Beginning May 1, 2014, and every May 1 thereafter,
19 the ultimate controlling person of every insurer subject to
20 registration under this section shall also file an annual
21 enterprise risk report. The commissioner may, for good cause
22 shown, extend the time for filing the annual report. The
23 report shall, to the best of the ultimate controlling person's
24 knowledge and belief, identify material risks within the
25 insurance holding company system that could pose enterprise
26 risk to the insurer. The report shall be filed with the lead
27 state commissioner of the insurance holding company system
28 as determined by the procedures contained in the financial
29 analysis handbook adopted by the national association of
30 insurance commissioners.
31 *b.* An ultimate controlling person having direct written and
32 assumed premiums of less than five hundred million dollars in
33 any calendar year for all insurers cumulatively, may request
34 an exemption from the requirement to file an enterprise risk
35 report. An ultimate controlling person requesting such an

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1 exemption shall file with the commissioner a written statement
2 addressing the reasons why the exemption should be granted.
3 If the commissioner finds, upon review of this statement,
4 that the ultimate controlling person has direct written and
5 assumed premiums of less than five hundred million dollars and
6 that compliance with the requirements of this subsection will
7 constitute a financial or organizational hardship upon the
8 ultimate controlling person, the exemption shall be granted.
9 13. *Violations.* The failure to file a registration
10 statement or a summary of the registration statement, or an
11 enterprise risk report required by this section within the time
12 specified for the filing is a violation of this section.
13 Sec. 5. NEW SECTION. **521A.105 Standards for and management**
14 **of an insurer within an insurance holding company system.**
15 1. *Transactions within an insurance holding company system.*
16 *a.* Transactions within an insurance holding company system
17 to which an insurer subject to registration is a party, are
18 subject to the following standards:
19 (1) The terms shall be fair and reasonable.
20 (2) Agreements for cost-sharing services and management
21 services shall include such provisions as required by rules
22 adopted by the commissioner.
23 (3) Charges or fees for services performed shall be
24 reasonable.
25 (4) Expenses incurred and payment received shall be
26 allocated to the insurer in conformity with customary insurance
27 accounting practices consistently applied.
28 (5) The books, accounts, and records of each party to
29 all such transactions shall be so maintained as to clearly
30 and accurately disclose the precise nature and details of
31 the transactions including such accounting information as is
32 necessary to support the reasonableness of the charges or fees
33 to the respective parties.
34 (6) After any material transaction with an affiliate and
35 after any dividends or distributions to shareholder affiliates,

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1 the insurer's surplus as regards policyholders shall be
2 reasonable in relation to the insurer's outstanding liabilities
3 and adequate to meet its financial needs.
4 *b.* A domestic insurer and a person in the domestic
5 insurer's insurance holding company system shall not enter
6 into any of the transactions described in subparagraphs
7 (1) through (7), including amendments to or modifications
8 of affiliate agreements previously filed pursuant to this
9 section, which are subject to any materiality standards
10 contained in subparagraphs (1) through (7), unless the
11 domestic insurer notifies the commissioner in writing of its
12 intention to enter into the transaction at least thirty days
13 prior to entering into the transaction, or within a shorter
14 time permitted by the commissioner, and the commissioner has
15 not disapproved of the transaction within that time period.
16 Notice of amendments to or modifications of agreements shall
17 include the reasons for the change and the financial impact
18 of the change on the domestic insurer. Informal notice of a
19 change shall be reported to the commissioner, within thirty
20 days after termination of a previously filed agreement,
21 for a determination of the type of filing required, if any.
22 This lettered paragraph "*b*" is applicable to the following
23 transactions:
24 (1) Sales, purchases, exchanges, loans, extensions of
25 credit, or investments, if the transaction involves an amount
26 which is equal to or exceeds the following:
27 (a) With respect to nonlife insurers, the lesser of three
28 percent of the insurer's admitted assets or twenty-five percent
29 of surplus as regards policyholders as of the thirty-first day
30 of December next preceding.
31 (b) With respect to life insurers, three percent of the
32 insurer's admitted assets as of the thirty-first day of
33 December next preceding.
34 (2) Loans or extensions of credit to any person who is not
35 an affiliate, where the insurer makes loans or extensions of

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1 credit with the agreement or understanding that the proceeds of
2 the transactions, in whole or in substantial part, are to be
3 used to make loans or extensions of credit, to purchase assets
4 of, or to make investments in, any affiliate of the insurer
5 making the loans or extensions of credit if the transaction
6 involves an amount which is equal to or exceeds the following:
7 (a) With respect to nonlife insurers, the lesser of three
8 percent of the insurer's admitted assets or twenty-five percent
9 of surplus as regards policyholders as of the thirty-first day
10 of December next preceding.
11 (b) With respect to life insurers, three percent of the
12 insurer's admitted assets as of the thirty-first day of
13 December next preceding.
14 (3) Reinsurance agreements or modifications to such
15 agreements including the following:
16 (a) All reinsurance pooling agreements.
17 (b) All agreements or modifications to such agreements in
18 which the reinsurance premium or a change in the insurer's
19 liabilities, or the projected reinsurance premium or a change
20 in the insurer's liabilities in any of the next three years,
21 equals or exceeds five percent of the insurer's surplus as
22 regards policyholders, as of the thirty-first day of December
23 next preceding, including those agreements which may require
24 as consideration the transfer of assets from an insurer to a
25 nonaffiliate, if an agreement or understanding exists between
26 the insurer and nonaffiliate that any portion of the assets
27 will be transferred to one or more affiliates of the insurer.
28 (4) All management agreements, service contracts, tax
29 allocation agreements, guarantees, and other cost-sharing
30 arrangements.
31 (5) Guarantees when made by a domestic insurer, provided,
32 however, that a guarantee that is quantifiable as to amount
33 is not subject to the notice requirements of this lettered
34 paragraph "b" unless the guarantee exceeds the lesser of
35 one-half of one percent of the insurer's admitted assets or

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1 ten percent of surplus as regards policyholders as of the
2 thirty-first day of December next preceding. Further, all
3 guarantees that are not quantifiable as to amount are subject
4 to the notice requirements of this lettered paragraph *"b"*.
5 (6) Direct or indirect acquisitions of or investments in
6 a person that controls the insurer or is an affiliate of an
7 insurer in an amount that, together with its present holdings
8 in such investments, exceeds two and one-half percent of
9 the insurer's surplus to policyholders. Direct or indirect
10 acquisitions of or investments in subsidiaries acquired
11 pursuant to section 521A.102, or in nonsubsidiary insurance
12 affiliates that are subject to the provisions of this chapter
13 are exempt from this requirement.
14 (7) Any material transactions, specified by regulation,
15 that the commissioner determines may adversely affect the
16 interests of the insurer's policyholders.
17 *c.* Nothing in this subsection shall be deemed to authorize
18 or permit any transactions that, in the case of an insurer not
19 a member of the same insurance holding company system, would
20 be otherwise contrary to law.
21 *d.* A domestic insurer shall not enter into transactions
22 which are part of a plan or series of like transactions, with a
23 person or persons within the insurance holding company system
24 if the purpose of those separate transactions is to avoid
25 the statutory threshold amount and thus avoid review of the
26 transactions that would otherwise occur. If the commissioner
27 determines that separate transactions were entered into over
28 any twelve-month period for that purpose, the commissioner may
29 exercise authority under section 521A.111.
30 *e.* The commissioner, in reviewing transactions pursuant to
31 paragraph *"b"*, subparagraph (1), shall consider whether the
32 transactions comply with the standards set forth in paragraph
33 *"a"*, subparagraph (1), and whether the transactions may
34 adversely affect the interests of policyholders.
35 *f.* A domestic insurer shall notify the commissioner

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1 within thirty days of an investment of the insurer in any one
2 corporation if the total investment in the corporation by the
3 insurance holding company system exceeds ten percent of the
4 corporation's voting securities.
5 2. *Dividends and other distributions.*
6 *a.* A domestic insurer may declare and pay dividends to its
7 shareholders only from earned surplus. Assets revalued by
8 the board of directors of the insurer shall not be included
9 in earned surplus until thirty days after the commissioner
10 has received notice of the revaluation and approved the
11 revaluation. The commissioner shall approve or disapprove the
12 revaluation within thirty days after receiving notice of the
13 revaluation, unless for good cause the commissioner extends the
14 approval period for an additional thirty days. For purposes
15 of this paragraph, *"earned surplus"* means surplus as regards
16 policyholders less paid-in and contributed surplus, and may
17 include a fair revaluation of assets by the board of directors
18 of the insurer that is reasonable under the circumstances.
19 *b.* (1) A domestic insurer shall not pay any extraordinary
20 dividend or make any other extraordinary distribution to
21 its shareholders until thirty days after the commissioner
22 has received notice of the declaration of the extraordinary
23 dividend or distribution, and within that thirty days the
24 commissioner has either approved payment of the dividend or
25 distribution or has not disapproved payment of the dividend or
26 distribution.
27 (2) For purposes of this lettered paragraph *"b"*,
28 *"extraordinary dividend or distribution"* means any dividend
29 or distribution of cash or other property, whose fair market
30 value together with that of other dividends or distributions
31 made within the preceding twelve months exceeds the greater of
32 either of the following:
33 (a) Ten percent of the insurer's surplus as regards
34 policyholders as of the thirty-first day of December next
35 preceding.

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1 (b) The net gain from operations of the insurer, if
2 the insurer is a life insurer, or the net income of the
3 insurer, if the insurer is not a life insurer, not including
4 realized capital gains, for the twelve-month period ending the
5 thirty-first day of December next preceding, but not including
6 pro rata distributions of any class of the insurer's own
7 securities.
8 (3) Notwithstanding any other provision of law, an insurer
9 may declare an extraordinary dividend or distribution that
10 is conditional upon the commissioner's approval, and the
11 declaration shall not confer rights upon shareholders until
12 either of the following occurs:
13 (a) The commissioner has approved payment of the dividend
14 or distribution within thirty days of receiving notice of the
15 declaration.
16 (b) The commissioner has not disapproved payment of the
17 dividend or distribution within thirty days of receiving notice
18 of the declaration.
19 3. *Management of domestic insurers subject to registration.*
20 *a.* Notwithstanding the control of a domestic insurer by any
21 person, the officers and directors of the insurer shall not be
22 relieved of any obligation or liability to which they would
23 otherwise be subject by law, and the insurer shall be managed
24 so as to ensure its separate operating identity consistent with
25 the provisions of this chapter.
26 *b.* Nothing in this section shall preclude a domestic insurer
27 from having or sharing common management or cooperative or
28 joint use of personnel, property, or services with one or more
29 other persons under arrangements that meet the standards set
30 forth in subsection 1, paragraph *"a"*.
31 *c.* Not less than one-third of the directors of a domestic
32 insurer, and not less than one-third of the members of each
33 committee of the board of directors of a domestic insurer shall
34 be persons who are not officers or employees of the insurer
35 or of any entity controlling, controlled by, or under common

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1 control with the insurer and who are not beneficial owners
2 of a controlling interest in the voting stock of the insurer
3 or entity. At least one such person must be included in any
4 quorum for the transaction of business at any meeting of the
5 board of directors or any committee of the board.
6 *d.* The board of directors of a domestic insurer shall
7 establish one or more committees comprised solely of directors
8 who are not officers or employees of the insurer or of any
9 entity controlling, controlled by, or under common control with
10 the insurer and who are not beneficial owners of a controlling
11 interest in the voting stock of the insurer or any such entity.
12 The committee or committees shall have responsibility for
13 nominating candidates for director for election by shareholders
14 or policyholders, evaluating the performance of officers deemed
15 to be principal officers of the insurer, and recommending to
16 the board of directors the selection and compensation of the
17 principal officers of the insurer.
18 *e.* The provisions of paragraphs *"c"* and *"d"* shall not
19 apply to a domestic insurer if the person controlling the
20 domestic insurer, such as an insurer, a mutual insurance
21 holding company, or a publicly held corporation, has a board
22 of directors and committees of that board that meet the
23 requirements of paragraphs *"c"* and *"d"* with respect to such
24 controlling entity.
25 *f.* An insurer may apply to the commissioner for a waiver
26 from the requirements of this subsection if the insurer's
27 annual direct written and assumed premium, excluding premiums
28 reinsured with the federal crop insurance corporation and the
29 federal flood program, is less than three hundred million
30 dollars. An insurer may also apply to the commissioner for
31 a waiver from the requirements of this subsection based upon
32 unique circumstances. The commissioner may consider various
33 factors in determining whether to grant such a waiver including
34 but not limited to the type of business entity, the volume of
35 business written, availability of qualified board members, or

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1 the ownership or organizational structure of the entity.
2 4. *Adequacy of surplus.* For purposes of this chapter
3 in determining whether an insurer's surplus as regards
4 policyholders is reasonable in relation to the insurer's
5 outstanding liabilities and adequate to meet its financial
6 needs, the following factors, among others, shall be
7 considered:
8 *a.* The size of the insurer as measured by its assets,
9 capital and surplus, reserves, premium writings, insurance in
10 force, and other appropriate criteria.
11 *b.* The extent to which the insurer's business is diversified
12 among the several lines of insurance.
13 *c.* The number and size of risks insured in each line of
14 business.
15 *d.* The extent of the geographical dispersion of the
16 insurer's insured risks.
17 *e.* The nature and extent of the insurer's reinsurance
18 program.
19 *f.* The quality, diversification, and liquidity of the
20 insurer's investment portfolio.
21 *g.* The recent past and projected future trends in the size
22 of the insurer's surplus as regards policyholders.
23 *h.* The surplus as regards policyholders maintained by other
24 comparable insurers.
25 *i.* The adequacy of the insurer's reserves.
26 *j.* The quality and liquidity of investments in affiliates.
27 The commissioner may treat any such investment as a disallowed
28 asset for purposes of determining the adequacy of surplus as
29 regards policyholders whenever in the commissioner's judgment
30 such investment so warrants.
31 Sec. 6. NEW SECTION. **521A.106 Examination.**
32 1. *Power of commissioner.* Subject to the limitation
33 contained in this section and in addition to the powers
34 which the commissioner has under chapter 507 relating to the
35 examination of insurers, the commissioner has the power to

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1 examine any insurer registered under section 521A.104 and
2 its affiliates to ascertain the financial condition of the
3 insurer, including the enterprise risk to the insurer by the
4 ultimate controlling party, or by any entity or combination of
5 entities within the insurance holding company system, or by the
6 insurance holding company system on a consolidated basis.
7 2. *Access to books and records.*
8 *a.* The commissioner may order an insurer registered
9 under section 521A.104 to produce records, books, or other
10 information papers in the possession of the insurer or its
11 affiliates as reasonably necessary to determine compliance with
12 this chapter.
13 *b.* To determine compliance with this chapter, the
14 commissioner may order any insurer registered under section
15 521A.104 to produce information not in the possession of the
16 insurer if the insurer can obtain access to such information
17 pursuant to contractual relationships, statutory obligations,
18 or other methods. In the event an insurer cannot obtain the
19 information requested by the commissioner, the insurer shall
20 provide the commissioner a detailed explanation of the reason
21 that the insurer cannot obtain the information and the identity
22 of the holder of the information. Whenever it appears to the
23 commissioner that the detailed explanation is without merit,
24 the commissioner may require, after notice and hearing, the
25 insurer to pay a penalty of five hundred dollars for each day
26 of delay in providing the information, or may suspend or revoke
27 the insurer's license.
28 3. *Use of consultants.* The commissioner may retain at
29 the registered insurer's expense such attorneys, actuaries,
30 accountants, and other experts not otherwise a part of the
31 commissioner's staff as shall be reasonably necessary to assist
32 in the conduct of the examination under subsection 1. Any
33 persons so retained shall be under the direction and control of
34 the commissioner and shall act in a purely advisory capacity.
35 4. *Expenses.* Each registered insurer producing for

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1 examination records, books, and papers pursuant to subsection
2 1 shall be liable for and shall pay the expense of such
3 examination in accordance with section 507.7.
4 5. *Compelling production.*
5 *a.* If an insurer fails to comply with an order to produce
6 information pursuant to this section, the commissioner
7 may examine the affiliates of the insurer to obtain the
8 information. The commissioner may also issue subpoenas,
9 administer oaths, and examine under oath any person, for
10 purposes of determining compliance with this section.
11 *b.* Upon the failure or refusal of any person to obey a
12 subpoena, the commissioner may petition a court of competent
13 jurisdiction, and upon proper showing, the court may enter
14 an order compelling the witness to appear and testify or to
15 produce documentary evidence. Failure to obey such a court
16 order shall be punishable as contempt of court. Every person
17 shall be obliged to attend as a witness at the time and place
18 specified in the subpoena, anywhere in the state. The witness
19 shall be entitled to the same fees, mileage, and actual
20 expenses, if claimed, that are allowed witnesses in district
21 court, which fees, mileage, and actual expenses, if any,
22 necessarily incurred in securing the attendance of witnesses
23 and their testimony, shall be itemized and charged against, and
24 paid by, the company being examined.
25 Sec. 7. NEW SECTION. **521A.107 Supervisory colleges.**
26 1. *Power of commissioner.* With respect to any insurer
27 registered under section 521A.104, and in accordance with
28 subsection 3, the commissioner may participate in a supervisory
29 college for any domestic insurer that is part of an insurance
30 holding company system with international operations, in order
31 to determine compliance by the insurer with the provisions of
32 this chapter. The powers of the commissioner with respect
33 to a supervisory college include but are not limited to the
34 following:
35 *a.* Initiating the establishment of a supervisory college.

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1 *b.* Clarifying the membership and participation of other
2 supervisors in the supervisory college.
3 *c.* Clarifying the functions of the supervisory college and
4 the role of other regulators, including the establishment of a
5 group-wide supervisor.
6 *d.* Coordinating the ongoing activities of the supervisory
7 college, including planning meetings, supervisory activities,
8 and processes for sharing information.
9 *e.* Establishing a crisis management plan.
10 2. *Expenses.* Each registered insurer subject to this
11 section shall be liable for and shall pay the reasonable
12 expenses of the commissioner's participation in a supervisory
13 college in accordance with subsection 3, including reasonable
14 travel expenses. For purposes of this section, a supervisory
15 college may be convened as either a temporary or permanent
16 forum for communication and cooperation between the regulators
17 charged with the supervision of an insurer and its affiliates,
18 and the commissioner may establish a regular assessment to the
19 insurer for the payment of expenses under this subsection.
20 3. *Participation.* In order to assess the business
21 strategy, financial position, legal and regulatory position,
22 risk exposure, risk management and governance processes,
23 and as part of the examination of individual insurers in
24 accordance with section 521A.106, the commissioner may
25 participate in a supervisory college with other regulators
26 charged with supervision of the insurer or its affiliates,
27 including other state, federal, and international regulatory
28 agencies. The commissioner may enter into agreements in
29 accordance with section 521A.108, subsection 3, providing the
30 basis for cooperation between the commissioner and the other
31 regulatory agencies, and the activities of the supervisory
32 college. Nothing in this section shall delegate to the
33 supervisory college the authority of the commissioner to
34 regulate or supervise the insurer or its affiliates within the
35 commissioner's jurisdiction.

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1 Sec. 8. NEW SECTION. **521A.108 Confidential treatment.**
2 1. All documents, materials, or other information in the
3 possession or control of the commissioner that is obtained
4 by or disclosed to the commissioner or any other person in
5 the course of an examination or investigation made pursuant
6 to section 521A.106 and all information reported pursuant to
7 section 521A.103, subsection 2, paragraph *"a"*, subparagraphs
8 (12) and (13), and sections 521A.104 and 521A.105, shall be
9 given confidential treatment and shall not be subject to
10 subpoena, shall not be subject to discovery or be admissible
11 in evidence in any private civil action, and shall not be
12 made public by the commissioner or any other person, except
13 to insurance departments of other jurisdictions, without the
14 prior written consent of the insurer to which the information
15 pertains unless the commissioner, after giving the insurer
16 and its affiliates who would be affected thereby notice and
17 opportunity to be heard, determines that the interests of
18 policyholders, shareholders, or the public will be served
19 by the publication of the information, in which event the
20 commissioner may publish all or any part of the information in
21 such manner as the commissioner may deem appropriate.
22 2. The commissioner or any other person who received
23 documents, materials, or other information while acting under
24 the authority of the commissioner or with whom such documents,
25 materials, or other information are shared pursuant to this
26 chapter shall not be permitted or required to testify in any
27 private civil action concerning any confidential documents,
28 materials, or other information subject to subsection 1.
29 3. In order to assist in the performance of the
30 commissioner's duties, the commissioner may do any of the
31 following:
32 *a.* Share documents, materials, or other information,
33 including the confidential and privileged documents, materials,
34 or information subject to subsection 1, with other state,
35 federal, and international regulatory agencies, with the

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1 national association of insurance commissioners and its
2 affiliates and subsidiaries, and with state, federal, and
3 international law enforcement authorities, including members
4 of any supervisory college described in section 521A.107,
5 provided that the recipient agrees in writing to maintain
6 the confidentiality and privileged status of the documents,
7 materials, or other information, and verifies in writing the
8 legal authority to maintain confidentiality and privilege.
9 *b.* Notwithstanding paragraph *"a"*, the commissioner may
10 only share confidential and privileged documents, materials,
11 or other information reported pursuant to section 521A.104,
12 subsection 12, with commissioners of states having statutes
13 or regulations substantially similar to subsection 1 of this
14 section and who have agreed in writing not to disclose such
15 information.
16 *c.* Receive documents, materials, or other information,
17 including otherwise confidential and privileged documents,
18 materials, or other information from the national association
19 of insurance commissioners and its affiliates and subsidiaries,
20 and from regulatory and law enforcement officials of other
21 foreign or domestic jurisdictions, and shall maintain as
22 confidential or privileged any documents, materials, or
23 other information received with notice or the understanding
24 that it is confidential or privileged under the laws of the
25 jurisdiction that is the source of the document, material, or
26 other information.
27 *d.* Enter into a written agreement with the national
28 association of insurance commissioners that is consistent with
29 this subsection, governing the sharing and use of information
30 provided pursuant to this chapter, and that does all of the
31 following:
32 (1) Specifies procedures and protocols regarding the
33 confidentiality and security of information shared with
34 the national association of insurance commissioners and its
35 affiliates and subsidiaries pursuant to this chapter, including

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1 procedures and protocols for the sharing of information by the
2 national association of insurance commissioners with other
3 state, federal, or international regulators.
4 (2) Specifies that ownership of information shared with
5 the national association of insurance commissioners and its
6 affiliates and subsidiaries pursuant to this chapter remains
7 with the commissioner and the national association of insurance
8 commissioners' use of the information is subject to the
9 direction of the commissioner.
10 (3) Requires that prompt notice be given to an insurer whose
11 confidential or privileged information in the possession of
12 the national association of insurance commissioners pursuant
13 to this chapter is subject to a request or subpoena to the
14 national association of insurance commissioners for disclosure
15 or production.
16 (4) Requires the national association of insurance
17 commissioners and its affiliates and subsidiaries to consent to
18 intervention by an insurer in any judicial or administrative
19 action in which the national association of insurance
20 commissioners and its affiliates and subsidiaries may be
21 required to disclose confidential information about the insurer
22 that was shared with the national association of insurance
23 commissioners and its affiliates and subsidiaries pursuant to
24 this chapter.
25 4. The sharing of documents, materials, or other
26 information by the commissioner pursuant to this chapter
27 shall not constitute a delegation of regulatory authority or
28 rulemaking, and the commissioner is solely responsible for the
29 administration, execution, and enforcement of the provisions of
30 this chapter.
31 5. No waiver of any applicable privilege or claim of
32 confidentiality in documents, materials, or other information
33 shall occur as a result of their disclosure to the commissioner
34 under this section or as a result of the sharing of those
35 documents, materials, or other information as authorized in

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1 subsection 3.
2 6. Documents, materials, or other information in the
3 possession or control of the national association of insurance
4 commissioners pursuant to this chapter shall be confidential
5 and privileged, shall not be subject to chapter 22, shall not
6 be subject to subpoena, and shall not be subject to discovery
7 or admissible in evidence in any private civil action.
8 Sec. 9. NEW SECTION. **521A.109 Rules.**
9 The commissioner may, upon notice and opportunity for all
10 interested persons to be heard, issue such rules and orders as
11 shall be necessary to carry out the provisions of this chapter.
12 Sec. 10. NEW SECTION. **521A.110 Injunctions — prohibitions**
13 **against voting securities — sequestration of voting securities.**
14 1. *Injunctions.* Whenever it appears to the commissioner
15 that any insurer or any director, officer, employee, or agent
16 of the insurer has committed or is about to commit a violation
17 of this chapter or any rule, regulation, or order issued by the
18 commissioner under this chapter, the commissioner may apply to
19 the district court of the county in which the principal office
20 of the insurer is located or if such insurer has no such office
21 in this state then to the district court of Polk county for an
22 order enjoining the insurer or director, officer, employee, or
23 agent of the insurer from violating or continuing to violate
24 this chapter or any such rule, regulation, or order, and for
25 such other equitable relief as the nature of the case and
26 the interests of the insurer's policyholders, creditors, and
27 shareholders or the public may require.
28 2. *Voting of securities — when prohibited.* No security
29 which is the subject of any agreement or arrangement regarding
30 acquisition, or which is acquired or to be acquired, in
31 contravention of the provisions of this chapter or of any rule,
32 regulation, or order issued by the commissioner under this
33 chapter may be voted at any shareholders' meeting, or may be
34 counted for quorum purposes, and any action of shareholders
35 requiring the affirmative vote of a percentage of shares

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1 may be taken as though such securities were not issued and
2 outstanding; but no action taken at any such meeting shall
3 be invalidated by the voting of such securities, unless the
4 action would materially affect control of the insurer or unless
5 the district court has so ordered. If any insurer or the
6 commissioner has reason to believe that any security of the
7 insurer has been or is about to be acquired in contravention
8 of the provisions of this chapter or of any rule, regulation,
9 or order issued by the commissioner under this chapter, the
10 insurer or the commissioner may apply to the district court of
11 Polk county or to the district court of the county in which
12 the insurer has its principal place of business to enjoin any
13 offer, request, invitation, agreement, or acquisition made in
14 contravention of section 521A.103 or any rule, regulation, or
15 order issued by the commissioner under that section to enjoin
16 the voting of any security so acquired, to void any vote of
17 the security already cast at any meeting of shareholders, and
18 for such other equitable relief as the nature of the case and
19 the interests of the insurer's policyholders, creditors, and
20 shareholders or the public may require.
21 3. *Sequestration of voting securities.* In any case
22 where a person has acquired or is proposing to acquire any
23 voting securities in violation of this chapter or any rule,
24 regulation, or order issued by the commissioner under this
25 chapter, the district court of Polk county or the district
26 court of the county in which the insurer has its principal
27 place of business may, on such notice as the court deems
28 appropriate, upon the application of the insurer or the
29 commissioner seize or sequester any voting securities of the
30 insurer owned directly or indirectly by the person, and issue
31 such orders as may be appropriate to effectuate the provisions
32 of this chapter. Notwithstanding any other provisions of law,
33 for the purposes of this chapter the situs of the ownership of
34 the securities of domestic insurers shall be deemed to be in
35 this state.

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1 Sec. 11. NEW SECTION. **521A.111 Sanctions and penalties.**
2 1. If the commissioner finds after notice and hearing that
3 an insurer subject to registration under section 521A.104
4 failed without just cause to file a registration statement as
5 required in this chapter, the insurer shall be required to pay
6 a penalty of one thousand dollars for each day of delay. The
7 penalty shall be recovered by the commissioner and deposited in
8 the general fund of the state. The maximum penalty under this
9 section is ten thousand dollars. The commissioner may reduce
10 the penalty if the insurer demonstrates that the imposition
11 of the penalty would constitute a financial hardship to the
12 insurer.
13 2. *a.* A director or officer of an insurance holding company
14 system who does any of the following is subject to the civil
15 penalty imposed under paragraph *"b"*:
16 (1) Knowingly participates in or assents to transactions or
17 investments which have not been properly reported or submitted
18 pursuant to section 521A.104, subsection 1, section 521A.105,
19 subsection 1, paragraph *"b"*, or section 521A.105, subsection 2.
20 (2) Knowingly permits any of the officers or agents of an
21 insurer to engage in transactions or make investments which
22 have not been properly reported or submitted pursuant to
23 section 521A.104, subsection 1, section 521A.105, subsection 1,
24 paragraph *"b"*, or section 521A.105, subsection 2.
25 (3) Knowingly violates any other provision of this chapter.
26 *b.* An officer or director of an insurance holding company
27 system who commits any of the acts or omissions listed
28 in paragraph *"a"* shall pay, in the person's individual
29 capacity, a civil penalty of not more than one thousand
30 dollars per violation, after notice and hearing before the
31 commissioner. In determining the amount of the civil penalty,
32 the commissioner shall take into account the appropriateness
33 of the penalty with respect to the gravity of the violation,
34 the history of previous violations, and such other matters as
35 justice may require.

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1 3. Whenever it appears to the commissioner that an insurer
2 subject to this chapter or a director, officer, employee,
3 or agent of such an insurer, has engaged in a transaction
4 or entered into a contract which is subject to section
5 521A.105 and which would not have been approved had approval
6 been requested, the commissioner may order the insurer to
7 immediately cease and desist any further activity under
8 that transaction or contract. After notice and hearing, the
9 commissioner may also order the insurer to void any contracts
10 and restore the status quo if the commissioner finds that
11 action is in the best interest of the policyholders, creditors,
12 or the public.
13 4. Whenever it appears to the commissioner that an insurer
14 or a director, officer, agent, or employee of an insurer
15 has committed a willful violation of this chapter, the
16 commissioner may refer the matter to the attorney general or
17 to the appropriate county attorney who may institute criminal
18 proceedings against the insurer or the responsible director,
19 officer, agent, or employee in the district court of the county
20 in which the principal office of the insurer is located, or if
21 the insurer has no office in this state, then in the district
22 court of Polk county. An insurer or individual who willfully
23 violates this chapter is guilty of a class "D" felony.
24 5. A director, officer, or employee of an insurance holding
25 company system who willfully and knowingly subscribes to or
26 makes or causes to be made any false statements, false reports,
27 or false filings with the intent to deceive the commissioner in
28 the performance of the commissioner's duties under this chapter
29 is guilty of a class "D" felony. Any fines imposed shall be
30 paid by the director, officer, or employee in the person's
31 individual capacity.
32 6. Whenever it appears to the commissioner that a person
33 has violated the provisions of section 521A.103 and the
34 violation prevents the full understanding of the enterprise
35 risk to the insurer by affiliates or by the insurance holding

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1 company system, the violation may serve as an independent basis
2 for disapproving dividends or distributions and for placing
3 the insurer under an order of supervision in accordance with
4 chapter 507C.
5 Sec. 12. NEW SECTION. **521A.112 Receivership.**
6 Whenever it appears to the commissioner that any person
7 has committed a violation of this chapter which so impairs
8 the financial condition of a domestic insurer as to threaten
9 insolvency or make the further transaction of business
10 by the insurer hazardous to its policyholders, creditors,
11 shareholders, or the public, then the commissioner may proceed
12 as provided in chapter 507C to take possession of the property
13 of the domestic insurer and to conduct the insurer's business.
14 Sec. 13. NEW SECTION. **521A.113 Recovery.**
15 1. Subject to subsections 2 through 4, if an order for
16 liquidation, conservation, or rehabilitation of a domestic
17 insurer has been entered, the receiver appointed under the
18 order may recover on behalf of the insurer either of the
19 following if the distribution or payment was made within one
20 year preceding the filing of the petition for liquidation,
21 conservation, or rehabilitation:
22 *a.* From a parent corporation, holding company, affiliate, or
23 other person who otherwise controlled the insurer, the amount
24 of distributions, other than distributions of shares of the
25 same class of stock, paid by the insurer on its capital stock.
26 *b.* Any payment in the form of a bonus, termination
27 settlement, or extraordinary lump sum salary adjustment made
28 by the insurer or a subsidiary of the insurer to a director,
29 officer, agent, or employee.
30 2. A distribution is not recoverable if the parent
31 corporation or affiliate, or other person, shows that when the
32 distribution was paid it was lawful and reasonable, and that
33 the insurer did not know and could not reasonably have known
34 that the distribution might adversely affect the ability of the
35 insurer to fulfill its contractual obligations.

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1 3. A person who was a parent corporation or holding company,
2 or a person who otherwise controlled the insurer or affiliate
3 at the time the distributions were paid is liable only up to
4 the amount of distributions or payments under subsection 1 that
5 the person received. A person who otherwise controlled the
6 insurer at the time the distributions were declared is liable
7 only up to the amount of distributions the person would have
8 received if the person had been paid immediately. If two or
9 more persons are liable with respect to the same distributions,
10 they shall be jointly and severally liable.
11 4. The maximum amount recoverable under this section shall
12 be the amount needed in excess of all other available assets
13 of the impaired or insolvent insurer to pay the contractual
14 obligations of the impaired or insolvent insurer and to
15 reimburse any guaranty funds.
16 5. To the extent that a person liable under subsection 3 is
17 insolvent or otherwise fails to pay claims due from the person
18 pursuant to this section, the person's parent corporation,
19 holding company, or person who otherwise controlled it at the
20 time the distribution was paid, is jointly and severally liable
21 for any resulting deficiency in the amount recovered from the
22 parent corporation, holding company, or person who otherwise
23 controlled it.
24 Sec. 14. NEW SECTION. **521A.114 Revocation, suspension, or**
25 **nonrenewal of insurer's license.**
26 Whenever it appears to the commissioner that any person
27 has committed a violation of this chapter which makes the
28 continued operation of an insurer contrary to the interests
29 of policyholders or the public, the commissioner may, after
30 giving notice and an opportunity to be heard, determine to
31 suspend, revoke, or refuse to renew the insurer's license
32 or authority to do business in this state for such period
33 as the commissioner finds is required for the protection of
34 policyholders or the public. Any such determination shall be
35 accompanied by specific findings of fact and conclusions of

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1 law.
2 Sec. 15. NEW SECTION. **521A.115 Judicial review — mandamus.**
3 1. Judicial review of the actions of the commissioner may be
4 sought in accordance with the terms of the Iowa administrative
5 procedure Act, chapter 17A.
6 2. Any person aggrieved by the failure of the commissioner
7 to act or to make a determination required by this chapter
8 may petition the district court for Polk county for an order
9 of mandamus directing the commissioner to act or to make a
10 determination.
11 Sec. 16. NEW SECTION. **521A.116 Conflicts with other laws.**
12 The provisions of this chapter shall prevail wherever the
13 provisions conflict or are inconsistent with other laws of this
14 state.
15 Sec. 17. NEW SECTION. **521A.117 Severability.**
16 If any provision of this chapter, or the application of this
17 chapter to any person or circumstance, is held invalid, such
18 holding shall not affect the provisions or applications of this
19 chapter which can be given effect without the invalid provision
20 or application, and to that end the provisions of this chapter
21 are severable.
22 Sec. 18. NEW SECTION. **521A.118 Mutual insurance holding**
23 **companies.**
24 1. *a.* A domestic mutual insurance company, upon approval
25 of the commissioner, may reorganize by forming an insurance
26 holding company based upon a mutual plan and continuing the
27 corporate existence of the reorganizing insurance company
28 as a stock insurance company. The commissioner, after a
29 public hearing as provided in section 521A.103, subsection
30 4, paragraph *"b"*, if satisfied that the interests of the
31 policyholders are properly protected and that the plan of
32 reorganization is fair and equitable to the policyholders, may
33 approve the proposed plan of reorganization and may require as
34 a condition of approval such modifications of the proposed plan
35 of reorganization as the commissioner finds necessary for the

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1 protection of the policyholders' interests. The commissioner
2 may retain consultants as provided in section 521A.103,
3 subsection 4, paragraph "*d*". A reorganization pursuant to this
4 section is subject to section 521A.103, subsections 1, 2, and
5 3. The commissioner shall retain jurisdiction over a mutual
6 insurance holding company organized pursuant to this section to
7 assure that policyholder interests are protected.
8 *b.* All of the initial shares of the capital stock of the
9 reorganized insurance company shall be issued to the mutual
10 insurance holding company. The membership interests of the
11 policyholders of the reorganized insurance company shall
12 become membership interests in the mutual insurance holding
13 company. Policyholders of the reorganized insurance company
14 shall be members of the mutual insurance holding company in
15 accordance with the articles of incorporation and bylaws of the
16 mutual insurance holding company. The mutual insurance holding
17 company shall at all times own a majority of the voting shares
18 of the capital stock of the reorganized insurance company.
19 2. *a.* A domestic mutual insurance company, upon the
20 approval of the commissioner, may reorganize by merging its
21 policyholders' membership interests into a mutual insurance
22 holding company formed pursuant to subsection 1 and continuing
23 the corporate existence of the reorganizing insurance company
24 as a stock insurance company subsidiary of the mutual insurance
25 holding company. The commissioner, after a public hearing as
26 provided in section 521A.103, subsection 4, paragraph "*b*", if
27 satisfied that the interests of the policyholders are properly
28 protected and that the merger is fair and equitable to the
29 policyholders, may approve the proposed merger and may require
30 as a condition of approval such modifications of the proposed
31 merger as the commissioner finds necessary for the protection
32 of the policyholders' interests. The commissioner may retain
33 consultants as provided in section 521A.103, subsection 4,
34 paragraph "*d*". A merger pursuant to this section is subject to
35 section 521A.103, subsections 1, 2, and 3. The commissioner

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1 shall retain jurisdiction over the mutual insurance holding
2 company organized pursuant to this section to assure that
3 policyholder interests are protected.
4 *b.* All of the initial shares of the capital stock of the
5 reorganized insurance company shall be issued to the mutual
6 insurance holding company. The membership interests of the
7 policyholders of the reorganized insurance company shall
8 become membership interests in the mutual insurance holding
9 company. Policyholders of the reorganized insurance company
10 shall be members of the mutual insurance holding company in
11 accordance with the articles of incorporation and bylaws of the
12 mutual insurance holding company. The mutual insurance holding
13 company shall at all times own a majority of the voting shares
14 of the capital stock of the reorganized insurance company.
15 A merger of policyholders' membership interests in a mutual
16 insurance company into a mutual insurance holding company shall
17 be deemed to be a merger of insurance companies pursuant to
18 chapter 521 and chapter 521 is also applicable.
19 *c.* A foreign mutual insurance company, or a foreign health
20 service corporation, which if a domestic corporation would be
21 organized under chapter 514, may reorganize upon the approval
22 of the commissioner and in compliance with the requirements of
23 any law or regulation which is applicable to the foreign mutual
24 insurance company or foreign health service corporation by
25 merging its policyholders' or subscribers' membership interests
26 into a mutual insurance holding company formed pursuant to
27 subsection 1 and continuing the corporate existence of the
28 reorganizing foreign mutual insurance company or reorganizing
29 foreign health service corporation as a foreign stock insurance
30 company subsidiary of the mutual insurance holding company.
31 The commissioner, after a public hearing as provided in section
32 521A.103, subsection 4, paragraph "*b*", may approve the proposed
33 merger. The commissioner may retain consultants as provided
34 in section 521A.103, subsection 4, paragraph "*d*". A merger
35 pursuant to this paragraph is subject to section 521A.103,

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1 subsections 1, 2, and 3. The reorganizing foreign mutual
2 insurance company or reorganizing foreign health service
3 corporation may remain a foreign company or foreign corporation
4 after the merger, and may be admitted to do business in this
5 state. A foreign mutual insurance company or foreign mutual
6 health service corporation which is a party to the merger may
7 at the same time redomesticate in this state by complying with
8 the applicable requirements of this state and its state of
9 domicile. The provisions of paragraph *"b"* shall apply to a
10 merger authorized under this paragraph, except that a reference
11 to policyholders in that paragraph is also deemed to include
12 subscribers in the case of a health service corporation.
13 3. A mutual insurance holding company resulting from
14 the reorganization of a domestic mutual insurance company
15 organized under chapter 491 shall be incorporated pursuant to
16 chapter 491. This requirement shall supersede any conflicting
17 provisions of section 491.1. The articles of incorporation and
18 any amendments to such articles of the mutual insurance holding
19 company shall be subject to approval of the commissioner in the
20 same manner as those of an insurance company.
21 4. A mutual insurance holding company is deemed to be
22 an insurer subject to chapter 507C and shall automatically
23 be a party to any proceeding under chapter 507C involving
24 an insurance company which as a result of a reorganization
25 pursuant to subsection 1 or 2 is a subsidiary of the mutual
26 insurance holding company. In any proceeding under chapter
27 507C involving the reorganized insurance company, the assets of
28 the mutual insurance holding company are deemed to be assets of
29 the estate of the reorganized insurance company for purposes of
30 satisfying the claims of the reorganized insurance company's
31 policyholders. A mutual insurance holding company shall not
32 dissolve or liquidate without the approval of the commissioner
33 or as ordered by the district court pursuant to chapter 507C.
34 5. *a.* Chapters 508B and 515G are not applicable to a
35 reorganization or merger pursuant to this section.

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1 *b.* Chapter 508B is applicable to demutualization of a
2 mutual insurance holding company which resulted from the
3 reorganization of a domestic mutual life insurance company
4 organized under chapter 508 as if it were a mutual life
5 insurance company.
6 *c.* Chapter 515G is applicable to demutualization of a
7 mutual insurance holding company which resulted from the
8 reorganization of a domestic mutual property and casualty
9 insurance company organized under chapter 515 as if it were a
10 mutual property and casualty insurance company.
11 6. A membership interest in a domestic mutual insurance
12 holding company shall not constitute a security as defined in
13 section 502.102.
14 7. *a.* The majority of the voting shares of the capital
15 stock of the reorganized insurance company, which is required
16 by this section to be at all times owned by a mutual insurance
17 holding company, shall not be conveyed, transferred, assigned,
18 pledged, subjected to a security interest or lien, encumbered,
19 or otherwise hypothecated or alienated by the mutual insurance
20 holding company or intermediate holding company. Any
21 conveyance, transfer, assignment, pledge, security interest,
22 lien, encumbrance, or hypothecation or alienation of, in or on
23 the majority of the voting shares of the reorganized insurance
24 company which is required by this section to be at all times
25 owned by a mutual insurance holding company, is in violation of
26 this section and shall be void in inverse chronological order
27 of the date of such conveyance, transfer, assignment, pledge,
28 security interest, lien, encumbrance, or hypothecation or
29 alienation, as to the shares necessary to constitute a majority
30 of such voting shares. The majority of the voting shares of
31 the capital stock of the reorganized insurance company which is
32 required by this section to be at all times owned by a mutual
33 insurance holding company shall not be subject to execution
34 and levy as provided in chapter 626. The shares of the
35 capital stock of the surviving or new company resulting from a

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1 merger or consolidation of two or more reorganized insurance
2 companies or two or more intermediate holding companies
3 which were subsidiaries of the same mutual insurance holding
4 company are subject to the same requirements, restrictions, and
5 limitations as provided in this section to which the shares of
6 the merging or consolidating reorganized insurance companies
7 or intermediate holding companies were subject by this section
8 prior to the merger or consolidation.
9 *b.* As used in this section, *"majority of the voting shares*
10 *of the capital stock of the reorganized insurance company"*
11 means shares of the capital stock of the reorganized insurance
12 company which carry the right to cast a majority of the votes
13 entitled to be cast by all of the outstanding shares of the
14 capital stock of the reorganized insurance company for the
15 election of directors and on all other matters submitted
16 to a vote of the shareholders of the reorganized insurance
17 company. The ownership of a majority of the voting shares of
18 the capital stock of the reorganized insurance company which
19 are required by this section to be at all times owned by a
20 parent mutual insurance holding company includes indirect
21 ownership through one or more intermediate holding companies in
22 a corporate structure approved by the commissioner. However,
23 indirect ownership through one or more intermediate holding
24 companies shall not result in the mutual insurance holding
25 company owning less than the equivalent of a majority of the
26 voting shares of the capital stock of the reorganized insurance
27 company. The commissioner shall have jurisdiction over an
28 intermediate holding company as if it were a mutual insurance
29 holding company. As used in this section, *"intermediate holding*
30 *company"* means a holding company which is a subsidiary of a
31 mutual insurance holding company, and which either directly
32 or through a subsidiary intermediate holding company has one
33 or more subsidiary reorganized insurance companies of which
34 a majority of the voting shares of the capital stock would
35 otherwise have been required by this section to be at all times

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1 owned by the mutual insurance holding company.
2 Sec. 19. REPEAL. Sections 521A.1 through 521A.14, Code
3 2013, are repealed.
4 DIVISION II
5 COORDINATING PROVISIONS
6 Sec. 20. Section 505.23, Code 2013, is amended to read as
7 follows:
8 **505.23 Hearings.**
9 If an evidentiary hearing is conducted in a proceeding
10 pursuant to section 508B.7, 515G.7, ~~521A.3~~ 521A.103, or ~~521A.14~~
11 521A.118, or in a proceeding with respect to a merger or
12 consolidation pursuant to chapter 521, the proceeding is a
13 contested case subject to chapter 17A.
14 Sec. 21. Section 507C.2, subsection 5, Code 2013, is amended
15 to read as follows:
16 5. *"Control"* means the same as defined in section ~~521A.1~~
17 521A.101, subsection 3.
18 Sec. 22. Section 508.33A, subsection 1, paragraph b, Code
19 2013, is amended to read as follows:
20 *b. "Parent"* means a person as defined in section ~~521A.1~~
21 521A.101 who directly or indirectly through one or more
22 intermediaries wholly owns the organizing life insurance
23 company.
24 Sec. 23. Section 508.33A, subsection 2, paragraph b, Code
25 2013, is amended to read as follows:
26 *b.* A limited purpose subsidiary life insurance company
27 shall submit a plan of operation to the commissioner, and the
28 commissioner shall approve the plan of operation with such
29 amendments as the commissioner requires, before the limited
30 purpose subsidiary life insurance company assumes any risks
31 under a reinsurance contract. The plan of operation and any
32 records, books, documents, reports, or other information that
33 the commissioner requires a limited purpose subsidiary life
34 insurance company to produce or disclose pursuant to rules
35 adopted under subsection 6 or pursuant to an order of the

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1 commissioner shall be treated the same as information obtained
2 by or disclosed to the commissioner pursuant to section ~~521A.6~~
3 521A.106 and the commissioner shall have the powers enumerated
4 in section ~~521A.6~~ 521A.106 as to that insurer.
5 Sec. 24. Section 508.33A, subsection 8, Code 2013, is
6 amended to read as follows:
7 8. The provisions of sections 508.5, 508.6, and 511.8,
8 section 521.2, subsection 4, sections ~~521A.4~~ 521A.104 and
9 ~~521A.5~~ 521A.105, and chapter 521E shall not be applicable to
10 a limited purpose subsidiary life insurance company organized
11 pursuant to this section.
12 Sec. 25. Section 508B.13, Code 2013, is amended to read as
13 follows:
14 **508B.13 Prohibitions on certain offers to acquire shares.**
15 Prior to and for a period of five years following the
16 effective date of the conversion, and in the case of the
17 plans of conversion specified in section 508B.3, subsections
18 1 and 3, five years following the date of distribution of
19 consideration to the policyholders in exchange for their
20 membership interests, a person, other than the reorganized
21 company, other than an employee benefit plan or employee
22 benefit trust sponsored by the reorganized company, or as
23 otherwise specifically provided for in the plan of conversion,
24 shall not directly or indirectly acquire or offer to acquire
25 the beneficial ownership of more than five percent of any
26 class of voting security of the reorganized company, and a
27 person, other than the reorganized company or other than an
28 employee benefit plan or employee benefit trust sponsored by
29 the reorganized company, who acquires five percent or more of
30 any class of voting security of the reorganized company prior
31 to the conversion or as specifically provided for in the plan
32 of conversion, shall not directly or indirectly acquire or
33 offer to acquire the beneficial ownership of additional voting
34 securities of the reorganized company, unless the acquisition
35 is approved by the commissioner as not being contrary to the

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1 interests of the policyholders of the reorganized company or
2 its life insurance company subsidiary and by the board of
3 directors of the reorganized company. The commissioner and
4 the board of directors may consider the factors set forth in
5 section 490.1108A. The provisions of section ~~521A.3~~ 521A.103,
6 except section ~~521A.3~~ 521A.103, subsection 4, paragraph *"a"*,
7 shall be applicable to a proposed acquisition subject to this
8 section. An approved plan of conversion may include a stock
9 option plan. As used in this section, *"beneficial ownership"*
10 means, with respect to a security, the sole or shared power to
11 vote or direct the voting of the security or the sole power to
12 dispose or direct the disposition of the security.
13 Sec. 26. Section 510A.2, subsection 2, Code 2013, is amended
14 to read as follows:
15 2. *"Control"* or *"controlled"* has the meaning ascribed in
16 section ~~521A.1~~ 521A.101, subsection 3.
17 Sec. 27. Section 511.8, subsection 22, paragraph b,
18 subparagraph (2), unnumbered paragraph 1, Code 2013, is amended
19 to read as follows:
20 Be between an insurer and a conduit and be collateralized
21 by cash or obligations which are eligible under subsection
22 1, 2, 3, 5, 19, or 24, are deposited with a custodian bank
23 as defined in subsection 21, and are held under a written
24 agreement with the custodian bank that complies with subsection
25 21 and provides for the proceeds of the collateral, subject to
26 the terms and conditions of the applicable collateral or other
27 credit support agreement, to be remitted to the legal reserve
28 deposit of the company or association and to vest in the state
29 in accordance with section 508.18 whenever proceedings under
30 that section are instituted. Paragraphs *"c"*, *"d"*, and *"e"* of
31 this subsection are not applicable to investments in financial
32 instruments used in hedging transactions eligible pursuant to
33 this subparagraph. As used in this subparagraph, *"conduit"*
34 means a person within an insurer's insurance holding company
35 system, as defined in section ~~521A.1~~ 521A.101, subsection 5,

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which aggregates hedging transactions by other persons within the insurance holding company system and replicates them with counterparties.

Sec. 28. Section 511.8, subsection 22, paragraph b, subparagraph (3), Code 2013, is amended to read as follows:

(3) Financial instruments used in hedging transactions shall be eligible only as provided by this paragraph *"b"* and rules adopted by the commission pursuant to chapter 17A setting standards for hedging transactions between an insurer and a conduit as authorized under section ~~521A.5~~ 521A.105, subsection 1, paragraph *"b"*.

Sec. 29. Section 515B.2, subsection 4, paragraph b, subparagraph (1), subparagraph division (j), Code 2013, is amended to read as follows:

(j) That is an obligation owed to or on behalf of an affiliate of, as defined in section ~~521A.1~~ 521A.101, an insolvent insurer.

Sec. 30. Section 515G.1, subsection 2, Code 2013, is amended to read as follows:

2. *"Control"* has the meaning assigned to it in section ~~521A.1~~ 521A.101, subsection 3.

Sec. 31. Section 518C.3, subsection 4, paragraph b, subparagraph (1), subparagraph division (g), Code 2013, is amended to read as follows:

(g) An amount that is an obligation owed to or on behalf of an affiliate of, as defined in section ~~521A.1~~ 521A.101, an insolvent insurer.

Sec. 32. Section 521.1, subsection 4, Code 2013, is amended to read as follows:

4. *"Company"* means a company or association organized under chapter 508, 514B, 515, 518, 518A, or 520, and includes a mutual insurance holding company organized pursuant to section ~~521A.14~~ 521A.118.

Sec. 33. Section 521.16, Code 2013, is amended to read as follows:

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1 **521.16 Applicability of section ~~521A.3~~ 521A.103.**
2 For an insurer subject to chapter 521A, the provisions of
3 section ~~521A.3~~ 521A.103 shall also be applicable to a merger
4 or consolidation subject to this chapter. As used in this
5 section, *"insurer"* means the same as defined in section ~~521A.1~~
6 521A.101.
7 EXPLANATION
8 This bill contains new and modified provisions relating to
9 the regulation of insurance company holding systems. The bill
10 repeals current provisions relating to such regulation.
11 The bill defines "control" over a person to provide that
12 the presumption of control over a person may be rebutted by
13 a showing that control does not in fact exist. However, the
14 commissioner may, after notice and hearing, determine that
15 control does exist, even in the absence of a presumption to
16 that effect.
17 The bill also includes a new definition of "enterprise risk"
18 which means any activity, circumstance, event, or series of
19 events involving one or more affiliates of an insurer that, if
20 not remedied promptly, is likely to have a material adverse
21 effect upon the financial condition or liquidity of the insurer
22 or the insurer's insurance holding company system, as a whole.
23 The bill authorizes a domestic insurer, either on its own or
24 in cooperation with one or more persons, to organize or acquire
25 one or more subsidiaries. A subsidiary may conduct any kind
26 of business, not limited by the fact that it is a subsidiary of
27 a domestic insurer. The bill limits the investment authority
28 of domestic insurers and in relation to their subsidiaries, as
29 specified in the bill.
30 The bill sets forth requirements for acquisition of control
31 of or merger with a domestic insurer. A person shall not
32 propose to acquire, control, or merge with a domestic insurer
33 without filing a statement with the commissioner of insurance
34 setting forth the particulars of the proposal and containing
35 the information specified in the bill. The statement shall

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1 include an agreement by the person filing the statement that
2 the person will provide an annual enterprise risk report for
3 so long as control over the insurer exists and the person and
4 all subsidiaries within the person's control in the insurance
5 company holding system will provide information to the
6 commissioner, as requested, as necessary to evaluate enterprise
7 risk to the insurer. Failure to file the statement or other
8 required materials, or an attempt to effectuate an acquisition
9 of control of, divestiture of, or merger with a domestic
10 insurer without the commissioner's approval is a violation of
11 the bill.
12 The commissioner of insurance shall determine when a
13 party seeking to divest a controlling interest in a domestic
14 insurer will be required to file for and obtain approval of the
15 transaction. The commissioner shall approve a merger or other
16 acquisition of control after a public hearing and upon finding
17 that the applicant has demonstrated the factors specified in
18 the bill. If the proposed merger or acquisition of control
19 will require the approval of commissioners of insurance
20 from more than one jurisdiction, the public hearing can be
21 held on a consolidated basis in the United States before the
22 commissioners of the jurisdictions in which the insurers are
23 domiciled.
24 Every insurer authorized to do business in the state which
25 is a member of an insurance holding company system is required
26 to register and file a registration statement on a form and in
27 a format prescribed by the national association of insurance
28 commissioners. If requested by the commissioner, the insurer
29 must include financial statements of or within an insurance
30 holding company system. A person or a member of an insurance
31 holding company system may file a disclaimer of affiliation
32 with another person. A disclaimer shall be deemed to be
33 allowed by the commissioner unless the disclaimer is disallowed
34 within 30 days of filing. The disclaiming person may file a
35 request for an administrative hearing on a disallowance.

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1 Beginning May 1, 2014, and every May 1 thereafter, the
2 ultimate controlling person of every insurer subject to
3 registration must file an annual enterprise risk report. The
4 report shall identify material risks within the insurance
5 holding company system that could pose enterprise risk to
6 the insurer. The report shall be filed with the lead state
7 commissioner of the insurance holding company system. An
8 ultimate controlling person having direct written and assumed
9 premiums of less than $500 million in any calendar year
10 may request an exemption from the enterprise risk report
11 requirement by filing a written statement with the commissioner
12 of insurance discussing the reasons why an exemption should
13 be granted. The commissioner shall grant the exemption upon
14 finding that the ultimate controlling person has the requisite
15 amount of written and assumed premiums and that compliance
16 with the report requirement will constitute a financial
17 or organizational hardship upon that person. "Ultimate
18 controlling person" is defined as a person that is not
19 controlled by any other person.
20 The bill contains standards and requirements for management
21 of an insurer within an insurance holding company system.
22 Certain transactions within an insurance holding company
23 system to which an insurer is a party are subject to specified
24 standards and must be reported to the commissioner in writing
25 30 days prior to entering into the transaction. Notice shall
26 include reasons for amendments or modifications of agreements
27 and the financial impact of the change on the domestic insurer.
28 A domestic insurer shall not enter into transactions which are
29 part of a plan or series of like transactions with a person
30 within the insurance holding company system if the purpose of
31 the separate transactions is to avoid the statutory threshold
32 amount for reporting the transaction and the ensuing review of
33 the transaction. In reviewing a transaction, the commissioner
34 shall consider whether the transaction complies with the
35 standards set forth in the bill and whether the transaction may

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1 adversely affect the interests of policyholders.
2 The bill provides that a domestic insurer may declare and pay
3 dividends to its shareholders only from earned surplus. Assets
4 revalued by the board of directors of the insurer cannot be
5 included in earned surplus until 30 days after the commissioner
6 has received notice of the revaluation and approved it.
7 A domestic insurer shall not pay any extraordinary
8 dividend or make any other extraordinary distribution to
9 its shareholders until 30 days after the commissioner has
10 received notice of the declaration of the extraordinary
11 dividend or distribution and either approved the payment or not
12 disapproved the payment. The bill defines what constitutes an
13 extraordinary dividend or distribution.
14 The bill provides that, notwithstanding the control of a
15 domestic insurer by any person, the officers and directors
16 of the insurer must maintain the obligation and liability
17 to which they are otherwise subject by law and the insurer
18 must be managed to assure its separate operating identity
19 consistent with the provisions of the bill. The bill contains
20 requirements for the makeup of the board of directors and
21 committees of the board of a domestic insurer.
22 The bill contains standards for determining whether an
23 insurer's surplus as regards policyholders is reasonable in
24 relation to the insurer's outstanding liabilities and adequate
25 to meet the insurer's financial needs.
26 The commissioner of insurance has the power to examine
27 any insurer required to register under the provisions of the
28 bill. The commissioner may order the insurer to produce
29 books, records, and other information reasonably necessary
30 to determine the insurer's compliance with the provisions of
31 the bill. The commissioner may use consultants to assist
32 in the conduct of an examination and assess the insurer
33 for examination expenses incurred by the commissioner. The
34 commissioner has the power to issue subpoenas, administer
35 oaths, and examine under oath any person for the purpose of

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1 determining an insurer's compliance with the bill's provisions.
2 The commissioner may petition a court for an order compelling
3 testimony and production of evidence.
4 The commissioner is authorized to participate in a
5 supervisory college for any domestic insurer that is part
6 of an insurance holding company system with international
7 operations in order to assess the business strategy, financial
8 position, legal and regulatory position, risk exposure, and
9 risk management and governance processes of the insurer. The
10 insurer shall be liable to pay the reasonable expenses of the
11 commissioner's participation in a supervisory college. A
12 "supervisory college" is defined as a temporary or permanent
13 forum for communication and cooperation between regulators.
14 All documents, materials, or other information in the
15 possession or control of the commissioner that are obtained
16 by or disclosed to the commissioner or to any other person
17 in the course of an examination or investigation, and all
18 information reported in a statement concerning a merger or
19 acquisition, including an enterprise risk report, shall be
20 treated as confidential and are not subject to discovery or
21 admissible in evidence in any private civil action. The
22 commissioner or any other person who receives such documents,
23 materials, or other information shall not be permitted or
24 required to testify in any private civil action concerning
25 them. The commissioner may share the information with other
26 state, federal, and international regulatory agencies, with
27 the national association of insurance commissioners, and with
28 state, federal, and international law enforcement authorities,
29 including members of a supervisory college, if the person to
30 whom the information is disclosed agrees in writing not to
31 disclose the information.
32 The commissioner may issue rules and orders to carry out the
33 provisions of the bill. The commissioner may seek injunctive
34 relief if it appears that an insurer or agent of an insurer has
35 committed or is about to commit a violation of the provisions

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1 of the bill or any rule or order issued pursuant to those
2 provisions.
3 If the commissioner finds after notice and hearing that an
4 insurer subject to registration failed to file a registration
5 statement as required by the bill, the insurer shall be
6 required to pay a penalty of $1,000 per day for each day of
7 delay. The penalty shall be recovered by the commissioner
8 and deposited in the general fund of the state. The maximum
9 penalty is $10,000 and may be reduced if the commissioner finds
10 that imposition of the penalty would constitute a financial
11 hardship to the insurer.
12 A director or officer of an insurance holding company system
13 who commits specified violations of the bill's provisions must
14 pay, in the person's individual capacity, a civil penalty of
15 not more than $1,000 per violation, after notice and hearing
16 before the commissioner. The commissioner may also order an
17 insurer or an officer, director, employee, or agent of the
18 insurer to cease and desist action that is a violation of the
19 bill and to void any contracts if the commissioner finds that
20 such an order is in the best interest of the policyholders,
21 creditors, or the public. If it appears that an individual has
22 committed a willful violation, the commissioner may refer the
23 matter to the attorney general or to the appropriate county
24 attorney for possible prosecution. A willful violation of
25 the bill's provisions is punishable as a class "D" felony.
26 A class "D" felony is punishable by confinement for no more
27 than five years and a fine of at least $750 but not more than
28 $7,500. A violation that prevents full understanding of the
29 enterprise risk to an insurer by affiliates or by the insurance
30 holding company system may serve as an independent basis for
31 disapproving dividends or distributions and for placing the
32 insurer under an order of supervision.
33 When it appears to the commissioner that a person has
34 committed a violation which so impairs the financial condition
35 of a domestic insurer as to threaten insolvency or to make the

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1 further transaction of business by the insurer hazardous to
2 its policyholders, creditors, shareholders, or the public, the
3 commissioner may proceed as provided in Code chapter 507C to
4 take possession of the property of the insurer and to conduct
5 the insurer's business.
6 If an order for liquidation, conservation, or rehabilitation
7 of a domestic insurer has been entered, the receiver appointed
8 under the order may recover certain distributions or payments
9 made within one year preceding the petition for liquidation,
10 conservation, or rehabilitation.
11 If a person has committed a violation of the bill's
12 provisions which makes the continued operation of an insurer
13 contrary to the interests of policyholders or the public, the
14 commissioner may, after notice and hearing, suspend, revoke,
15 or refuse to renew the insurer's license or authority to do
16 business in the state. Judicial review of the commissioner's
17 actions shall be sought as provided in Code chapter 17A. The
18 bill's provisions supersede other laws of this state that are
19 inconsistent or in conflict with the bill. If any provisions
20 of the bill are held invalid, the rest of the bill's provisions
21 are severable in order to give them effect without the invalid
22 provision or application.
23 The bill authorizes a domestic mutual insurance company
24 to reorganize by forming an insurance holding company based
25 upon a mutual plan and continuing the corporate existence
26 of the reorganizing insurance company as a stock insurance
27 company, or by merging its policyholders' membership interests
28 into a mutual insurance holding company, upon approval of the
29 commissioner.
30 Coordinating amendments are made in various Code sections
31 to correct internal references to the Code sections of Code
32 chapter 521A that are repealed by the bill.

Senate Study Bill 1171 - Introduced

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

A BILL FOR

1 An Act requiring every insurer offering certain individual or
2 group health insurance policies to provide coverage for
3 treatment of certain inborn errors of metabolism with a
4 dietary restriction.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2173XC (2) 85
av/nh

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1 Section 1. NEW SECTION. **514C.30 Enteral formulas —**
2 **coverage.**
3 1. Notwithstanding the uniformity of treatment requirements
4 of section 514C.6, a policy or contract providing for
5 third-party payment or prepayment of health or medical expenses
6 shall not exclude or restrict benefits for enteral formulas for
7 home use for which a practitioner licensed by law to prescribe
8 and administer prescription drugs has issued a written
9 order, if such policy or contract provides benefits for other
10 outpatient prescription drugs or devices. Such written order
11 must state that the enteral formula is medically necessary for
12 the patient.
13 2. For purposes of this section, *"enteral formula"* means
14 a formula which has been proven effective for the treatment
15 of inborn errors of metabolism with a dietary restriction,
16 which if left untreated will cause malnourishment, chronic
17 physical disability, mental retardation, or death. *"Enteral*
18 *formula"* includes low-protein medical food and metabolic
19 formula prescribed for persons diagnosed with inborn errors of
20 metabolism with a dietary restriction. The commissioner, by
21 rule, shall further define *"enteral formula"*.
22 3. *a.* This section applies to the following classes of
23 third-party payment provider contracts or policies delivered,
24 issued for delivery, continued, or renewed in this state on or
25 after July 1, 2013:
26 (1) Individual or group accident and sickness insurance
27 providing coverage on an expense-incurred basis.
28 (2) Any individual or group hospital or medical service
29 contract issued pursuant to chapter 509, 514, or 514A.
30 (3) Any individual or group health maintenance organization
31 contract regulated under chapter 514B.
32 (4) Any other entity engaged in the business of insurance,
33 risk transfer, or risk retention, which is subject to the
34 jurisdiction of the commissioner.
35 (5) A plan established pursuant to chapter 509A for public

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1 employees.
2 (6) An organized delivery system licensed by the director
3 of public health.
4 *b.* This section shall not apply to accident only,
5 specified disease, short-term hospital or medical, hospital
6 confinement indemnity, credit, dental, vision, Medicare
7 supplement, long-term care, basic hospital and medical-surgical
8 expense coverage as defined by the commissioner, disability
9 income insurance coverage, coverage issued as a supplement
10 to liability insurance, workers' compensation or similar
11 insurance, or automobile medical payment insurance.
12 EXPLANATION
13 This bill creates new Code section 514C.30 and provides
14 that a policy or contract providing for third-party payment
15 or prepayment of health or medical expenses which provides
16 coverage benefits for other outpatient prescription drugs or
17 devices shall not exclude or restrict coverage benefits for
18 enteral formulas for home use prescribed by a practitioner as
19 being medically necessary and proven effective as a disease-
20 specific treatment regimen for individuals who are or will
21 become malnourished or suffer from disorders, which, if left
22 untreated, will cause chronic physical disability, mental
23 retardation, or death.
24 The bill defines "enteral formula" as a formula which has
25 been proven effective for the treatment of inborn errors of
26 metabolism with a dietary restriction which if left untreated
27 will cause malnourishment, chronic physical disability, mental
28 retardation, or death. "Enteral formula" is defined to include
29 low-protein medical food and metabolic formula prescribed for
30 persons diagnosed with inborn errors of metabolism with a
31 dietary restriction. The bill provides that the commissioner,
32 by rule, shall further define "enteral formula".
33 The bill provides that the new Code section applies to
34 third-party payment provider contracts, or policies delivered,
35 issued for delivery, continued, or renewed in this state on or

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1 after July 1, 2013.

Senate Study Bill 1172 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON BOLKCOM)

A BILL FOR

1 An Act relating to enhanced E911 emergency communication
2 systems, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1422SC (6) 85
rn/nh

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1 Section 1. Section 34A.7, subsection 1, paragraph a, Code
2 2013, is amended by striking the paragraph and inserting in
3 lieu thereof the following:
4 *a.* To encourage local implementation of E911 service, one
5 source of funding for E911 emergency communication systems
6 shall come from a surcharge per month, per access line on each
7 access line subscriber, of one dollar.
8 Sec. 2. Section 34A.7, subsection 1, paragraph b,
9 subparagraph (1), Code 2013, is amended to read as follows:
10 (1) The program manager shall notify a local exchange
11 service provider scheduled to provide exchange access line
12 service to an E911 service area that implementation of an E911
13 service plan has been approved by the joint E911 service board
14 ~~and by the service area referendum~~ and that collection of the
15 surcharge is to begin within sixty days.
16 Sec. 3. Section 34A.7, subsection 5, Code 2013, is amended
17 to read as follows:
18 5. *Use of moneys in fund — priority and limitations on*
19 *expenditure.*
20 *a.* Moneys deposited in the E911 service fund shall be
21 used for the repayment of any bonds issued for the benefit
22 of or loan made to the joint E911 service board pursuant to
23 sections 34A.20 through 34A.22, and as long as any such bond
24 or loan remains unpaid the surcharge shall not be reduced or
25 eliminated. Moneys deposited in the fund shall be subject to
26 such terms and conditions as may be contained in the relevant
27 bond documents, trust indenture, resolution, loan agreement, or
28 other instrument pursuant to which bonds are issued or a loan
29 is made, without regard to any limitation otherwise provided
30 by law. ~~The surcharge may be increased, but shall not exceed~~
31 ~~the maximum allowed in subsection 1, upon approval of the~~
32 ~~authority upon such terms and conditions as may be contained~~
33 ~~in the relevant bond documents, trust indenture, resolution,~~
34 ~~loan agreement, or other instrument pursuant to which bonds are~~
35 ~~issued or a loan is made, as deemed necessary or prudent by the~~

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~~authority to secure repayment and assure marketability or a reasonable interest rate.~~

b. Moneys deposited in the E911 service fund shall be used for the following, in order of priority if paragraph *"a"* does not apply:

(1) Money shall first be spent for actual recurring costs of operating the E911 service plan.

(2) If money remains in the fund after fully paying for recurring costs incurred in the preceding year, the remainder may be spent to pay for nonrecurring costs, not to exceed actual nonrecurring costs as approved by the program manager.

(3) If money remains in the fund after fully paying obligations under subparagraphs (1) and (2), the remainder may be accumulated in the fund as a carryover operating surplus. ~~If the surplus is greater than twenty-five percent of the approved annual operating budget for the next year, the program manager shall reduce the surcharge by an amount calculated to result in a surplus of no more than twenty-five percent of the planned annual operating budget. After nonrecurring costs have been paid, if the surcharge is less than the maximum allowed and the fund surplus is less than twenty-five percent of the approved annual operating budget, the program manager shall, upon application of the joint E911 service board, increase the surcharge in an amount calculated to result in a surplus of twenty-five percent of the approved annual operating budget. The surcharge may only be adjusted once in a single year, upon sixty days' prior notice to the provider.~~

Sec. 4. Section 34A.7, subsection 7, Code 2013, is amended by striking the subsection.

Sec. 5. Section 34A.7A, subsection 1, paragraphs a and b, Code 2013, are amended to read as follows:

a. ~~Notwithstanding section 34A.6, the~~ The administrator shall adopt by rule a monthly surcharge of ~~up to sixty-five cents~~ one dollar to be imposed on each communications service number provided in this state. The surcharge shall be

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1 imposed uniformly on a statewide basis and simultaneously
2 on all communications service numbers as provided by rule
3 of the administrator. The surcharge shall not be imposed
4 on wire-line-based communications or prepaid wireless
5 telecommunications service.
6 *b.* The program manager shall provide no less than
7 sixty days' notice of the surcharge to be imposed to each
8 communications service provider. ~~The program manager, subject~~
9 ~~to the sixty-five cent limit in paragraph "a", may adjust the~~
10 ~~amount of the surcharge as necessary, but no more than once in~~
11 ~~any calendar year.~~
12 Sec. 6. Section 34A.7A, subsection 2, Code 2013, is amended
13 by adding the following new paragraph:
14 NEW PARAGRAPH. *0b.* The program manager shall allocate
15 thirteen percent of the total amount of surcharge generated
16 to wireless carriers to recover their costs to deliver E911
17 phase 1 services. If the allocation in this paragraph is
18 insufficient to reimburse all wireless carriers for such
19 carrier's eligible expenses, the program manager shall allocate
20 a prorated amount to each wireless carrier equal to the
21 percentage of such carrier's eligible expenses as compared to
22 the total of all eligible expenses for all wireless carriers
23 for the calendar quarter during which such expenses were
24 submitted. When prorated expenses are paid, the remaining
25 unpaid expenses shall no longer be eligible for payment under
26 this paragraph.
27 Sec. 7. Section 34A.7A, subsection 2, paragraph e, Code
28 2013, is amended to read as follows:
29 *e.* If moneys remain in the fund after fully paying all
30 obligations under paragraphs *"a"* ~~through~~, *"0b"*, *"b"*, *"c"*,
31 and *"d"*, the remainder may be accumulated in the fund as a
32 carryover operating surplus. This surplus shall be used
33 to fund future network and public safety answering point
34 improvements, including hardware and software for an internet
35 protocol-enabled next generation network, and wireless

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1 carriers' transport costs related to wireless E911 services, if
2 those costs are not otherwise recovered by wireless carriers
3 through customer billing or other sources and approved by the
4 program manager in consultation with the E911 communications
5 council. Notwithstanding section 8.33, any moneys remaining
6 in the fund at the end of each fiscal year shall not revert to
7 the general fund of the state but shall remain available for
8 the purposes of the fund.
9 Sec. 8. Section 34A.7A, Code 2013, is amended by adding the
10 following new subsection:
11 NEW SUBSECTION. 5. *a.* The program manager, in consultation
12 with the E911 communications council, shall establish a
13 methodology for determining and collecting comprehensive public
14 safety answering point cost and expense data. The methodology
15 shall include the collection of data for all costs and expenses
16 related to the operation of a public safety answering point and
17 account for the extent to which identified costs and expenses
18 are compensated for or addressed through E911 surcharges versus
19 other sources of funding.
20 *b.* Data collection pursuant to paragraph "*a*" shall commence
21 no later than January 1, 2014. The program manager shall
22 prepare a report detailing the methodology developed and
23 the data collected after such data has been collected for a
24 two-year period. The report shall be submitted to the general
25 assembly by March 1, 2016, and every two years thereafter.
26 *c.* A public safety answering point which fails to submit
27 expenses and costs pursuant to the methodology developed
28 pursuant to paragraph "*a*" by March 31, 2014, shall be allocated
29 sixty-five cents out of the one dollar emergency communications
30 service surcharge until March 31, 2015. A public safety
31 answering point which fails to submit expenses and costs by
32 March 31, 2015, shall continue to be allocated sixty-five
33 cents out of the one dollar emergency communications service
34 surcharge until March 31, 2016, and all revenue derived during
35 this second year shall, notwithstanding any provision to the

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1 contrary, be deposited in the emergency communications fund and
2 accumulated as operating surplus as provided in subsection 2,
3 paragraph *"e"*. These provisions shall remain applicable for
4 failure to submit required data for every successive two-year
5 period.
6 Sec. 9. REPEAL. Sections 34A.6 and 34A.6A, Code 2013, are
7 repealed.
8 EXPLANATION
9 This bill modifies provisions applicable to the
10 administration and funding of enhanced E911 emergency
11 communication systems.
12 The bill eliminates existing voter referendum requirements
13 regarding imposition of the local wire-line E911 service
14 surcharge and the alternative surcharge applicable to wire-line
15 communications contained in Code sections 34A.6 and 34A.6A,
16 respectively. The bill replaces current provisions authorizing
17 imposition of the wire-line E911 service surcharge in an amount
18 up to $1 per access line with a requirement that the surcharge
19 be imposed at the $1 level. The bill increases the level of
20 the emergency communications service surcharge from the current
21 level of up to 65 cents per communications service number to
22 $1 per service number.
23 The bill reinstates provisions authorizing wireless carriers
24 to recover their E911 service delivery costs which were
25 eliminated during the 2012 legislative session. However, the
26 bill specifies that the program manager shall allocate 13
27 percent of the total amount of emergency communications service
28 surcharge revenue for such cost recovery. Further, the bill
29 requires the E911 program manager to consult with the E911
30 communications council regarding how revenue accumulated in the
31 emergency communications fund as carryover operating surplus
32 shall be allocated. Currently, this determination is made
33 strictly with the approval of the program manager.
34 Additionally, the bill directs the program manager, in
35 consultation with the council, to establish a methodology

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1 for determining and collecting comprehensive public safety
2 answering point cost and expense data. The bill states that
3 data collection shall commence no later than January 1, 2014,
4 and that the program manager shall prepare a report detailing
5 the methodology and the data collected after the data has
6 been collected for two years. The report is required to
7 be submitted to the general assembly by March 1, 2016, and
8 every two years thereafter. The bill provides that a public
9 safety answering point which fails to submit expenses and
10 costs pursuant to the methodology by March 31, 2014, shall
11 be allocated 65 cents out of the emergency communications
12 service surcharge until March 31, 2015, and that a public
13 safety answering point which fails to submit expenses and costs
14 by March 31, 2015, shall continue to be allocated 65 cents
15 until March 31, 2016, with all revenue derived during this
16 second year deposited and accumulated as operating surplus in
17 the emergency communications fund. The bill specifies that
18 these provisions remain applicable to public safety answering
19 points for failure to submit required data for every successive
20 two-year period.

Senate Study Bill 1173 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON BOLKCOM)

A BILL FOR

1 An Act relating to certain fees collected by the county
2 sheriff.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2136XC (2) 85
aw/sc

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Section 1. Section 331.655, subsection 1, paragraphs a, b, c, e, f, g, h, k, l, and n, Code 2013, are amended to read as follows:

a. For serving a notice and returning it, for the first person served, ~~fifteen~~ twenty-five dollars, and each additional person, ~~fifteen~~ twenty-five dollars except the fee for serving additional persons in the same household shall be ~~ten~~ fifteen dollars for each additional service, or if the service of notice cannot be made or several attempts are necessary, the repayment of all necessary expenses actually incurred by the sheriff while attempting in good faith to serve the notice.

b. For each warrant served, ~~twenty~~ twenty-five dollars, and the repayment of necessary expenses incurred in executing the warrant, as sworn to by the sheriff, or if service of the warrant cannot be made, the repayment of all necessary expenses actually incurred by the sheriff while attempting in good faith to serve the warrant.

c. For serving and returning a subpoena, for each person served, ~~twenty~~ thirty dollars, and the necessary expenses incurred while serving subpoenas in criminal cases or cases relating to hospitalization of persons with mental illness.

e. For summoning a jury to assess the damages to the owners of lands taken for works of internal improvement, one hundred dollars, and attending them, one hundred dollars per day, and necessary expenses incurred. This subsection does not allow a sheriff to make separate charges for different assessments which can be made by the same jury and completed in one day of ten hours.

f. For serving an execution, attachment, order for the delivery of personal property, injunction, or any order of court, and returning it, ~~fifteen~~ twenty-five dollars.

g. For making and executing a certificate or deed for lands sold on execution, or a bill of sale for personal property sold, ~~thirty~~ forty dollars.

h. For the time necessarily employed in making an inventory

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of personal property attached or levied upon, ~~ten~~ fifteen dollars per hour.

k. For ~~attending~~ setting a sale of property, fifty dollars.

l. For conveying one or more persons to a state, county, or private institution by order of court or commission, necessary expenses for the sheriff and the person conveyed and ~~fifteen~~ twenty-five dollars per hour for the time necessarily employed in going to and from the institution, the expenses and hourly rate to be charged and accounted for as fees. If the sheriff needs assistance in taking a person to an institution, the assistance shall be furnished at the expense of the county.

n. For posting a notice or advertisement, ~~five~~ ten dollars.

Sec. 2. Section 331.655, subsection 1, Code 2013, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *p.* For the necessary time employed in attending the service of a writ, twenty-five dollars per hour.

NEW PARAGRAPH. *q.* For electronic submissions to the clerk of court, twenty dollars per electronic file submitted.

EXPLANATION

This bill relates to certain fees collected by the county sheriff.

The bill raises fees for the serving and returning of notice for each person from $15 to $25, and a fee for serving additional persons in the same household is raised from $10 to $15. The bill raises the fee for warrants served from $20 to $25. The bill raises the fee for each person served a subpoena from $20 to $30. The bill creates a separate fee for summoning a jury (compensation commission) to assess damages in a condemnation proceeding and sets the fee at $100. Under current law, the sheriff is also allowed to charge a fee of $100 per day for attending the jury (compensation commission).

The bill raises the fee for serving an execution, attachment, order for delivery of personal property, injunction, or any other order of court from $15 to $25. The bill also raises the fee for execution of a certificate or deed

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for lands sold, or a bill of sale for personal property sold, from $30 to $40. The bill raises the fee charged for the time necessary to inventory personal property from $10 to $15 per hour. The bill provides that the current $50 fee regarding a sale of property is for setting, rather than attending, the sale.

The bill raises the hourly fee charged for the conveyance of certain persons by order of a court or commission to a public or private institution from $15 to $25 per hour. This hourly fee change also applies to fees charged for delivering defendants under change of venue provisions or the transferring of arrested persons pursuant to the provisions of Code section 815.8. The bill also raises the fee for posting a notice or advertisement from $5 to $10.

The bill creates a fee of $25 per hour for the necessary time employed to attend the service of a writ. The bill also creates a fee for electronic submissions to the clerk of court. The bill sets the fee at $20 per electronic file submitted.

Senate Study Bill 1174 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON BOLKCOM)

A BILL FOR

1 An Act creating a tax credit for certain small businesses
2 offering wellness programs to employees and including
3 effective date and applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2047XC (2) 85
mm/sc

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1 Section 1. NEW SECTION. **135.27B Wellness program tax**
2 **credit.**
3 1. *a.* A wellness program tax credit shall be allowed
4 against the taxes imposed in chapter 422, divisions II, III,
5 and V, and in chapter 432, and against the moneys and credits
6 tax imposed in section 533.329, for a portion of a taxpayer's
7 costs incurred in providing a qualified small business wellness
8 program to employees.
9 *b.* The tax credit shall be an amount equal to fifty percent
10 of the costs incurred in providing a qualified small business
11 wellness program to employees. However, the total amount of
12 the tax credit claimed shall not exceed an amount equal to
13 three hundred dollars per employee per tax year.
14 *c.* To be eligible for the tax credit, a small business shall
15 be located in this state, be operated for profit and under a
16 single management, and have at least two but not more than one
17 hundred employees employed for at least fifty percent of the
18 employer's working days during the tax year.
19 *d.* An individual may claim a tax credit under this section
20 of a partnership, limited liability company, S corporation,
21 estate, or trust electing to have income taxed directly to
22 the individual. The amount claimed by the individual shall
23 be based upon the pro rata share of the individual's earnings
24 from the partnership, limited liability company, S corporation,
25 estate, or trust.
26 *e.* Any tax credit in excess of the tax liability is not
27 refundable, but the taxpayer may elect to have the excess
28 credited to the tax liability for the following five years or
29 until depleted, whichever is earlier. A tax credit shall not
30 be carried back to a tax year prior to the tax year in which the
31 taxpayer first receives the tax credit.
32 *f.* A taxpayer claiming a credit under this section shall
33 not be precluded, in computing taxable income, from deducting
34 the costs of providing a wellness program allowed under any
35 provision of the Internal Revenue Code.

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1 2. To claim a wellness program tax credit under this
2 section, a taxpayer must attach a tax credit certificate issued
3 by the department verifying the taxpayer's eligibility for the
4 credit. The tax credit certificate attached to the taxpayer's
5 tax return shall be issued in the taxpayer's name, contain an
6 expiration date that falls on or after the last day of the
7 taxable year for which the taxpayer is claiming the tax credit,
8 and show a tax credit amount equal to or greater than the tax
9 credit claimed on the taxpayer's tax return.
10 3. *a.* The department shall accept applications from
11 eligible small businesses for wellness program tax credits.
12 *b.* If the department determines that a wellness program
13 qualifies for a tax credit pursuant to this section,
14 the department shall issue a wellness program tax credit
15 certificate to be attached to the small business's tax return.
16 The tax credit certificate shall contain the taxpayer's name,
17 address, tax identification number, the number of employees,
18 the total costs incurred in providing the wellness program, and
19 any other information required by the department of revenue.
20 *c.* The tax credit certificate, unless otherwise void, shall
21 be accepted by the department of revenue as payment for taxes
22 imposed pursuant to chapter 422, divisions II, III, and V,
23 chapter 432, and section 533.329, subject to any conditions or
24 restrictions placed by the department upon the face of the tax
25 credit and subject to the limitations of this section.
26 *d.* Tax credits issued under this section are not
27 transferable to any person or entity.
28 4. The department shall not issue a tax credit certificate
29 under this section unless the wellness program offered by a
30 small business provides for all of the following:
31 *a.* The development of measurable positive health outcomes
32 for employees participating in the wellness program.
33 *b.* Regular health risk factor assessments and a treatment
34 regimen designed to address health risk factors. For purposes
35 of this paragraph, *"health risk factor"* means a condition with

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1 the potential to negatively affect a person's health or bodily
2 well-being. *"Health risk factors"* include but are not limited
3 to cholesterol levels, triglyceride levels, or blood pressure
4 levels that are outside the ranges for such measurements
5 recommended by the centers for disease control and prevention
6 of the United States department of health and human services.
7 *c.* Tobacco cessation education that covers all of the
8 cessation treatments and counseling approved by the United
9 States food and drug administration. Tobacco cessation
10 education may be provided by direct payment on an employee's
11 behalf, reimbursement of costs, or by the purchase of insurance
12 coverage providing for such education.
13 *d.* Weight loss education that addresses both nutrition and
14 physical activity.
15 *e.* Preventative care education, including information about
16 immunization, promotion of physical activity, nutritional
17 counseling, and stress management techniques.
18 *f.* Disease management services that identify diseases before
19 onset and treat diseases after onset.
20 5. The department may charge a fee in an amount not to
21 exceed fifty dollars per application for costs incurred in the
22 administration of this section.
23 6. The department shall adopt rules in accordance with
24 chapter 17A for the administration of this section, including
25 rules governing the application process and the criteria used
26 to evaluate applications.
27 Sec. 2. NEW SECTION. **422.11E Wellness program tax credit.**
28 The taxes imposed under this division, less the credits
29 allowed under section 422.12, shall be reduced by a wellness
30 program tax credit allowed under section 135.27B.
31 Sec. 3. Section 422.33, Code 2013, is amended by adding the
32 following new subsection:
33 NEW SUBSECTION. 30. The taxes imposed under this division
34 shall be reduced by a wellness program tax credit allowed under
35 section 135.27B.

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1 Sec. 4. Section 422.60, Code 2013, is amended by adding the
2 following new subsection:
3 NEW SUBSECTION. 12. The taxes imposed under this division
4 shall be reduced by a wellness program tax credit allowed under
5 section 135.27B.
6 Sec. 5. NEW SECTION. **432.12N Wellness program tax credit.**
7 The taxes imposed under this chapter shall be reduced by a
8 wellness program tax credit allowed under section 135.27B.
9 Sec. 6. Section 533.329, subsection 2, Code 2013, is amended
10 by adding the following new paragraph:
11 NEW PARAGRAPH. *k.* The moneys and credits tax imposed under
12 this section shall be reduced by a wellness program tax credit
13 allowed under section 135.27B.
14 Sec. 7. EFFECTIVE DATE. This Act takes effect January 1,
15 2014.
16 Sec. 8. APPLICABILITY. This Act applies to tax years
17 beginning on or after January 1, 2014.
18 EXPLANATION
19 This bill provides a credit against the individual and
20 corporate income taxes, franchise tax, insurance premiums tax,
21 and moneys and credits tax for a portion of a taxpayer's costs
22 incurred in providing a qualified small business wellness
23 program to employees.
24 The amount of the tax credit is 50 percent of the costs
25 incurred in providing a qualified small business wellness
26 program to employees, but the total amount of the credit
27 claimed cannot exceed $300 per employee per year.
28 To be eligible for the tax credit, a small business must
29 be located in the state, be operated for profit and under a
30 single management, and have at least two but not more than 100
31 employees employed for at least 50 percent of the employer's
32 working days during the tax year.
33 The tax credit is not refundable, but the taxpayer may
34 elect to have the excess credited to the tax liability for the
35 following five years or until depleted, whichever is earlier.

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1 A tax credit shall not be carried back to a tax year prior
2 to the tax year in which the taxpayer first receives the tax
3 credit. The tax credit is not transferable.
4 To claim a wellness program tax credit, a taxpayer must
5 attach a tax credit certificate issued by the department of
6 public health verifying the taxpayer's eligibility for the
7 credit. The department will issue a tax credit certificate if
8 the wellness program offered by the small business provides for
9 all of the following: (1) measurable positive health outcomes,
10 (2) regular health risk factor assessments, (3) tobacco
11 cessation education, (4) weight loss education that addresses
12 both nutrition and physical activity, (5) preventative care
13 education, and (6) disease management services.
14 The department may charge a fee in an amount not to exceed
15 $50 per application for administrative costs and is directed to
16 adopt rules for the issuance of the tax credit certificates.
17 The bill takes effect January 1, 2014, and applies to tax
18 years beginning on or after that date.

Senate Study Bill 1175 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON BOLKCOM)

A BILL FOR

1 An Act modifying provisions relating to solar energy system
2 income tax credits and including effective date and
3 applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1447XC (3) 85
rn/sc

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1 Section 1. Section 422.11L, subsection 3, Code 2013, is
2 amended by adding the following new paragraph:
3 NEW PARAGRAPH. *c.* A taxpayer may claim more than one
4 credit under this section, but may claim only one credit per
5 separate and distinct solar installation. The department shall
6 establish criteria, by rule, for determining what constitutes a
7 separate and distinct installation.
8 Sec. 2. Section 422.11L, subsection 4, Code 2013, is amended
9 to read as follows:
10 4. *a.* The cumulative value of tax credits claimed annually
11 by applicants pursuant to this section shall not exceed one
12 million five hundred thousand dollars.
13 *b.* If an amount of tax credits available for a tax year
14 pursuant to paragraph "*a*" goes unclaimed, the amount of the
15 unclaimed tax credits shall be made available for the following
16 tax year in addition to, and cumulated with, the amount
17 available pursuant to paragraph "*a*" for the following tax year.
18 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
19 immediate importance, takes effect upon enactment.
20 Sec. 4. RETROACTIVE APPLICABILITY. This Act applies
21 retroactively to January 1, 2013, for tax years beginning on
22 or after that date.
23 EXPLANATION
24 This bill relates to the individual and corporate income
25 tax credits for solar energy systems. The bill makes two
26 modifications to existing provisions contained in Code section
27 422.11L.
28 The bill permits a taxpayer to claim more than one credit
29 provided the credit is being claimed for separate and distinct
30 solar installations. The bill directs the department of
31 revenue to establish criteria, by rule, for determining what
32 constitutes a separate and distinct installation.
33 The bill provides that if not all of the tax credits
34 available for a tax year are claimed, the amount of the
35 unclaimed tax credits shall be made available for the following

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1 tax year in addition to, and cumulated with, the amount
2 otherwise annually allocated for a tax year. Current Code
3 provides that the cumulative value of tax credits which may be
4 claimed annually by applicants shall not exceed $1.5 million.
5 The bill takes effect upon enactment and applies
6 retroactively to January 1, 2013, for tax years beginning on
7 or after that date.